

"Biological Juvenile BY: Domenic Coia #GE-5575

The site is encouraging me to write a brief note to entice you to read my book. How can I sell a story that has already been sold out? What can I say about something I do not want to talk about? Why should I expect any more interest than the other 506 (and counting) Juvenile Lifers sentenced to Life without Parole in Pennsylvania? A sentence condemned everywhere on Earth save the United States and Somalia. Philadelphia is the Capitol of the world for the Human rights violation. The jurisdiction, not only where I am from; but where my case has been used to justify it. (You should Google press coverage from 2003-2013 to inform your reading.) For everyone who has insisted on making an example out of me. This is what you asked for. . . . .

Date: 10-05-13

Signature Domenic Coia

S.C.I. Greene  
175 Progress Drive  
Waynesburg, PA 15370

[Dedication]

To the Telemarketer



**DISTRICT ATTORNEY'S OFFICE**  
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LYNNE ABRAHAM  
DISTRICT ATTORNEY

August 7, 2008

Karen Reid Bramblett, Esquire  
Prothonotary, Superior Court of Pennsylvania  
530 Walnut Street, Suite 315  
Philadelphia, PA 19106

Re: **LETTER BRIEF**  
**Commonwealth v. Dominic Coia**  
**No. 1710 EDA 2005**

Dear Ms. Bramblett:

After plotting for days to kill their childhood friend, defendant and two male co-conspirators used a female co-conspirator to lure the victim to a secluded wooded area, where they bludgeoned him to death. Convicted of first-degree murder and related offense, defendant now appeals (CP 51-CR-0613894-2003). No relief is due.

**FACTS AND PROCEDURAL HISTORY**

On the afternoon of Friday, May 30, 2003, sixteen-year-old Jason Sweeney left his home in the Fishtown area of Philadelphia to go on a date with co-conspirator Justina Morley, whom he considered his new (and first) girlfriend. The couple rendezvoused on a street corner in Fishtown, and Justina invited Jason to go with her to a nearby secluded wooded area near the river known as

"the trails."<sup>1</sup> Jason – who had been told by defendant's brother Nicholas Coia that Justina had fantasies of having sex by the river – made the fatal mistake of accepting her invitation (N.T. 3/1/05 (VOL. 2), 111-112, 169, 171, 174; N.T. 3/8/05, 100).<sup>2</sup>

That afternoon, while Jason was at work, defendant, Justina, Nicholas, and Eddie Batzig had met at Batzig's house, listening to the Beatles' song "Helter Skelter" over and over again as they plotted details of his murder. The plan called for Justina to lure Jason to "the trails" where the other co-conspirators would be waiting to kill him and steal his money.<sup>3</sup> Among the gruesome details they discussed was the weapon each killer would use. Defendant planned to use a clawed hammer. Eddie said that he would use a hatchet and volunteered to be the first one to hit Jason. Nicholas said that he would use rocks and other

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<sup>1</sup> "The trails," also referred to as the "Steel Pier," is a dirty secluded area between Interstate 95 and the river, where there used to be an old pier or railroad yard (N.T. 3/1/05 (Vol. 2), 14; N.T. 3/4/05, 20).

<sup>2</sup> There are two volumes of testimony for March 1, 2005. The volume labeled "Volume 2" contains the earlier testimony.

<sup>3</sup> This was the third plot to murder Jason. On a previous occasion, Nicholas and Eddie had planned to take Jason to the New Jersey shore to kill him and empty his bank account. In anticipation of that outing, Jason had packed a book bag with clothes, which he left with Nicholas, who discarded it in a dumpster on the day the co-conspirators killed Jason. When that plan failed because Jason backed out, Nicholas and Eddie recruited Justina to lure Jason to his death. Around that time, they also recruited defendant to assist in the killing. Their second plot involved convincing Jason to throw a party at his house. During the party, Justina would lure Jason to his parent's bedroom. Defendant, Nicholas and Eddie would follow and kill him using his own work tools (Jason worked in the family carpentry business). That plan, too, fell apart because Jason made the responsible choice to go to work instead of throwing a party (N.T. 3/1/05 (VOL. 2), 87, 89, 102-103).

"natural" objects he found in the woods. All of the assailants planned to wear latex gloves (N.T. 3/1/05 (VOL. 2), 83, 113-116, 121-124, 131).

As planned, Justina led Jason to "the trails." When they got there, the other co-conspirators were hiding behind bushes, but Justina could not see them. She quickly made up an excuse to leave the area, telling Jason that it was too dirty and that she had seen a police car. She and Jason walked to nearby Aramingo Street, where she used her cell phone to call Eddie Batzig's house, and then the Coias' house. Unable to reach her co-conspirators and stalling for time, she asked Jason to buy her a soda. They walked to a hoagie shop, where Jason bought himself a bottle of juice, and then to a drug store where he bought her a bottle of Pepsi. She then suggested that he purchase some marijuana (N.T. 3/1/05 (VOL. 2), 174, 176-180).

In the meantime, defendant and the other co-conspirators had walked to the house of their friend, Joshua Stabb, to call Justina on her cell phone. When her phone rang, she told Jason that she had to walk around the corner to take a private call. Eddie Batzig was on the line and yelled at her, "What the fuck are you doing? Are you going to get us caught?" Defendant then got on the phone and gave her new detailed instructions, suggesting a different location in "the trails." While the co-conspirators returned to "the trails" to hide, Jason purchased the marijuana, which he and Justina smoked as they walked back to the woods (N.T. 3/1/05 (VOL. 2), 181-182, 185-186).<sup>4</sup>

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<sup>4</sup> At trial, the Commonwealth introduced telephone records establishing the sequence of calls (N.T. 3/7/05, 142-168; Commonwealth Exhibits C-51A through 52B).

This time, when Justina and Jason got to "the trails," she saw her co-conspirators hiding behind bushes on a hill. She led Jason down the hill, where he took down her pants, unbuttoned his pants, and took off his sneakers in anticipation of the promised sex. Just then, defendant and the other co-conspirators appeared. Jason quickly pulled up his pants and asked, "What are you guys doing here?" (N.T. 3/1/05 (VOL. 2), 187-189).

At that moment, as planned, Eddie Batzig counted "3-2-1" and swung his hatchet as hard as he could at the right side of Jason's head. Jason staggered and said "Yo, man, what's going on?" Then, when he realized that he was bleeding, Jason started to run. Nicholas used both hands to throw a large rock at him, knocking him to the ground (N.T. 3/1/05 (VOL. 2), 189-195).

The co-conspirators ran after Jason.<sup>5</sup> Standing over him, defendant began hitting him in the head with the clawed hammer, while Batzig resumed the assault with the hatchet. Nicholas joined in the savagery by throwing rocks. The victim received more than twenty "crushing blows" and "chopping wounds" to his head and face, breaking almost every bone in his head and splitting his skull in two. At one point, defendant hit Jason so hard that the hammer became embedded in his skull, and defendant had to use all of his strength to pull it out. Jason's blood splattered on their clothes and shoes. Justina Morley watched, doing nothing to intervene (N.T. 3/1/05 (VOL. 2), 195, 200-206; N.T. 3/7/05, 84-88).

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<sup>5</sup> Jason's clean sneakers were found approximately fifteen feet from his body, suggesting he had run approximately that distance before defendant stopped him with the large rock (N.T. 3/1/05 (VOL. 2), 19).

As he endured the blows, Jason kicked with his legs and begged "Guys, no. Please stop" until he lost consciousness. His last words to Justina Morley were "You set me up!" (N.T, 3/1/05 (VOL. 2), 194-195, 199-200).

After killing Jason, the co-conspirators rifled through his pockets and took marijuana, \$500, and his house keys. They joined together in a celebratory "group hug" before they left "the trails." On their way back out of the wooded area, they wrapped the hatchet in defendant's shirt and threw it down a sewer, where police later recovered it. They returned to Joshua Stabb's house, where they washed their blood-soaked clothing, split the money, and had a party (N.T. 3/1/05 (VOL. 2), 213-219; N.T. 3/1/05 (VOL. 1), 11-14; N.T. 3/3/05, 254).

That Saturday, a teen-age boy on a dirt path along "the trails" stopped to urinate. When he went into the bushes, he saw Jason's mutilated body. He ran home and called police. Because of the condition of Jason's body, police immediately realized that "[t]his person was violently murdered."<sup>6</sup> Jason's shoes were a few feet away from the body, and there were "kick marks" and "drag marks" where he had left indentations on the ground as he fought and tried to run from his attackers. Because the face was unrecognizable, and there was no

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<sup>6</sup> The first detective at the scene described how the body had an "open wound. . . approximately four inches long. . . [that] appeared to go directly through the skull" (N.T. 3/1/05 (VOL. 2), 16). He testified that the ear was cut off, the jaw was agape, teeth were knocked out and laying next to the body, there was a hole in the center of the his head "straight through the skull," another hole in the top of the head, holes in the neck, and the eyes were "puffed out" and covered in blood (id., 17). Although it was impossible to tell the age of the victim, the detective could tell from the clean clothes and sneakers that he was not a homeless person (id.).

identification on him, he was listed as a "John Doe" at the morgue (2/28/05, 124-128; N.T. 3/1/05 (VOL. 2), 16).

Jason's mother had last seen to him on Thursday night, when he asked her if he could bring his "new girlfriend" – Justina – to a going away party for his sister that Saturday. When Mrs. Sweeney arrived home from work on Friday, she immediately called Jason on his cell phone. He did not answer. She continued calling "what seemed like a million times, all the way up to midnight, and there was no answer." Jason's parents grew increasingly worried when he did not show up for his sister's party. On Monday morning, they called the police. They were interviewed and, after giving the officer a description of Jason, were advised to go to the morgue, where Mr. Sweeney identified his son's remains (N.T. 3/8/05, 104, 106-108).

On the night they killed Jason, the co-conspirators had agreed that, when they were questioned by police, they would say that at the time of the killing they had all been at a party to which Jason had also been invited but did not show up. After Mr. and Mrs. Sweeney returned from the morgue, co-defendants Batzig and Nicholas Coia went to the Sweeney's house and, as part of the concocted alibi, gave Jason's parents a hand-written list of the people who were at the party (N.T. 3/1/05 (VOL. 1), 20; N.T. 3/8/05, 109, 111).

Police began interviewing people on the list. On June 2, 2005, Joshua Stabb, Jessica Wildonger (Stabb's cousin) and defendant went to Homicide Headquarters to be interviewed as witnesses. A detective took defendant to an interview room, gathered biographical information from him, and questioned him



about Jason. Defendant was cooperative and told the detective that he had last seen Jason the previous Tuesday. The interview was interrupted when another detective knocked on the door and told the interviewer that Justina had implicated defendant in the killing (N.T. 3/3/05, 249-250).

A different detective resumed the interview, prefacing it with Miranda warnings because defendant was now a suspect. After waiving his Miranda rights, defendant gave a detailed statement describing how he and his co-conspirators had murdered Jason (N.T. 3/7/05, 190-204). Defendant said Jason was "foolish" to go to "the trails" with Justina. He described, *inter alia*, how Eddie Batzig hit Jason with the hatchet, he joined in with a brick and a hammer, they "continued hitting Sweeney until he was on the ground," "Sweeney was trying to get up and run," "[t]here was blood pouring out of Sweeney," and they just kept "hitting and hitting" until Jason died. Defendant admitted that they had planned Jason's murder for about two days. He also recounted that, after killing Jason, he and his co-conspirators participated "in a group hug. . . It was like we were all happy what we did." He said that they took the victim's wallet and, after splitting the money, "partied beyond redemption." He also said that they had thrown the hatchet, as well as some of their clothes, in a sewer. When asked whether he was intoxicated when he murdered Jason, defendant responded that he was "as sober I am now. It is sick isn't it[?]" (N.T. 3/7/05, 201-206; Commonwealth Exhibit C- 53, Statement of Dominic Coia, June 3, 2003, p. 4-6).

Defendant, along with co-defendants Nicholas Coia and Eddie Batzig, was tried by a jury before the Honorable Renee Cardwell Hughes. On March 9, 2005,

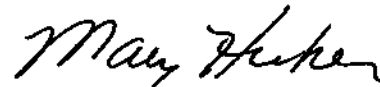
the jury found defendant guilty first-degree murder, robbery, criminal conspiracy and possessing an instrument of crime. Nicholas Coia and Eddie Batzig were found guilty of the same offenses.

Defendant filed a post-verdict motion to declare the first-degree murder statute unconstitutional as applied to juveniles, which Judge Hughes denied. On May 6, 2005, Judge Hughes sentenced him to the mandatory sentence of life imprisonment for murder, and consecutive sentences of 10-20 years for robbery, 10-20 years for criminal conspiracy, and 2 ½ to 5 years for possessing an instrument of crime. This appeal followed.

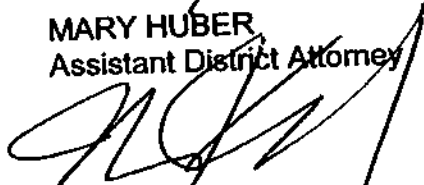
**CONCLUSION**

For all of the foregoing reasons, the Commonwealth respectfully requests this Court to affirm the judgments of sentence.

Respectfully submitted,



MARY HUBER  
Assistant District Attorney



HUGH J. BURNS, Jr.  
Chief, Appeals Unit

cc: Honorable Renee Cardwell Hughes  
Lee Mandell, Esquire

Introduction

"Such atrocity merits no mercy." State Representative Dennis O'Brian, summation of the case against me (1) -----

This is not the vanity project of some narcissistic sociopath crying because he got caught and he can no longer suffocate the little Puppies he likes to set on fire with his soiled bedsheets so now he can't get it up anymore.

This is not an attempt to evince tired Court Appointed cliches or Public Defender platitudes, cueing up some Sarah McLachlan evoking the A.S.P.C.A. Commercial while I blame Mommy and Daddy, Video-games and Rock and Roll, being molested and taking drugs, Jesus or junk-food.

This is not for attention. The last thing I would want to do is seek out the spotlight for what happened. In fact, I have a track record of avoiding it. Despite invitations from the Philly Press. A Current Affairs (currently cancelled), a couple Book offers, Larry Clark the Director of The Motion Pictures "Kids" and "Bully" wanted to make a Movie. Oh, and Phil Chalmers who signed his letter with a picture of himself posing with [Fig.1] Jessica Simpson have offered me, to tell my-side of the story, but all they really wanted was a pantomime of the ridiculous C.S.I. Episode based on our case. Or something surely to the effect of the evil bloodthirsty thrill killing junkies we are commonly held to be.

But despite popular belief, that is not whom we are and it is not a role we will assume for the simple fact of being typecasted. It is a grotesque caricature drawn by a Police Sketch Artist based on the description of our offense and drafted into a mad lib ready-made script the Police and Media tend to have a field day with. I'm not crying we got picked on. We deserved it.

I did not try to dispel any of it. What difference would it make? It doesn't matter why it happened, because it did. Ultimately I am just a killer in the end. That's all anyone was concerned about anyway and rightfully so. You can't just walk around killing people. I wanted to answer for it. After the Media attention moved on and the world forgot about us. The wheels of justice continued to grid me down. I have been locked in the same moment with the unending shame of it. My life is over every morning before I wake up to spend another day in front of the most unmitigating judge I have ever stood before, my conscience.

Looking in the Mirror has become tantamount, to having to show my face in School the day-after being humiliated. Tossing and turning all night in dread of what I will face the next day. So on edge, I want to jump before anyone has the chance to push me over. Just so I won't have to stew in the anxiety. The constant anticipation of never. Unlike the promise of tomorrow bringing the chance to prove yourself, even if it is only to yourself, that you can do better. I'm not allowed to. Instead, I am buried alive, entombed in my own self-consciousness. Ambling on unsteady awkwardness. Uncertain of what is to come. My day in Court or death is here.

[Fig.1]

**Dominic,**

**You may not know me but I came across your story in the media. I am an author and speaker, and my main focus is speaking to young people. I speak to them about sex, drug abuse, suicide, violence, crime prevention, and destructive decisions. At this time I'm writing a book called "Anatomy of a Teen Killer," an anti-violence book about teen murder, with real stories from the teens themselves, as well as how we can notice these warning signs, and prevent future violence. I am not into glamorizing violence, or making offenders look like monsters, but I am allowing people like yourself to tell your story, in the hopes that you might help someone else. Basically, I'm trying to partner with you and see if something good can come from your story, and try and save innocent lives.**

**If you have an interest in working with me on this project, please send me a letter and let me know. If you have questions, please ask as many as you need to. I have nearly 100 offenders who committed violent crimes as teens who are participating in this book project. A television documentary will follow. Should you be interested, I would need you to tell me your story, what life was like for you growing up, and what you feel led to your crime. Also, what you think could be done to help stop teen violence, and what you would say to today's teens and parents. Also, describe what it was like living in prison as a teen, and what prison is like for you today. Lastly, what would you say to teens today who think violence is the way to solve their problems?**

**Thanks for reading this letter and for helping out, keep your head up, and know that you are in our thoughts and prayers.**

**Sincerely,**

**Phil Chalmers**



**PHIL WITH JESSICA SIMPSON**

**Phil Chalmers, PO Box 629, Aurora, Ohio 44202**

**PhilChalmers.com**

For over a decade now this all I believed I could do. I guess I believed the prosecutor's promise that our sentence would give the Sweeneys closure. Of course, I also hoped one day the laws would change and we could get our second chance. But if not, I also hoped this atonement would count towards some greater good out in the Universe somewhere. Meanwhile, back on Earth apparently it means nothing.

I learned this past December, The Biography Channel did a True Crime Episode on our case, which the Sweeneys participated in. 7½ years after we were Sentenced to Life without Parole (LWOP) that is, we are in jail until we die. Followed by 10 to 20 years for Robbery. Followed by another 10 to 20 years for Conspiracy, followed by 2½-5 years for Possession of the instrument of the crime. All the maximum Sentences for each offense available by law. If that is not enough, what else could we possibly do?

I have been punished in more ways that I will document not that I expect anyone to care, but one of the scariest aspect to all this is not that anyone can't imagine the living hell of this monotonous drudgery, but that they can't imagine because they don't even think about it to imagine. These Sentences are not thought out, they are thrown out.

Nowhere in the World, Save The United States and Somalia Sentences anyone under the age of 10 to Life without Parole. Pennsylvania leads the Nation, thus, the World in this Human Rights Violation. Most Juvenile offenders serving this Sentence were arrested in Philadelphia. Not only is that the jurisdiction I am from. They have used my case to justify it. What else does bringing all this up do but to advance the example they made out of us from 2003-2005? I wanted to put all of this to rest, but if you insist on making an example out of us, then in the tradition of it being an honor to be nominated and all the aim of this work is to meet that invitation. And besides that it is the intent of The Supreme Court decision of Miller vs Alabama anyway. While they did not bar Juvenile Life without Parole (LWOP) outright, they forbid its mandatory imposition without a Hearing for the Child in question.

I am not seeking to justify the tragedy we caused, but our case is long overdue of an understanding of how messed up things got and how fast. We were not bad kids, things went bad and we reacted worse. My side of the story is not just based on words and what did make the record. I have irrefutable proof of the highest material Evidentiary value. Tangible proof.

So if we are the worst of the worst and embody the argument against giving Juvenile offenders a second chance, then allow me to tell you how I got involved, which mind you is not why this happened. Not that I am casting any blame. I can't blame anybody but myself. If I point the Finger there are Three more pointing right back at me. This is my side of the story and not that of my Co-Defendants. Nor do my opinions express herein represent those of any Juvenile Advocate Organization. I Cite throughout as it applies since obviously I am not an authority on anything.

I am not Ted Bundy sending you on a wild Goose chase or O.J

writing: "If I did it." I did it. But that does not make me what they say I was -- I don't know maybe it is all these latent Punk Rock urges or simply hot-flashes from my mid-life Sentence crisis, but I am going to be honest because honestly I have nothing to lose. If it absolves nothing, it will save the record at least.

The Court deserves its due deference and I have and always will humble myself before it, but the argument I must make may not be applicable so I may have to appeal to a broader context outside these legal constraints to be considered for fair review. Besides it stands well to mention my Post Conviction Motion for Relief have lingered in limbo for years now. So if I cannot appeal to the Commonwealth, why not common sense?

All too often the Judicial System is won't to become jaded by its own jurisprudence. Which is understandable. I get it. They preside over 1,000s of cases. They base their decisions on 1,000s more. They have heard my story, seen my face a Million times before and 10 times out of 10 they are probably right, but this is my first look at all this.

This crime may damn me, but it does not define me and I am proceeding knowing full well. Whatever I say. No matter what it is will be opposed. I tell you I am sorry. You believe I am only saying I got caught. Even if I say nothing, you will just fill in the blanks. Anything I say or do is only self-serving and I am an unfeeling psychopath. If I could possibly detail every misfortune of my life to mitigate my offense, you may very well believe fate was only pushing me retroactively in advance for the evil I was born to do. All I say. All I do will offend some people. Then again some people are just offended my mouth moves. This could all very well be cast off as a paranoid delusion (which has NOTHING to do with my perpetual incarceration they will assure you). And God forbid I display a sense of humor that suggests, any dare I say humanity of mine, they will bag it and tag it as evidence of my wickedness.

Maybe I'm just an optimist. A real glass  $\frac{1}{2}$ -full kind of guy and the glass is so  $\frac{1}{2}$ -full I can see everyone is drowning. I am no exception -- I have kept my head down, my mouth shut for Ten years. I have taken so much, how much do you expect me to take? We are governed by logicless hysteria and we call it civil. If I must take this, I cannot tell myself not to protest is somehow noble any longer.

My reluctance to speak about this is not exclusive to the Press. I don't talk about this period. What could I say about it? I hate what happened. I took an innocent life. Ruined all of our families. This has been a thoroughly humiliating experience. I disgraced my family, my friends. I lost everyone, everything. I don't want to talk about it. I can't stand living with it. Everything I decry losing I took away from another and it is impossible to restore the light I put out in the World.

This is not something I want to do. I don't have a choice. I wish I could fight the case without hurting the family more. If there was a better Justice System in place, I would not have to.

I have and will forever have remorse for what happened. God knows I did long before I ever saw a prison cell but after I got arrested to pay for my crime. It quickly became about something else. Something not about us. Not about the victim. Not about what happened. It became something for us to proliferate, that I am about to explore hereafter you get to know your tour guide a little better.

First I cannot emphasize enough to the Sweeneys. This is not something I wanted to do anymore than I wanted for any of this to happen. I am not trying to act like setting things straight will ever make it right. I will never act like we have not wronged you. I wish we didn't. I know this will make no difference. I don't want to do this anymore than I wanted to hurt Jason and I am sorry for both. I'm sorry for putting all of our families through this again.

As for everyone else, if you are just here for gory details, I left that part to the Assistant District Attorney at the outset. The press asked a lot over the years what happened. After we got arrested and the alibi fell through, we blamed drugs, but at our Trial that was ruled out and we were just logically concluded to be evil. I don't know if the Police felt satisfied with any explanation available, so much as they had enough to convict us and look good doing it. It was a compromise we had to take to protect my Brother's interest ~~and~~ my interest in all this. Him, our case became the spectacle it did because of the degree of sex, violence and treachery involved and otherwise there would be little interest in soliciting our side of the story even with all the hints of something more largely ignored. Gary Server who represented my Brother (Along with The Honorable Barabara Mcdermott) when he addressed the Jury in his Opening asked them to...

Gary Server: And when the Commonwealth tells you later on how they all caved in once the Cops started questioning, Pay attention to how consistent that new story is, and come to some conclusion in the case about whether that story is true...

Dave Cram, a former friend of mine told the Police in his statement: ... They even talked about getting away with it, by pleading temporary insanity and blaming it on Video-games or drugs...

My Brother wrote to Star-Witness: Justina Morley: ... Do you know why Jason was killed? You think you do, but do you really? Why wouldn't I stop making plans until he was dead? Why did I hate him so much?...

I know why. I didn't know until after it happened and I asked him for an answer. If I knew before I would of took this serious. It never would of happened. Before people act like this is such an outrage. Ask yourself what any of you know about us before you even act like I had nothing better to do than take an innocent life.

First I want to tell you about my life. Then my Life Sentence. I got involved in all this over Six words that changed my World forever.

"BIOLOGICAL JUVENILE"

by Author

Domenic Coia



Chapter 1.

"I don't want you to believe me, I want you to understand me."  
-- Rudoff Steiner

It did not take Ten years in prison to realize the events of my existence hardly given rise to merit a biography. I was daily conscious of that when I was free, but I took time to "figure it all out" while silly me. I thought I had forever. So I will only provide background as necessary, as a foundation. There are people who while a part of my life and who I am. I will leave out of this. And since hopefully enough time has passed for the friends I'm introducing now avoid immediate association with what we did as we have always intended. I can't tell you everything without them.

I was blessed with so many wonderful people, and my last couple years out there I tried to do everything for everyone. I could not possibly detail everything I had going on, or remeber everything for that matter because I was often not "out of it." Long story short I spread myself to thin, and trying to recreate everything will eventually prove derivative or otherwise just whiny and just too personal for some and I do promise to try and spare you most of the High School drama but you know ... it kind of encompasses my entire social existence.

So here we go. Dear Diary... I was born on June 13th, 1985. My Brother Nicky was not too far behind, he arrived August 30th, 1986. I do not remember much about the early years but I remember a house full of love. A Father who used to come home from work every day with a new way to make us laugh. A Mother whose voice was as musical when she read to us and when she sang to us. A Pop-Pop who used to take me everywhere with him who caught me sipping his Coffee so much he gave me my first Coffee Mug. An Uncle who was my Father's older Brother and who I realize when I got older provided the template of the elder Brother, while he was ever the fun Uncle it was always tempered with responsibility to family. My Godmother lived down the Street, she was the best hugger in the World. My Godfather lived next door and he used to give me and Nicky all the junk food we wanted.

We are Italian. We did everything big. Holidays, Birthdays, Weekends. Dinner rarely even went by without ceremony. Friends were over all the time and good friends were like family. Capiche? I learned the value of family from all of them when we lost them all.

Our Mother from what I gather wanted our Father to marry her and was upset he wouldn't and for this lack of commitment came in

between him and his best friend and ran off with him, she took Nicky and I with her and married him. Making me officially named after my Father Domenic, and my middle-name is Michael after my Stepfather. Domenic Michael Coia. Whom she had my Sister with in 1990. All the while our Father fought for Custody, paying \$90.00 dues every week. Which she kept us in the dark about. We would see him here and there and she sought to turn us against him twice as much.

I loved my Mom but even at Five I knew there was something off, besides the odd Car rides with guys I was not to talk about. She used to work early in the morning, and would often crash out. I remember waking up before her and sneaking down the Stairs, just to watch her leave and knew she was not going to come back one day. I recall she forgot to pick me up at Kindergarten one day and an Aide had to call her to come get me. I understand she just fell asleep, but I overheard the Aide insinuate she was a bad Mother. From that day forward, I walked myself home.

When our Sister was born she was kept under observation. I didn't know my Mother was gloating to my Father that when the Baby survives she was leaving Mike. I only remember her showing me how to hold my Sister, the beautiful little girl with big Eyes and an even bigger smile. She told me to be a good big Brother and not long after that she abandoned me, Nicky and my Sister there.

When our Dad came home to reclaim us. Mike sat on his front Step with his Head in his Hands and begged our Dad to punch him because he deserved it. Dad told him he didn't have to and told him to give his Kids back. And said, "Come on Donny and Nicky, its us against the World now." When we got home we discovered our Pop-Pop was dead. No one told us, our Uncle blamed our Mother for running off with us and all the grief it caused the family. Not long after we returned my Godfather passed. In between the loss of the Three of them and our Dad and Uncle having to work that big house we remembered never felt emptier.

Our Mom did make contact with us a couple times. (But never reached out to our Sister once.) Dad had no problem with us seeing her despite her previously keeping us from him. At the end of these visits he would have to literally drag me away from her kicking and screaming. I wanted them to get back together but he explained to me that he wouldn't. "Once someone cheats on you it's over." She disappeared again. I thought it was his fault for not taking her back. He showed me the Custody papers granting her Visitation Rights every weekend and told me if she wanted to be here she would be.

It would be for a few years until we saw her again after she had a breakdown and tried to commit suicide. I was about 8, I remember it was Winter, it snowed at the ½way house. Our Dad told us she was sick and wanted to see us. (I learned later it wasn't her first suicide attempt. She made a Xanax Milkshake when she was pregnant with me.) I ran to her like she never left and clung to her so hard so she couldn't go again. But she did. She always does.

Grand Godfather eventually stepped in the picture for us and our Uncle and Godmother took us out for Pizza every week which was a welcome break from the daily routine of School, Baby-Sitters, then finally getting back home to play Video-games.

Our Godmother really stepped up to the plate when our Mom left. She would pick us up from the Sitters at lot and usually took us for the weekends. Eventually I would learn later, she had a thing for our Dad and when he started seeing someone and felt spurned. All I remember is her coming over one night and I tried to say Hi to her and she threw a bag full of my and Nicky's Stuff at our Dad and cursed him out. Our Uncle kept the torch lit making sure to take us out before Godmother eventually returned.

Now that our Dad had no one to share the responsibility of taking care of us. He couldn't just be the fun Dad all the time, he got really strict and laid down the law in a lot of ways I felt were unfair compared to other families. For all my protests, it only got me; "Because I said so-ed." So we had to deal with an early Curfew and short Street boundaries. At the time it felt like we were missing out on a lot. We mostly just ended up staying in. Mostly playing Video-games or reading. We moved around a lot too and in Philly, if you cross certain Streets is like you end up in different worlds but at some point I got really shy plus I was a nerd before it was cool, the other kids were not too receptive unless they wanted to copy my Schoolwork. This is before the Anti-Bullying Movement was in, I had to fend for myself.

I also had a little Brother to watch out for and our Dad's Rule it wasn't enough for me to behave if Nicky got in trouble it was my fault, on top of us being stuck together all the time. All this exacerbated the sibling rivalry and we fought all the time. But no matter how much of a pain in the ass he was, the Kid could always make me laugh.

And I promised I would not get derivative so flash-forward to 1998.

Chapter 2.

"Friendship is everything, friendship is more than talent. It is more than government. It is almost the equal of family. You never forget that."

-- Mario Puzo

In June of 1998, right before I turned 13 I started to hang with Joshua Staab and Joe Mckenna, who I knew from Class. Before being a "Goth" or whatever was as readily embraced as it is now. There was only one gothic girl at Adaine Elementary, she was a pretty girl to begin with but her style made her that much hotter. They had an affinity with her where she would say Hi to them and bum Cigarettes off each other. As for me, I hung out with her.

She was from Port Richmond, where our Sitter lived. I met her in a scene I won't waste time describing but we had the same taste in Music. (You listen to a lot of Music in a sheltered childhood.) And where Josh and Joe were in awe simply admiring her rocking dark Cloak with crimson trim, all the previous Summer I hung with her. I remember jumping in a Pool with the Princess of Darkness and laughing with her when all her Black Makeup she forgot to take off was running down her face and clumping to the surface of the water. She graduated Middle School that year.

Josh, Joe and I took to each other fast, besides the common taste in Music. We shared the same dry humor, by the end of the Summer we were hanging out everyday. We went Goth, which wasn't a big deal to us as it seemed to everyone calling us Freaks and Devil Worshippers. Which was goofy, they acted like we were a Cult but they all had the same synchronized preppy style. It wasn't an oppressive "Greasers" vs "Soc's" deal. We were pretty much cool with everyone, and once we started getting high. Everyone came together.

There was always one drawback to hanging with Josh. He looked different and got made fun of for it and even when people accepted him. Sometimes he couldn't accept it outside of Joe and I. There was little room for judgment with us, we just joked and played around and did stupid shit all the time.

He would feel especially rejected by girls. He did have one that was kind to him. April Morley. They met through her Brother and they became Pen-pals passing letters back and forth. Josh made it a point to walk around her way to see if she was hanging out on her front Step. He would get his "Hi Josh" and we would walk on like we were going somewhere. April and I were not formally introduced at this point. He insisted that I don't talk to her so she wouldn't like me which I thought was ridiculous but whatever. He asked her out in a letter and she let him down easy.

The Summer of '98 forged our friendship. We hung out at Josh's Grandpop's all the time because we could smoke there and listen to Music which was our primary bond besides joking around. I won't go into the Music we were into because I like the Artists I like enough not to associate them with a convicted killer. We decided to start a Band, I played Bass, but after learning what the Guitarist knew, I started to teach myself how to play and quickly surpassed him. So we kicked him out. Josh played Bass and Joe played the Drums.

When we returned to School in December. (Joe and I were in Eighth Grade, Josh though older was in Seventh Grade.) I had made up my mind that Music was what I wanted to do with my life. This disappointed my Teacher. Who also had me for Sixth Grade when I was getting straights A's. She noted the marked difference in my Academic performance, mainly the lack there of. I didn't do anything but I wasn't a dick about it when she expressed her concern. So I made poor efforts to explain politely without insulting a good Teacher that I didn't need School. Honestly the Curriculum was just boring. Every year it was the same Textbook with King Tut on the cover it seemed. I still pursued my own reading, although it was mostly Rock Biographies by this point.

Early in that School year we got caught cutting School together. (Who wouldn't notice the 3 Kids in all Black missing?) My Dad was highly upset with me and I got punished. Around this time our Mom, reemerged through our Grandad and was concerned about how much trouble I had got in. She had remarried, had another boy and girl. She was stable and decided to try and get Custody of me.

I went to stay with her in New Jersey for a week. Which Stepdad # 2, made no secret of his displeasure with and openly tried to protest my Mother having anything to do with me. Despite this I made the most of hanging out with my Mom. She introduced me to a neighbor that played the Bass, even played Matchmaker hooking me up with "girl next door." I used to hang on her Tire Swing with. My Mom was the best part though. We were having so much fun together. I remember at the end of the week kicking a Ball around with her and my youngest Brother and he started crying accusing me of "Stealing his Mommy." After the week was over, she dropped me off at my Dad's and promised to get Custody of me, but never returned.

Dad forgave me and we went on as if it never happened. He started to hear me out more and agreed as long as I did what I was suppose to, he wouldn't be so hard on me. The School Counselor, who was wonderful, who was aware of these developments and my Mother's departure put me in Therapy. Which meant one thing to me, free drugs. Which I achieved in Two Sessions, but my Father was not going for that. He was appalled at so quick a diagnosis he called the Doctor a Quack and refused the Meds vowing, "My Kid don't need to take drugs."

December, there was a School Dance. I took a date, but how shall I put this? Lets just say in another life I had a little luck with the ladies. A Couple politely negotiated getting to

Dance with me, a pretty Greek girl and another darling my Date ~~she~~ shouldn't of let cut in, I ended up hooking up with her later. Until I found she was lying to me about her age and she was like Ten. (I was 13) Which was probably fortunate, if I was less scrupulous I probably would of married her like we were in all the drawings she sent me. But this aggressive little Minx remained undaunted and followed me relentlessly to Josh's and then home every night. (She even had a later Curfew than me.) She never came alone, she always brought her best friend, Justina Morley.

Justina was mostly quiet and gave the overall impression she was being drug along. She wore a Coat that zippered up to her Nose and her Hair parted into Two long bangs that could shroud or reveal her Face in one sweep of her Hair. She is pretty, but also 10.

Josh would eventually refer to them and those that came later as my Stalkers and when his cousin Jessica Wildonger moved in, he bemoaned that he had one under his Roof. She initially volunteered to shoo them away in time, her motives were not as altruistic as they first seemed.

She was pretty but not really my type, I didn't really take note of her outside general conversation in passing at that point. One night my Brother came home with a disposable Camera and told me to "Strike a pose" which I did and we were goofing off until he told me Jessie sent him on a mission to get some pictures of me. Which I found odd and the situation got stranger still. When she blew up one of the pictures, framed it and hung it prominently in her Room.

This was where I hang out. Even if I was into Jessie, she was Josh's family and if things went sour, there would be all kinds of repercussions. Maybe I'm old fashioned, but I did accord myself to a certain value system based on respect, to put it more succinctly. As the Historian across the Street (Well he may not have been one but he always<sup>^</sup>Vodka) used to tell me "A Fox don't shit where he eats." Hanging with Josh, I got along with his whole family, over the years I got close with all of them. Jessie's Mother gave me a printout entitled, "Rules to dating my daughter."

So, I decided how best to defuse this potentially hazardous situation. When I first saw the Photo I just asked, "Who's she?" Jess said nothing. And then I asked to borrow it and took it in the Bathroom, when I reemerged I made a show of adjusting my Belt Buckle. Then hung the picture back up, then I'd kiss my Hand and slap a wet one on the picture and sigh longingly before looking away. After a few episodes of these antics, the picture was taken down.

By this point, Justina and her friend have grown so familiar by being around they built a rapport with Nicky. That is when I really saw Justina come alive around him. They often got pushed off on them, Josh would continually argue back and forth with Justina's bestie. Eventually his Mom got tired of their coming around and pointed out that "this isn't his house, stop coming

around like it is." Not long after this Justina and my overt admirer had a falling out.

Nicky started hanging with Justina at her house and her huge family immediately took him in. I don't remember what it was about but Nicky got in trouble and our Fathers was upset and I stuck up for him and he must of talked me up over there because April made it a point to come meet me. I remember Nicky had a Milkshake, and she was hopping over Parking Meters. She was wearing those Beige Camouflage Pants' that laced-up on her left Hip, she walked up to me and said, "So you're Donny Coia." I replied, "So you're April Morley." She said it was a real nice thing I did and Nicky was really proud of me. I shrugged it off something to the effect of; nobody yells at my Brother but me, by the end of the walk she took my arm and locked hers around it and we were inseparable. Our welcome was worn out fast over Josh's. Josh and Jessica were not happy and had no intentions of holding their peace.

So we took to hanging together at her house. Curled up together all day everyday. Until she would walk me home every night when we had to part at that damn Curfew. I liked her a lot. I was with a few girls before her, but I wanted this one to last. She did too. She never failed working having Kids in the conversation. Not merely being subtle. Her Sister was pregnant and she regularly Baby-Sat a friend's Baby, doting on him became part of our daily activity. Baby-Sitting was a dress rehearsal. She kept telling me she wanted a boy.

It made things weird, but it made me take things slow. I was too into her to go anywhere. I didn't rule out giving her what she wanted. I would have started a family with her. Her family already made Nick and I a part of it. They had so much love together, that they did share, it breaks my heart what we brought down on them.

Not to mention they were Italian too. Their Mom, supported a whole house full of Kids on her own. And she took care of us too. On my 14th Birthday my Uncle and Aunt invited us over to Dinner, immediately after we embarked on the trip our Dad inexplicably turned the Car around and dropped us off at home. He said I smell like Cigarettes and expressed how upset he was because he has Asthma and he had to fight to breathe all his life and he doesn't want to watch me do this to myself. He told me if I keep Smoking, I'm not going to keep having Birthdays and drove away.

Nicky and I went back to April's. She was surprised because she knew we had plans and asked what happened. I made some excuse and didn't get into it but she got it out of Nicky and she went to talk to her Mom with Nicky in tow. She came back to me, awhile later her Mom came in with Nicky and she had a Birthday Cake with my name spelled out in Strawberries on it. She dropped everything to do that for me. She didn't just salvage my Birthday, she gave me one of the best ones ever.

Together Three months, maybe a little less and April was distraught over the return of some guy from her old neighborhood she ran into. I remember her talking about he was the kind of Kid

who hurts girls as his way of showing affection, but she told me he used to really hurt her. I never ran into him but Nicky was with her when she did. When he told me I was concerned he did something to hurt her. Nicky quickly put those fears to rest. He told me he kissed her and April swore him to secrecy not to tell me.

I was crushed. I know it was my fault for not making our relationship official and by taking things slow. I must of pushed her away but even if she wasn't my girlfriend. Why the deceit? She not only knew how I felt, but more to the point she knew how I would feel if I knew. Technically I couldn't break up with her, so I did the next best thing. I told her I wasn't going to hang with her. I never told her why. I went back to Josh's Grandpop's. Jessie was pissed to see me sad over April. This was mid June, I still had the rest of the Summer. I got close with April's friends. Lets just call them Jen and Stacy, Two smart, fun witty girls. The Three of us, Nicky and Joe hung out a lot during that Summer.

Joe was about to attend Saul Agriculture High School. I only applied to one School to my Counselor's disappointment and despite flunking almost everything in the 8th Grade I still got into one of the top public High Schools in Philadelphia. Franklin Learning Center. Jen was going there too. Joe introduced me to a cool Senior there, just call him Brian and Joe's cousin. Who if I even try to describe, ~~and~~ do her beauty injustice I would give away her identity. She is that beautiful, she got hit on by everyone, I couldn't take her anywhere. Jen already knew Brian, she had a thing for him.

This Summer much like the last Josh would hang with us too but he got into ridiculous arguments with Stacy inexplicably and with Jen by proxy. So they didn't want anything to do with him. So we stopped bringing Josh around them when we hung out.

Another highlight of that Summer was coming home to my Dad dressed in one of my all Black Outfits listening to my CDs and holding a mock intervention for me. I told him he smelled like Cigarettes and took his Beer.

Around this time Josh also moved into a new house on Firth Street. I helped them move in. It was a big house, it ended up being just me and Josh and Jess there at some point. We carried some stuff up to Jessie's Room, I asked Josh if that was everything. He said yeah. I nodded and shut the Door, and took Jessie on the Floor and we christened her new Bedroom.

High School was great, I truly liked it. The Teachers, the whole scene loved me. I wish I did what I was suppose to be there for now. As soon as I sat down in Freshmen Orientation, this Dude sat next to me and went on to become one of my best friends (Who I'm not going to associate with this, lets just call him id.). When School officially started a week later, Stacy and I were plugged into everything through Brian and Joe's cousin.

My Major was Instrumental Music. The School had a great ensemble of Drama, Dance and so many great people, who I immediately started cutting Class with. I still stuck with Stacy,



besides her being cool I liked her, but I knew she liked Brian but he was Bi and kind of aloof to her and seemed to just want to be friends. Not to mention I was still shy and it took a little while to adjust to. Besides Stacy I stuck with a lot of the other Freshmen who were also new to this. I realize now this self imposed estrangement made a lot of people feel jilted when I eventually stuck with other Freshmen. Id was in Instrumental Music and we had most Classes together, he was who I mainly hung out with.

Another Freshmen Stephanie Swander (Hey, you made yourself public record when you talked to The Inquirer, otherwise I would have changed your name. You too Alyssa, sorry Sweethearts.) who we hung out with ended up asking me out. It was my fault I definitely flirted with her but my heart was set on Stacy. When she asked me I felt too awkward to say no. I didn't feel right rejecting her but I didn't want to date her halfheartedly. So I just said yeah. I remember she offered me her Phone number, and Joe's cousin called me with Two other pretty girls and I told Steph I had to go. On Lunch break I would nurse my Chicken Nuggets and stay close to Stacy. Steph quickly grew indignant and snapped, "Why aren't you talking to me?" I wrote her a note it's rude to chew with my mouth full and chewed really slow after she read it. She stormed off.

Alyssa noticed my antics and tried to talk to me about why am I going out with her and suggested a better girlfriend for me but I eluded her match for me as well. Stacy asked me what was up, I told her half the story leaving out the past about her. Stacy let her down gently for me, she told me when we walked to the Bus Stop. In an odd turn of events Alyssa and Steph stopped being rivals over my lovelife and apparently bonded from the experience.

As for Stacy's crush Brian, he had been hanging with April a lot. By all reports they weren't hooking up. I conveyed to Stacy it was probably true. Brian was openly Bi and he had been leaning more in the erection direction but Stacy made a powerful observation that had an effect on me. She pointed out April bore a striking resemblance to his ex-girlfriend. It in turn eventually ruined Justina for me, who favored her older Sister. When she would later throw herself at me, I related it to me chasing April's Ghost and I wanted nothing to do with her.

One day I came home to Nicky accusing me of always stealing his friends. (Like he did with a previous incident of me hanging out with his friend Shawn at what he felt was his expense. He accused me of stealing April too.) I was like; she likes you, you can hang out with her whenever you like. He shot back, "I don't want to hangout with her if you're there. Why can't you find your own friends?" "Fine, I'll back off, I'll leave her alone." He went back to playing Play-Station. I kept my promise to stop hanging with her knowing it would only be temporary, until Nicky felt better and let her go and moved on.

Then I started dating "Gabrielle." She was 18 years old, a pretty Senior with a hilarious quirky personality. I still liked

Stacy, but I didn't want to repeat the episode I just went through with Steph. The way we carried on together it was generally assumed we were a Couple and were before we knew it.

Joe and I paid a visit to Josh one night, it started off the usual routine of cavorting, telling him all we had going on in High School. (He was still in the Seventh Grade, he had failed the previous year.) Out of nowhere he brokedown crying. Joe and I shot one another a "WTF?" look. And started laughing. He could not be serious but he was; "You guys left me." We just laughed reasoning he could not be serious. He is the one that doesn't like people. As soon as we introduced him to anyone, he turned into a dick. He started full-on bawling, "I can't make friends like you guys can." We calmed him down and promised we wouldn't leave him like that again. And we kept our word. We hung with him everyday together, if not one of us would always be there. Resolving this consolation his next request that would pop up is, "I need a girl."

Until I found him one, we found a new pastime in the meantime. An acquaintance tried to sell me some Weed. I declined and kept walking. Josh was like, "Man I wish I had Five Dollars to get high." I turned around and bought a nic. We went around our roadie's house (In those days we did little performances when we sucked. Throughout this tale we kept practicing and got better), we didn't have any papers or a blunt, so Josh made a makeshift <sup>bowl</sup> out of Aluminum foil, it didn't really get us high but Josh took too much pride in his work to admit this. We tentatively called those failed efforts "Tin foil games" and became Code for getting high.

Before long Josh's Mom taught him how to roll a blunt, and we achieved the desired effect. By the time the second blunt ended its rotation. Josh's Mom was snapping her Fingers in front of my Face laughing, "Hello! Earth to Domenic!" I came back from wherever I was and laughed and took the blunt. We laughed all night, I remember walking home with Joe the next few years from that December night in 1999 to my Arrest June 2003 was a typical cannabis haze. I don't remember what we laughed about but I remember everything felt perfect. I'm sure Josh and Joe still agree that was one of the best times we had.

It marked the beginning of an epoch. I said at the outset I don't blame drugs, I'm not advocating them here either. I used them socially for recreational purposes at first, after it got old and just customary. I still sought to open my mind to transcend being, believing this to be the gateway. The liberation through inebriation approach I abandoned myself to every drug available if it was shortcut to the trip I was looking for. I favored Psychedelics but when they weren't so readily available I preferred Xanax and "Tombstones." This escalated, keeping things from my Dad to a whole new level of Domestic Espionage. Franklin Learning Center had a Credit System, that was based on working at your own pace, if you needed 10 to 12 Credits to Pass a Course. So I was legitimately not failing in School. I actually Passed English, cool Teacher caught me reading her Books I borrowed

liberally and gave my extracurricular reading her stamp of approval. I Passed ahead of schedule. At this time I felt like I could do anything.

So I did. I took Nicky and Gabrielle to reunite with our Sister. She was 9 now. I told our Stepdad we had to see her. He was more than happy to let us to. He introduced us, and we talked awhile. I was not sure how well received we would be by Mike. I knew our maternal Grandad had tried to make contact with no success. Any doubts I was worried about were immediately put to rest. Our Sister who we had learned was a good Student, showed off another talent to us. She did 2 awesome Portraits of us from memory. Nicky advised her he could make her a fortune fencing the Portrait of us on the Black-Market to Jessica. I told him we're not turning pimping me out into a family business.

Gabrielle, who set on marrying me when I turned 18 by then, took to our Sister too. And promised her a Toy she wanted for her upcoming Birthday. Hanging out over there I started hanging with Mike too, which led to a couple drinks and graduated to getting high together. Nicky was straight edge and didn't get high. We didn't do nothing to crazy, just Diet Pills called Yellow Bars a.k.a. Yellow-Jackets. Which were a cheap Speed high. Nicky and I stayed overnight. Our Dad was ok with it. I drank all night with him and some friends he had over.

I returned again the next weekend and Mike politely discouraged me coming around. I was not giving up so easily and he looked at me like I was crazy. Nicky was silent on the subject until our Dad forbidden me to go around there again. I asked him why I can't see my own Sister. He said I have no problem with that, I have a problem with someone giving my Kids drugs. He told me about him confronting him at the Bar over it and I understood. I went off on Nicky telling him it's one thing to get me in trouble but he's hurting our Sister. The point of seeing her was to give her more family, not give her more to be taken away from her. He didn't care he said something to the effect she was only our half Sister. I said lucky her, she don't have to deal with you full time. She may just be my half-Sister, but I want my half, even if I have to be both  $\frac{1}{2}$ -Brothers to her. But I knew I couldn't show my face around there after that. Even if I told Mike, Nicky told, he couldn't trust me and all the bad blood with my Dad, he couldn't take that chance and I couldn't ask him to. I was so paranoid I didn't go back. I vowed to make it up to her when I was older and not let the bad blood stand in the way of my blood and family.

Meanwhile I tried to take care of what I could. A girl at School wasn't very shall we say popular with the guys (call her Jackie), I remember she asked me to give her a hug because it was her Birthday. I did, and everyday after that and one night when Josh was moaning he needed a girl. I took a chance and played Matchmaker with her. She was afraid I was playing a prank on her, but I leveled with her that he has trouble meeting girls too and they could hit it off, if not we'll just hangout, it will be no big deal.

They hit it off, by the time we got to Josh's house from picking her up she had her Hand down his Pants and they were under his covers before me and our Roadie could make it out the Bedroom. After being stuck downstairs we Smoked some Weed and our Roadie stripped down to his Boxers and snuck back in the Bedroom and almost made it under the covers before Josh kicked him out. Josh and Jackie were quite content with each other. Gabrielle and I on the other-hand was a different story. I broke up with her, she was upset. I tried to be a prick to get her over me. Eventually she believed it. I didn't have a good reason, I just didn't want to be in a serious relationship when I wanted someone else.

In between Nick and I's falling out, him and Stacy had drifted apart again. So I caught back up with her but she ignored me. I tried to write her a letter. Which even her best friend Jen endorsed I was told but it was to no avail she remained cold to me. It was insane. Every time I saw her I said Hi, it was probably harassment in her Eyes. I didn't want to come between her and Nicky's friendship, because then I really would have been stealing her from him, so I had to leave it as is. Not that she gave the chance to explain anyway. She probably thought I felt I got too cool for her or something. When really I thought she was the coolest.

Once we started getting high we got out of dressing Gothic too. We thought it was ridiculous. We all got Hair-Cuts too. Which made my Dad happy. He hugged me and said he got his Son back. Smoking Weed had other affects. I was already shy. So I got quieter when I Smoked, so I wasn't as outgoing as I pushed myself to be before. A lot of people I was shy around to begin with, I was that much shyer now. I realize now this silence was misinterpreted by their own insecurities that I wanted nothing to do with them. Weed for its drawbacks, had benefits though, the Stoner Community which was fun. One in particular we met through our Buddy, along with Id. Would encompass our scene Sophomore year by then it would be all we were doing anyway.

Stacy wasn't going to talk to me, let alone be my girl. So I hooked up with Stephanie after she broke up with her boyfriend who remained hung up on her. She didn't really give me much choice, she asked to speak to me in the Fire-Escape, then punched me in the Stomach and kissed me. Her Ex was a mutual friend so we kept things under wraps, by that I mean if we were in company with him, like one time I recall at Love Park. We'd make-out behind his back. I don't remember who told him but he came after me and punched me in the Face and he kept yelling at me to hit him and punched me telling me he's going to fuck me up. I smiled at him and told him, "I don't care, I got your girl." He didn't stop hitting me after that until this like Four-Foot girl I love broke it up, out of the whole crowd this little girl was the only one to step forward to get him off me. He was trying to get Steph beat-up too and she didn't want the drama and I didn't want nothing to happen to her. So we calmed down off each other.

As if that day wasn't strange enough when I went home the Phone

rang, I picked it up, it was our Mom. She was cursing me out. Accusing me of leaving a nasty message. I told her I didn't, we figured out it was Nicky. I told her he had probably been watching Lifetime again. I told her about my day getting beat up, she laughed when I told her what I said to him.

I knew where Nicky was coming from and we talked about it and started hanging out again. We're Brothers... I remember getting high with his friends at Penn Treaty Park when he was there and Jessie didn't Smoke but she kept staring at me so I started making out with her and we went somewhere more private, but it ended up not going anywhere again.

That Summer our Dad got me a job as a Stockboy at the Company he worked for. I had to work from 2:30 in the morning to 2 in the afternoon, which was fine because I didn't need much sleep, and being paid 12 hours was enough motivation to wake up. I went to South Street with Nicky and Id for Comic Books. There was a young lady crying out front of a Diner on Market Street, that I wanted to ask if she was ok. Nicky and Id overheard Diner Employees calling her a junkie. I didn't care, she looked amazing in this Pattern Flowered Dress and big Glasses. I asked if she was ok, she asked if I could go in there and find her Hat. I looked but it was nowhere to be found and apologized telling her I had no luck. She sniffled and nodded and asked if I could walk her home. I said yeah. Nick and Id split. Not only was she a junkie, she was a prostitute also but brilliant and hilarious besides. We got close and she asked me to watch her back when she had to see a John in case they got rough. I wasn't cozy with the idea but someone hurting her made me more uncomfortable. I liked her but couldn't stand to watch her shoot-up. They say Marijuana was a gateway drug. I did Pills too but I mostly stuck with Weed knowing it would be cool. Crack and Heroin were something else.

I lost my job like the end of July. Joe and I bought Magic Mushrooms and split a Pie of Pizza using them as Toppings. I didn't act out dramatically, I ate a lot of Apples and read The Daily News too long. After passing out I do remember dreaming about Jen and Stacy Baking, wearing Chef Hats and using Rolling Pins to kneed Flour and awoke to the Boss gently advising me not to come in the next day. Then the next. And the next. Then ever.

Id started dating Jessie's best friend that Summer. I knew her for years. She let slip that she was into me. I said yeah, I like you too, shame you're dating Id. She left the Room, called him, came back in and announced she broke up with him. I didn't like that but I liked her so I asked her not to let him find out yet and we'll let him know later. The backlash came from somewhere I had not expected. She told me Jessie broke out into a crying, screaming fit. Some Kid in my Face over what I did to Jess. I told him to fuck off, Jessie is not my girlfriend. He threatened to jump me with all his boys, I told him I don't care and he just got madder, finally I told him listen to yourself, you want to fight me for not dating a girl you're trying to impress. She's all yours.

Kristen was sad about losing Jess, and I told her its Jess, it

isn't her, she acts like you're banned from dating me. She then told me; Jess did have "Dibs" on me, I was Hands off. I couldn't believe her. Word got back to me the guy who threatened me has female cousins after my girl, so I tried to talk to Jess but she wouldn't see me. So I talked to her noble avenger and told him I'll stop seeing Kristen as long as you call off this attack on her. He agreed. I stopped talking to the girl and eventually made up with Jess but never got with her again. I told her we were friends and if she wants that much no more "Hands off" policy. She agreed to the terms, and honored it when I hooked up with more of her friends in the future.

Steph and I stayed in touch. I called her after getting Smoked up with Josh before I had to get home, he asked to talk to her, she was cool with it. They hit it off and to my utter astonishment, charmed her into dating him. I was a little jealous but realized how good this would be for Josh and my dating life was crazy enough. I was in no shape to commit to anyone, I hurt girls enough. Plus, Josh was officially integrated into my High School clique. He was open to people and any initial awkwardness we had a surefire icebreaker after we Smoked Weed and broke awkward silence by him doing the Worm, and the healing powers of dance worked their magic.

Nicky was a Freshmen there that year. He wanted to go to Saul High School where Joe and Jessica went, but our Dad told him to go to F.L.C. with me so we'd be together. Josh was still in the Seventh Grade. Jason Sweeney came that year also. We knew him from the neighborhood, he hung with Nicky. So, I took him under my wing with Nicky and plugged him into everything like people did for me when I was a Freshmen. He had an issue with getting a deposit for a Locker and so I just shared mine with him. He asked me for the Combination. I showed how to open it up like "The Fonz" from Happy Days. He started cutting Class and getting high with us. We used to have house-parties, while everyone's Parents were at work. Except at our house our Dad was liable to appear anytime.

Nicky and Id hung out before High School but they got closer. Nicky stole my friend, I didn't care like he did, but he did tell him I stole Kristen, which caused a lot of friction. Id forgave me after he strangled me a little bit.

It did not take long for blatantly misbehaving to catch up with us. I recall one lucky break. Nicky, Jason and I were Smoking Weed when a Security Guard came through a backdoor to get the drop on us and I pushed them out the other Exit. Facing a cloud of Smoke from the joint, I lit a Cigarette and let the Guard catch me Smoking it so they would get away. I got sent to the Principal's Office and he stared me down. I tried to be patient but kept glaring. I noticed a bowl full of Bananas, and asked him for one. "No," he spat. I nodded. He was called away so I pocketed a trophy from his Desk designed like a Pyramid with a Clock that didn't work.

Not long after that an intervention was held with our Teacher and our Parents, (not for Jason, Stephanie or Alyssa) about

cutting Class but we continued to. The parties were cool until one at Alyssa's, my Brother stole a \$700.00 Knife, that he was so wasted, he quickly lost it before we got home. Josh stole some Weed all unbeknownst to me. I was raiding the Southern Comfort with Alyssa, Steph and Josh. Alyssa's Parents noticed it was missing. I took the blame to everyone so they wouldn't hate Josh and Nicky, but to Alyssa all I could do is deny it. The whole situation was not cool. She took pains to still talk to me, it permanently fucked up our friendship. I didn't want to choose Josh, Nick, over her but I felt obligated to.

I was on a streak getting suspended every other week. Nicky was quickly gaining on me. Our Dad was not happy we kept cutting School, by accident we discovered a way around it. This was post-Columbine so we had to Scan in our ID's to enter School (In theory, there were other ways in) but apparently the Roll Sheet wasn't delivered until mid First-Period. So if you Scanned in late, you were marked Tardy all day. We dipped in and out of what Classes we wanted without being immediately on the radar. All we had to do was flash our Tardy-Pass at the Teacher.

We eventually decided to runaway one night. Nick, Jason and our other friends, one of whom was particular about having an Apartment with Hardwood Floors. So we didn't come home from School, we just stayed out Smoking Pot all night at our friends. But the strict Parents we were getting sick of, tracked us down and came and got us. Before Jason's Dad arrived for him, his Stepmom wanted to talk to me after talking to my Dad. She was giving me advice to get off drugs. Josh was insisting I hang up on her, he had no tolerance for anti-drug rhetoric but I heard her out. This is the only time I talked to the Sweeny's. I never met them in person. The next day I asked if they were mad at him he said no, him and his Dad just talked on the way home. I told him we got in trouble.

I got expelled from F.L.C. Nicky did too. Our Roadie moved to South Philly where Steph lived. I insisted on introducing them so he would have some friends and another of our friends stole Steph from Josh, further severing ties between us. Dad was pissed. And if that was not bad enough I had to attend Kensington High School, which was a known hive of violent turbulence and Gangs. We had to wear Uniforms too. When Dad took us shopping, I saw an obnoxiously bright Spiderman Bookbag I had to have. I begged my Dad, "Daddy! Daddy, I want it" and jumped up and down until he shook his Head and bought it for me. Which was a victory for me considering he cut-off my Allowance long before that. People told me horror stories about where I was going. I said fuck-it. I went to School and just walked through the hallways not giving a fuck, took no bullshit from other Kids, eventually carved out some respect. Once I established myself I loosened up and started being my usual self and got along with everyone. Weed brought everyone together. All walks of life. If I wasn't getting high with someone, I was getting drugs from them, at the very least I was getting a laugh out of them.

This is where I met Dave Cram, who knew who I was and made it a

point to hangout with me. We went to his Aunt's to Smoke, he was into those weird asphyxiation shotguns, where you pretty much inhale and strangle yourself, to avoid exhaling to get higher. I was not into that. I sat back and let him knock himself out. Then I picked up the joint and taught him how to chill by example. I liked him but he tried too hard, but it didn't mean he didn't have potential. He made Josh and I laugh when he went out of his way to work into a conversation. His favorite Guitarist was John Lennon.

I dropped out of High School. So did Nicky, he stopped getting high too he just stayed in the rest of the Semester and all Summer in his Room playing Play-Station alone. Josh had already dropped out of the Seventh Grade. His Mom and Jessie's Mom stopped living together. Jessie's Camp moved back to their Grandpop's. Josh's Camp moved into a house on Tulip Street, their cousin owned and signed the Deed over to them for a Dollar. Which may of been overselling the former Crackhouse, they cleaned Crack Vials out of there for days. Not that we had grander plans for it. All we did was get high there. Things grew increasingly dismal and I was not happy, this is the time of my life when I lost control.

At Jackie's house, who I still hung out with after Josh dumped her (he described her as "too feral for me man"). She took to playing Guitar and I'd give her Lessons. She invited me over to play with her new "Epiphone SG." I was cool with her Brother too and would show him stuff on Bass. One day though his Sister's atrocious Bisexual EMO boyfriend, was there during a Jam Session, it wasn't unusual to see them frolic together somewhere. She decided one day to sic her boyfriend to try and kiss me when I was tuning her Guitar. I freaked out, she just cracked hysterically. I was so pissed and stewed at Josh's. He kept crying he wanted to get high. His Mom just started working at Dunkin Donuts, but there wasn't much money after she paid bills, she lived on Tips. They had Welfare, every first of the month they would binge and eat good. We would wait until one or two in the morning for it to turn on, then got to a Texaco and get food and always Whipped Cream to do cheap whip its. The rest of the month she would attend a Soup Kitchen. Often I brought them home from our house.

So I decided to burglarize Jackie's house. Not as a Robin Hood Crusader, that was just a bonus to satisfying the revenge I sought. After I did they immediately suspected me. Our Dad asked if I did. I denied it. He offered Jackie to check the house, they did it, was all clear. I anticipated that. Domestic Espionage remember? A couple days later Dad caught me with the Guitar and took it back to them.

Josh's Mom, took in a Runaway around this time, who knew Josh's Brother. He was on the run because he was from the suburbs and stole a few bricks of Cocaine which we chipped away at. Josh's Mom marvelled at our fondness for Cocaine. Joking, "we found out how to get Domenic talking, now we have to figure out how to shut him back up!" We Smoked Weed with the Runaway and fed him. We



started really taking care of each other. I truly valued my friends as family, I loved people -- always did, always will do anything for them. But drugs loosened up inhibitions, and I was caught up in the frenzy and kept getting carried away.

It got back to us a friend from F.L.C. was talking-shit. I got his house. A few other people, even my own Godmother. I remember she accused me of stealing a few Quarters from a Change Jar. I came back from getting high with Justina and another Ex-girlfriend, when my Godmother confronted me, all I kept thinking was how dare you accuse me of anything. You tried to use me and Nicky to get closer to our Dad when our Mom left, you're probably making this up to get my Dad's attention. I told her I didn't do it. She just yelled at me. Since I was already guilty I decided to get her house.

I didn't feel better. I felt scared. I was 15 and I was truly out of control. Before I knew it the sweeping frenzy of fun I had swept up had come to a stand-still. We weren't doing anything anymore. Just getting high and sitting in silence. When we were sober all we did was sought-out means to get high. When we got high, all was silent again. Over and over all over again. I would voice my concerns to Josh, he would make me laugh a little and it would go dead again. I was freaking out. If we needed this shit to have a good time, why then aren't we having a good time? At this point you had nothing else to do. I had burnt all my bridges. I stranded myself with no Lifeline and saw no way but down. Another night we went on forever in silence until I drug myself home and just laid in bed night after sleepless night with my heart beating out of my chest, waiting forever for sleep to take me.

I knew I was fucked-up, there was no way around it. My efforts to open my mind only resulted in me losing it. Drugs can be fun but being dependent on them isn't. It was like everyone forgot we had fun before we started getting high. For my friends they were gone, the ones I still had were too far gone to stop. It was non-negotiable, we were "Rehab is for quitters" proponents. I had no intention of not hanging with them. So it came with the territory. I was buying friendship and not getting my moneys worth and I knew it. We weren't happy. We were miserable. We weren't friends, we were a drug den. I wish I could tell you that after I realized this, that I got out of the life-style. I can tell you I did get myself together, but I did not leave them behind. I had a crazier plan. I was going to save all of them. I lost enough friends. They were not to blame, I was. I learned my lesson. It used to be so quiet in there. I remember Josh's Mom laying in the bed staring at the ceiling, sighing; "I'm going to die in this house."

November 2001 I got a job working at Boston Market. But it is a long walk from Columbia Avenue to Castor and Aramingo so I could not make it without running into so many people insisted on getting me baked. I had to pop Xanax just bring me down to Earth by the time I got to work I was obviously wasted. It was no exaggerated smile on my face when I asked, "How can I help you?"

But for the few sidelong glares, I was really well received. I ended up getting in trouble for being too nice to my Customers. My Manager was cool about it, she bought me Dinner and had a sitdown with me, but I couldn't bring myself to stop. I remember a young African American girl asking me to fill up her Sweet Potatoes to the top and hook her up. So I did and another Supervisor yelled at me, telling me; if they want more, they pay more. Then the Customer shot up and pressed a Dollar into my Hand making a show of the gesture, saying to the audience the situation created, "Finally I get some decent Customer Service in here." I told my Supervisor, "The Customer is always right," then went in the back. Another Customer approached me and complemented me on how good I was with people. I didn't get what the big deal was but I thanked him. He went on to tell me he could use someone like me in his line of work, selling Crack. Which made me very apprehensive telling him that is just not me, I can't get into that. I don't want to be a big time drug dealer, then I got an idea. Told him I can sell bundles here and there. He laughed and said, "Good I don't have to worry about you stealing my job. How old are you?" I told him I was 16, he shook his Head. I'll take you on but you have to finish School, get back in and call the Number. Josh's Mom became a Telepimp for an Escort Service in a similar scenario, so though unusual I knew this happened. Going to School was not so unappealing by this point. Nicky had been trying to bring me back in, Kensington High School was launching a Pilot Curriculum called: The Tops Program for Kids who fell behind or got in trouble before. They sectioned off one corridor of the School for about 8 Classrooms to accommodate every Subject. They locked the door behind us and Security Guard sat out front.

This is where I met Eddie Batzig. Along with Nicky we had mostly all the same Classes together. Eddie and I hung in the same circles, so we had enough familiarity to just hangout after Nicky introduced us. Despite the Security we still managed to get high and act up here too. But for the most part we actually attended the Classes. The Teachers were cool. We took French and Nicky learned how to say, "I'm hungry" in another language. Nicky and I used to binge eat the Chocolate Milk and "Super Buns" they served for Breakfast, grabbing a couple extras to take to the Nurses and hangout with them before Class started.

I got the job too. I agreed to sell Crack but he didn't tell me where to sell it. So I would get my bundle, take it over Jersey, eventually branched out to even Delaware and Connecticut. Easily doubling, sometimes tripling the profits. The more I sold for him the more money I made for both of us. I disappeared for hours everyday and did not see Josh until after dusk, not telling anyone anything because I knew they would want in and in-turn ruin everything. So I just told them I was robbing Cars. They didn't question the person keeping them high and feeding them.

Josh's Mom got an adorable Puppy they named "Petty" after Tom Petty, as I remember Josh so aptly put it "because she is Blonde and reeks of Marijuana." Like I said Josh's Mom was a Telepimp,

but we called her by her preferable term of "Madame." She made money on Commissions of each date she setup. It was a comfortable job for her but after the Bills, cash mostly got Smoked up. I would feed them and their Dog, which Josh would bitch at me not to, because "its just a Dog." But, I didn't listen to him. She'd sit there and just shake sometimes, I always played with her. Even when we were stoned into the silence and couldn't move I would let her wrangle with my Shirtsleeve until Josh's Mom pulled her off me. Nicky and I had a Cat, C-A-T. Which we inherited from my favorite of all my Dad's girlfriends. The first night I met her and C-A-T. Our Dad was asleep upstairs with his live-in girlfriend, the new one commandeered my Room. So she snuck downstairs to warn me late one night, I snuck-in and was making a bowl of Cereal. She crept out of the shadows and proceeded to Mop the Fridge while C-A-T leaped on the Table sniffing at my Cereal. I was just like, "Who are you?" She told me that is C-A-T. Your new "Brother." I nodded "Yeah, I was talking about the Cat." We hit it off, she was a local Bartender. She invited me to drink there and let me bring my friends while my Dad was asleep for work. I remember taking Dave Cram there after he told me all day he couldn't wait to go, he couldn't finish one drink before I had to carry him out.

Back in School there was this Babe who used to come in dressed in Uniform, then changed into Pajamas and sleep on an overgrown Tiger Stuffed Animal. Eddie who also liked her would try to rival me for her affections. While I could always get a smile out of her, he got some points in sneaking up on her when she was sleeping to surprise her with a massage. In English Class, the Teacher had us do a Dream Date Project. We both picked her, but then we realized it would be playing at the love triangle. We made it more interesting. We'd let her decided between us and the loser takes the Teacher as a Dream Date (definitely not a challenge to play hot for that Teacher). I don't remember what Eddie suggested but I won by asking her to let me take her to a Chinese Restaurant in Puerto Rico. She clapped and hugged me, but Eddie played his part great. If the Teacher was flattered at first, she was creeped-out when he kept it up for after the project and she felt compelled to pull him aside and tell him he can't have those feelings for her. Even then he didn't let up and played brokenhearted the rest of the year.

Eddie and I got high a lot together but he always ended up in bickering banter about everything, he used to try and fuck with me a lot and I would come back at him. He had a deadpan delivering to a lot of his jokes, but he didn't always hit the mark. At various points I would just refer to him as "the King of stating the obvious," "our narrator." It got to the point I called him an idiot so much, I just started calling him: "Idiot." "Idiot"

I can't remember  $\frac{1}{2}$  the shit we did in Class, I remember a Project in Social Studies (working out the Textbook with King Tut on it of course). Our Teacher, while happened to be the Dean of the Tops Program. We were assigned to draw a picture of 3 things we would wish to be buried with if we were Pharaoh to take to the

afterlife with us. I chose my Guitar. My Cat with the girl Three Rows behind me. The Dean freaked-out on me. She had a meeting with my Dad concerning about me running around high all the time. He told her; my Son doesn't even take Aspirin. They both believed it.

Which wasn't too far from the truth. I scaled back the Marijuana intake to a nightcap with Josh and his Mom. I stuck to Pills but I drank more, not only at the Bar. My shall, we say Chauffeur I paid to drive me around was old enough to get me Alcohol. Joe and Josh kept up with me though. The Maddog 20/20 phase, but it was too fruity to stomach for my taste and the buzz wasn't worth it. Sloe Gin put me to sleep. Gin and Bourbon led me to blackout, waking up in weird places, until I settled on Christian Brothers Brandy. Not that is what my preference was but I could function on it, and when I wanted to sleep it provided the Chariot. But drinking made me too lively for the stoned silent scene. Josh's Mom got worried about me drinking, so I stopped coming around.

Taking a walk through the neighborhood, I walked around the corner from where Josh lived and someone sitting on their Step bummed a Cigarette off me, he complemented me on not Smoking Menthol. He directed my attention to a Car-Window that just got busted out and was just expressing disgust at what possesses someone to just break a Car Window. I shrugged and suggested they're probably not going to miss Monday Night Raw tonight. He laughed, not knowing I was thinking that I was the kind of Kid expected to break a Window, and was about to watch Monday Night Raw. I had good vibes about him though.

I noticed his Guitar, it was a Danelectro Baritone. I asked if he was in a Band. He told me yeah, he was in The Lights and his name is Kurt Hearsley. I was embarrassed I never heard of them. We weren't even in the underground scene at that point, our Band was playing in the dark at that point. One thing good about Stoner Exile we did hone our craft. Kurt is brilliant, and as insightful as he is outright hilarious. The more he talked the quieter I got, I just wanted to listen to him. I went right into my Shell, I was just floored. When I did my Homework on him I was blown away. If I knew he was anywhere in my proximity, I would have sought him out, he found me! At first I thought I had someone new to hangout with, a welcome even in itself but this had the makings of something very good. This could be our break.

Of course I feared it could all very well be too good to be true, as the day went on in Class, I became more convinced I dreamt the entire event and everything would disappear in the daylight. When Class finally let out. Not only did I find Kurt there, I found an open invitation to meet more of his friends. A Dude in another Band a couple houses down had a couple gorgeous women with him. They say the right introduction at the right time can give you the Keys to the City. It felt like the Gates of Heaven had opened up for me the way those Two Angels descended upon me checking out my Spiderman Backbag. It was the first time I met Kurt's girlfriend. Peppermint who is flat out Disney

Princess beautiful. It made me unbearably shy in this scene. When I described everything to Josh, he was laughing when I mentioned her in terms of I need a Flower to give her. Josh gave me a fake Plastic Potted one, I told him it would have to do. When I presented it to her she smiled and said; what is this for? I asked myself the same question and was like -- fuck what am I doing? I covered it as Josh was seeking door to door trade such rare wares for a Cigarette. She didn't Smoke, but she got one of Kurt's. I remember thinking great, don't worry pretty lady I'm not a Stalker, I'm a Crackhead. She handed the Plant to her youngest, child who was a newborn who was reaching for it and his laughing made us all laugh. I couldn't believe Pep had 3 Kids and looked better than not only other Moms, she looked better than girls I was dating!

Kurt had hinted he was "big in Britain" but he worked it in as new Music being better received over the Pond. He also hinted to how good he had been doing over here but he had his Daughter and had to take care of his family. He did too, they were bright funny Kids, it was my delight to spend time with and Baby-sit. I was painfully shy but it didn't matter, they took me in, it was never silent. Kurt could turn any moment into a memory. I don't know if I misperceived the sacrifice he had to make for his Kids, if he did surely he didn't suffer, he is someone who knows how to get the most out of life, his change in situation was just a new fount for him. That's not a gift one can keep to their-self, it's contagious, he made my life better. Knowing him and Pep has been one of the things to make me feel I was not completely thrown out with the Bathwater in this life.

That was another World I could only visit until I made it there. I had a Foot in the Door, but my other Foot was still in my World. One morning I woke up still drunk and felt especially good. I was lit up, somewhere in between whatever time I fell asleep and the Xannies (Xanax) kicked-in I was up. I ran to School that day. Nicky could barely keep up, and making him laugh didn't help him more any faster. I started yelling and being loud and obnoxious and making everyone laugh. Making them laugh made me laugh harder, so-hard I fell-off the Stool and got laughed at for that. Somehow the School managed to "302" me and got me Committed in Belmont Hospital, in Winsfield Heights. I don't remember how I got there but my Lawyers showed me documents of me just talking-shit or being sarcastic to them. It was a Co-ed Suicide Ward, I was none too happy to be there. I called my Dad to come Sign me out, he told me to think about what I am doing until he does. I didn't, I couldn't stand being there. I made some conversation, mostly just read a Charlie Chaplin Autobiography I had on me that I couldn't even enjoy. I would stare at the page and my Mind would drift. It's not worth documenting. My Dad finally came a couple days later and ran to hug him so-hard I almost knocked him down. We had to take an Elevator out, while we waited another one came up filled with women from the Anorexic Ward came out one I talked to gave me a hug goodbye. Dad checked her out and asked me if I was sure I

wanted to leave.

I was sure. I was too anxious to get back to Josh, Kurt, home. My Dad had raided my Room and threw-out all my Alcohol. I didn't care. Josh's Mom's suggestion to stop drinking had sunk in, so I stopped doing it habitually and did so on occasion. Josh had been courting a girl I liked for him, but he gave up pursuing her, just wanted to sleep all day until I woke him up to drag him somewhere, or get him high. I would call her impersonating him and flirt for him while he reaped all the benefits. Which sucked because she was hard not to like and became one of my better friends. She had strict Parents (one reason Josh wanted to give up), so he could only see her on School days, so we had to pick her up from School. Stacy also went there. I still said Hi to her everyday and she ignored me still.

Other girls didn't though, a couple approached Josh's girl to deliver Love Letters to me (lets just call Josh's girl Brodie). This led to me dating a truly lovely sweetheart who was as fun as she was pretty. Her best-friend tried to hook-up with me too.

At this time a job opportunity came up that was too much fun to resist. Nicky, Eddie, Josh and me (plus a few others from the Tops Program) got jobs with a Traveling Carnival. We became Carnies! It was just hilarious. My job was to take Tickets for a Ride called "The Himalayas," then I posted up by a support-beam that did nothing, then opened the Gate. I pocketed most of the Tickets I was suppose to tear-apart to hook people up. Girls kept getting on the Ride over-and-over and started handing me their Numbers. A couple were so tempting but I was with Eliza, I couldn't do it to her. Fidelity is ingrained in me. Obviously I'm a lunatic, that's why you're reading this right? But when you're a little Kid trying to figure out what is wrong with your Mom, you start to wonder if she was hurt so-bad it damaged love for her. Call me crazy but I figured messing with a girl is not worth messing her up. I didn't want to be responsible for that. It is why I have always been careful with girls. A couple, B.J. and Glenn that I was friends with from School, the B.J. was friends with Eliza. The Glenn was looking to hook-up with someone at the Carnival, but was on a mission from her friend to hook-up with me. He begged me to talk to them. I did, this Redhead was beautiful, embodying the Mary Jane Watson to my Peter Parker. I told her up-front I have a girlfriend. She made clear she did not care. Glenn was like, "Well now that is settled, where can we get together?" I reluctantly exchanged Numbers to help my friend. When Mary Jane called, I had Nicky tell her I wasn't there and erase the Number from the Caller-ID.

Someone tried to tell Eliza, I didn't cheat on her. When she confronted me I told her I didn't, then asked if my accuser hit on her. She told me no and was confused. I told her, he will. He is not stabbing me in the back for nothing. Before long he proved me right, earning me back credibility with Eliza that shouldn't have been in-question. I confronted him and told him not to even try fucking with my girl. He backed-off. I went through this a couple times over her. It must of been a combination of how cool

she was and fighting for her that solidified our bond. I stuck with her.

We worked the Carnival a couple months, getting high having Funnel Cake fights and licking our delicious wounds. Josh and I would double with Brodie and Eliza and get Eddie in-trouble for entertainment. Id stir shit-up at work. Josh would blatantly tell our huge African American friend Eddie called him the "N" word and watched him get body-slammed. We eventually quit. Josh and I started hanging at his Grandpop's while he was away on Vacation and the 3 of us would drink his Bottles of J+B. Josh would not be able to hang and crash-out, so Jess would stay-up and watch Movies with me. I used to sleep on the Couch. One night I told her I was going to Bed. She was drunk too. I laid in the Couch and landed on her, and pulled the covers back over her and slept on the Floor. The next night we got drunk, she slept on my spot on the Floor, so I went up to her Room and stole her Bed.

One day I saw this Rapist called Screwie Louie go into Ed's house. I found Ed and confronted him to what he was doing there and to watch his Sisters. Screwie Louie tried to Rape a girl. I grew up with and I could not be around him. Ed Explained to me it was his Mom's Ex-Husband. I couldn't believe that piece-of-shit could ever be married let alone into their family. Eddie assured me they are aware of what he is, but it was too much for me. I stopped hanging with him and his Sisters for awhile. But not before I made it a point to talk to him and Jason about their lawsuit against Shawn's family (Shawn you recall my Brother was accusing me of stealing his friendship from him).

Jason and Eddie were roughhousing over Shawn's house, playing with the Dog, like you know "play" "Siccing" the Dog on Jason. And Eddie, held the Door shut so he couldn't get away and the Dog bit him on the Arm. I'm not saying that is right but neither was suing a single Widow supporting Two Kids on her own, that not to mention were our friends. I went-off on Jason and Eddie after we got high and they went on about bragging about what they're going to buy with the Settlement (Eddie was getting rewarded to Testify). I said listen to yourselves, you're talking about buying Play-Station Games off the back of a good woman trying to put food on the Table. Eddie pointed out, she doesn't have to pay for, it's their Insurance Company will Jason had told us. I shot back. No it's the fucking principle. When I was Nine years old, some Kids jumped me in Saint Annes School and broke my Leg. You don't see me suing the Pope do you? Eddie went to change his Testimony. Jason was stuck in the middle, he told me it was his Dad doing it, and it's not just about getting Video-Games, he wants Jason to have some money put away somewhere. I spoke my Mind and I didn't hang with them after that for a longtime.

I was hanging with Kurt more, he was taking Josh and I under his wing in a Manager capacity. We hung around his house and all the Bands a lot. I had loosened up around him but still had trouble forming whole sentences around Peppermint. I clearly recall actually running from her. I was too shy to be shy around her until Kurt intervened in a way that informed many situations

before I met him and continues to remedy so many more to this day. He told me Peppermint is really cool, you should talk to her. I already knew she was cool, but how did she know I knew that? What is she suppose to think if I don't speak up? They have a proverb, the wisdom of which sums it up better than I can. "An open rebuke is better than hidden love." This advice turned my World upside-down, not saying anything which I felt was a safe bet can be worse than saying the wrong-thing. The wrong thing can be further explained but if you don't say anything, you're not communicating. This and laying-off the Weed until Bedtime opened up so many Doors for me. I knew Peppermint got up early to send the Kids to School. I stopped-by on my way to School and had Coffee with her and I babbled on about anything (you should be used to this by now too). Just to say something and we became good friends.

This was around June 2002, my routine revolved much in this manner. I could hang with Eliza after School at her house everyday, eating French Fries and Tacos everyday in Bed. I got her a DVD-Player and Rented Movies for us all the time. Turned her Room into a sanctuary from having to deal with everyone else. I did my drug runs while she was in School. Swung by Josh's every night with a Jug of Arctic Splash and snacks and sneak petty a Meal on my way upstairs every-night. I'd split an Ice Cream Cake with Nicky and C-A-T while he played his Play-Station. Finally retire to my Room, surf the Internet, and chat with my Buddy List, play my Guitar, take out any ideas in my Notebook I jotted down and write some Songs. Go to Bed and do it all over again. I had upward momentum, I kept working to make things better and keep everyone happy.

That concludes this weeks episode of Gossip Girl. A little whiny, a little derivative. I could have been more indulgent believe me, but I haven't the Stomach for nostalgia given the task at hand. I didn't say fighting for-my-life would make it any more interesting.



Chapter 3.

"It takes a great deal of bravery to stand up to our enemies, but just as much to stand up to our friends."

--J.K. Rowling

Despite everything I considered Jessica as a friend so much so I warned her about something Josh and his Mom were doing that could hurt Jessie and her Mother. With this warning she told Josh and his Mother what I said. They quickly denied it, then got mad at me and it almost tore our friendship apart. This issue is not worth getting into but I recall telling my Brother in great detail how much I hate Jessica. Next thing I knew she was in our house everyday. He started dating her.

He started sneaking her in the house everyday. I used to have permission to have Eliza over but our Dad had a change of heart and felt since she was under 18, he was responsible for whatever happened under his Roof, so I could not have her over after-all. In the fine Art of Domestic Espionage I still snuck her in, but even making it up the Stairs, passed Dad, passed the Cat who preyed on such sneakiness as an invite to play and my Dad's Ex trained him how to play Tag would ambush me and Eliza in the dark. We couldn't get passed Nicky though, he sold me out. I wasn't vindictive though having her at my house had its own Silver-lining. I didn't have to deal with her, but having her around tensions eased and friendship won out again. My Brother was jealous though so I mostly left them alone. When we did have to talk I remember trying to be quiet because, she was asleep in his Arms. Thinking she was peeking at me out her Eyes only pretending to sleep, but he was happy so I kept it to myself. I thought they were good for each-other. I actually started to like her more. Just like with Josh and Brodie, I defended their union too. I remember lounging around with Eliza when her Mother called upstairs for me. (I was always with Eliza so I began taking calls there, her Parents were good to me.) Nicky was upset because some guy wouldn't leave Jessie alone. I ran over there to find-out what was going on and it was some Dude hanging at Josh's Grandpop's, drunk and just pressed for conversation. Nick and Jess were curled-up together and this guy dropped in out of nowhere and pulled up a Chair. I had no idea who he was but I acted like I dropped by to see Nick and Jess. I didn't realize they were in Bed, then feigned boredom and asked the drunk-guy if he Smoked Weed, he was like "Yeah." I told him cool, lets get out of here, leave these Two Lovebirds alone.

The Drug Industry lost its savor for me one night when I left the Bars early with a friend of mine to get some "Smoke." Which I offered to Smoke my Weed with him, but he passed on my offer. I

offered to smoke my weed with him but he passed my offer. I assumed we were going to get Angeldust, which I also kept a stash of but didn't offer. He went on ahead of me to cop, I waited for him around the corner and we walked to his house at his pace which was much faster now and his whole demeanor changed. His wife was ready when we came in and they proceeded to smoke the crack I discovered he bought. I wanted to leave but I didn't want them to think I had flaked out. So I stayed but didn't smoke as he went into a spiel about some Hindu Cosmology 2010 Kali Yoga stuff, doing yoga moves to inhale the crack smoke deeper. While his wife grooved to the music pressing her finger to the floor sprinkling what she found in the bowl, inhale, then nod her head to the beat again getting back into the groove for a moment. Open her eyes back up, then press her fingers to the floor again, hoping a crumb of crack was there she missed. He is talking, his body contorted into some crazy yoga pose, telling about when we die our consciousness trickles off to the sun of cosmic consciousness. I just stared at him doing everything in my power not to scream at him and said calmly "Dude ..." He was like "I know..." I realized he thought I was in thrall of his sermon, which irritated me more. I said "No, Dude your wife is smoking spaghetti." These people I won't name broke my heart, and I couldn't sell crack anymore, if this shit could reduce my friends to that I didn't want, no part of it. I saw behind the veil I couldn't play ignorant anymore no matter how good the money was I had to walk away. I had one last drink with my chauffer and told him I was getting out.

Now that selling drugs was on my conscience it fortified my resolve to sober up, Fishtown is a nice neighborhood but it is undercut with the ravages of the excess of drug use. I recall always seeing it up the street where I lived at Palmer Park, things we automatically ignored seemed to be getting closer and closer, like the junkie bums there that emerged from beyond the York St. El station. Josh was rolling a blunt for us one night a couple of them crept out and asked to smoke with us, we said sure. They were scheming on ways to get high today. I asked them how long they had been getting high they said since we were kids. Josh said something to the effect of smoking weed forever. They blurted out "Fuck weed" in disgust, Herion is where it is at. I never did anything until I did dope! I didn't just know about it from the prostitute I hung with. I had snorted it a couple times but knew it was dangerous. Besides the numb, I liked how it felt like a dream you could return to at will. But I knew it was a dream, I had to stay awake. I let the bums smoke the rest of the weed and looked at Josh and wanted to fight this fate.

Another night I witnessed a fight between some 20 year old kids. Apparently someone was in town visiting relatives, with a resident of the neighborhood. The local got the best of the out of towners, who was down but not out, yelling at him "At least I got out of this town you are going to die here!" Those words echoed in my head long after that and I began weighing my options. Even though I was doing better, music may not be a sure thing. What if it doesn't work out? I need a plan B.

Our Uncle took us out to eat at that awesome pizzeria and talked me into going back to high school (I dropped out the Tops program) I agreed but not before negotiating his Corvette into the deal. I really did try this time at school. I was accepted back into the Tops program. No Nicky, No Eddie. No darling in pajamas. I redid the assignment for 3 things to take into the Egyptian afterlife with me all over again without incident. There were no more incident's. The Dean of the Tops program didn't notice I was there. I got recommended for some test by a priest from a college, that I did well enough on he wanted to set up a meeting with me to help me graduate and get into his school. I politely declined. I dropped out of school and never went back. I devoted myself to plan A. It was music or nothing.

Since I no longer sold drugs all day, I hung at the Free Library of Philadelphia while Eliza was at school, and got lost in reading all day. I decided to quit drugs when I turned 18, realizing how unrealistic it would be to do this cold turkey, I mapped out a table to gradually wean myself off them. If Josh didn't quit with me, he would have to get high without me I was burntout on the stoned silent scene.

I re-vamped our band. Joe had become a full time tattoo artist, Josh who could play bass like Sid Vicious, decided to switch to only piano, which he assured me he would learn as he goes, and planned on wearing a cape and insisted on being called by his full name Joshua, the **pronunciation** of which he worked into practically every conversation at Nauseum. I was not enthused, in fact it made my skin crawl until I realized I didn't have to kick him out if there was no room for piano on any songs I write. I told Kurt about my new project (Nevermind there was hardly an old one) when I told him my band name was gonna be Okunola Butter his eyes lit up and he exclaimed he was going to write it in his dream journal. I told him about my ideas, he liked them and offered to help sell my songs. I countered to the effect of fuck that. I'm playing my songs not giving them away, I bought a four track and was going to post them online and maybe I suggested playfully he could vouch for me. (Remember this is early 2003, the cusp of My Space and the social networking boom) not only did I win his sponsorship, I won him. Kurt wasn't just advising me in a manager capacity, he was in my band! He suggested someone I didn't meet before to play the drums, Kurt told me he owned a Toy store, I told Kurt he was in. I had Kurt and a Toy store now.

But I didn't put my feet up, I still had to get myself together, I spent my nights arranging songs, digging out jotted notes, lyrics on all walks of scrap paper and playing guitar all night while I I.M.-ed my buddy list online. I told my dad about my plans and he got excited and complimented he could see I was doing something he advised me not to record my songs until I copyrighted them. I couldn't get a copy right until I was 18, I remembered Kurt talking about selling my songs and knew all too well the threat of someone stealing my material and I was an insomniac and a pot-head, thus paranoid highly and decided to stall my demo, and only lay down guitar tracks until I was 18. Kurt was rehearsing material for the new Lils record and preparing to tour in support of it. Okunola Butter would only get better awaiting his return and work on our record. Okunola Butter- Better than crack! He was most excited about the song I wrote about my prostitute buddy. He kept telling me to record:

"Needles Don't Bounce"

(Verse 1) I'm so tired/of being awake/  
I'd go to sleep/but my mind waits/  
For some truth./No more lies/  
Nothing in between/Nothing in disguise.

(Pre-Chorus) I close my eyes/I've never seen/  
Dream my life away/If only I could live the dream/

(Chorus) Now I'm in quick sand/Now I understand/  
All you succumb too/Becomes you/  
Diving in the gutter/to make my bed in the clouds/  
Looking for some comfort/All I found was the ground/  
Needles don't bounce/They just stay down.  
Needles don't bounce/Needles don't bounce/

(Verse 2) I used to have/Somewhere to go/Now I notice the wind  
blow.

Abcess avalanche/Vericose volcanos/  
Aphixiate all thought of whats better known/  
I can trust my gut/Though it does not show/

(Pre Chorus) (Chorus) (Guitar Solo) (Verse 1) (Chorus)

I already knew, thanks to intel provided by the infinity invaluable Peppermint, that we were not as popular with everyone as we were with Kurt and I could care less. Obviously I had Peppermint on my side and everyone knows once you got the girls on your side you've won the war. She was my secret weapon. But if they despised us for Kurt hanging with us before, they hated me for him joining my band. Kurt would be to modest to admit this, but he was the top of the food chain. Hanging in every house were Lilys posters, We were all his fans and wanted to be around him he was the man. He makes great art. I was viewed as a waste of his talents. When a house guest from out of state, upstate somewhere snobs come from turned his nose up at hearing Kurt was in Okunola Butter, Who do you think you are? He sneered at me! As I said I didn't care, let alone with Peppermint in my corner, I hung with her primarily anyway, we just sat back laughing to their chagrin, I'd just keep egging them on like I got Kurt playing bass for me bitches what?!

My dream of getting Josh clean was dissipating, we hung at Joe's Tattoo Parlor alot Despite this I have no tattoos (to this day) because I didn't want to do something to affect the rest of my life. Josh got "Drugs" tattooed atop his shoulder and tried to encourage me to get the same one done I declined. My best buddies also tried to invite me to smoke crack with them too. I objected to this loudly and Josh just dismissed me, questioning why do I hang with my girl all day. He never gets to see me it's been a year now. But that was the point of having a sanctuary, not to hang in a crackhouse.

Jessica eventually got in trouble for cutting class, she came to a solution to get her life back on track, she was going to join the Army. Nicky was adamant that if she decided to go, He was going too. She was flirting back and forth with the idea. ~~She~~ She had an incredibly patient and supportive recruiter, that promised they would remain together. It wasn't my first choice of action, but I knew the Army would definitely sober me up. Plus friends of mine who served told me they had an excellent music program. So I'd still have that but I didn't want to commit to two years, but I couldn't see Nick go off to Iraq at 18, that was 14 months after I turn 18. This was post 911 when we invaded Iraq and they were advising everyone to cover their windows with plastic in case chemical warfare hit our shores. We hated them for wanting to destroy everything we know and love. They want to put our women in Burkas and have them walk three paces behind our camels. I wouldn't have been a hero, if I had to deal with my allies being shot and killed I would of **Abu Gharaibed** potential terrorists too. But that was a year away. If by some chance him and Jess stayed together that long if I couldn't convince him not to die for Jessica Wildonger, I would try to convince him he could use a vacation from her. Or I could take him on tour with me to get his head off her, or if I could make it in music I could make it in music I could take care of them but obviously none of these things came to pass. So what derailed everything?

#### Six Words

Eliza's Mom yelled up the stairs. She unwrapped herself from me and passed me the phone and Nicky's voice screamed Excitedly into the reciever, "Your going to be an Uncle!" I kissed Eliza and went to join the celebration. This was perfect! It was the best thing that could happen to me. I could go straight without losing the respect of my friends. I could be the cool Uncle, like my Uncle, take care of family, share the responsibility but I could still lead my life without the complete sacrifice a Parent must make. When I saw Jessica and Nicky I was more excited than they were. I promised Nicky, I was putting everything into the kid. Nicky told me he talked to our Grandpop who had Nicky and I in the will for fifty grand, (25,000 each) (he has since disowned us) He was granting us early access and is happy to be a Great Grandfather. When

Nicky was running around making arrangements, I took her hands in mine and told her, Josh and her have always been like family, now we are family and I promised her everything was going to be Ok, Don't be scared. I hugged her and told her this is something really good. Nicky came back in and picked me up, and made a crazy noise we all laughed. <sup>pedal</sup>

The day before I bought a \$250.00 guitar from 8th Street Music. I explained the situation to the receptionist who sold it to me the day before, they wouldn't give me a refund so I had to sell it back for \$90.00 but I didn't care. Nicky and I put in job applications everywhere. Early access to the inheritance was enough to make me want to have a kid but I didn't want to make the sacrifice Kurt made. Walking away from a kid was not an option. Neither was letting anything get in the way of my dream. I preferred to take responsibility now, not later.

Jessie quit smoking, I gave it up around her. I hung out with her a lot, doting on the mother to be, I understood she was nervous but I spent time with her letting her know everything was going to be Ok. I went back to Eliza and working on music, I was seriously considering sketch comedy to promote the band online, whatever got us hits. Kurt was encouraging he was performing a song from pre-collection for me in his basement when I proposed this to him, he told me he wanted to take me overseas to impersonate him so he wouldn't have to deal with the press. A friend of his sold Josh on Okunola Butter doing a tour stop with them at end of 2003, Josh said he wouldn't be ready but he was reassured they'll still like him if he sucks, actually it seems especially if we suck. I told Josh we are not going to suck, and not to worry the keyboard would be unplugged, He cursed me out.

I went home to see Nicky, he was petting Cat who meowed at me I could tell something was wrong. His voice was hoarse when he told me, "She had an abortion Dom. She fucking killed my baby." My heart sank. He told me she said they couldn't take care of it. How could she say that? I offered helplessly. Accepting this was uncomfortable. I'm sorry but in my head and in my heart she killed family and it was just supposed to be ok? I am no ~~profile~~ <sup>profile</sup> ~~profile~~ <sup>profile</sup> revolutionary person but it was a lot to take. The Baby wasn't just bringing itself to the family, it was bringing friends into the family. It was fixing the broken home. They cut off the bloodline, ~~when~~ she said her Mom made her do it. But she could of told us, where in the fucking world is this protective maternal instinct we keep hearing so much about, but has no fucking application to us? Josh was my best friend. Jessica was a fact of life. I couldn't look at her without burning up over her not telling me. I promised my Brother everything would be ok. It wasn't. Nicky rarely got high maybe weed or xanax here or there but he began losing himself. I knew about the angel dust but by the time I saw the heroin, He was hooked. I was pissed but said nothing, I offered to cut out lines for them and snort 2½ out of three and blame my big nose then played it off like it was a waste of money but it was too late he found a way to take the pain away. I talked to him about not being able to imagine what he was going through, I told him how strong he was to dump Jessica but this isn't going to make him feel better. I asked him to be more careful.

I did what I could, not to let any of this spill out into the other world I could get away from this madness in. Whatever we felt, we didn't subject Jessica to scandal, my few people new and they quickly put it behind them. I didn't tell Kurt. He was giving advice one night He asked me how long I was with Eliza. I told him over a year. He repeated "over a year" and nodded his head telling me, "You know how many girls I was with when I was your age?" Your better looking than I was. You are not going to marry her. I know your not. You know your not. Tell me what school she goes too, You think I can't pick her up and fuck her? Tell me what school she goes to. I'm going to do it for

what

your own good. "What about Pep" I asked "Pep" he looked down and continued: It's not like we haven't been with others we eventually tell each other but Pep is family. She is a keeper. Your girl isn't. Get out of there, you have gotten tied down. She isn't good enough for you. Nothing can hold you back unless you let it. Where is the Needles don't bounce demo? I was quiet. He eased up on me and switched to lighter topics about seeing his tailor and getting some custom clothes now advising me I don't have to wait, and start dressing the part now. I was already playing a role, pretending everything was fine.

For some time I had been jamming with Dave Cram, he wanted to start a band but I told him I'm focusing on Okunola Butter to be polite but eventually I agreed to play bass, He protested I should play guitar I refused, he ended up mimicking his riffs off my bass lines. I eventually just took over the guitar just downtuned it played heavier and faster to get some fun out of it. Then we would smoke up, go on the party line and we would mess with people on the party line phone numbers for fun.

Nicky invited me to go to New Jersey with him, Jason and Eddie. To join a carnival that gave free room and board to employees that we had to say we were 18 to, but it did not appeal to me. I asked them how do they even know it's for real, let alone that you could make it on your own out there. I told them I'm not going, I've got too much going on and wished them luck. Jason backed out after I did. They never went.

I wanted to support him but that was not practical for me at all. I wanted him not to do heroin I temporarily distracted him with taking E and Angeldust but he kept going for the heroin no matter what I did. I was losing him, Josh and Joe to harder drugs.

Nick and Eddie invited me to break into cars with them, I asked them where, they started right around the corner. Eliza was working at Texaco all night I went to keep her company when I went home they were arrested right up the street from my house. I saw a cop slap my brother and asked what was going on then they frisked me too, I told them I just got back from my girlfriends work check the surveillance tape if you dont believe me and they let me go. Nicky got put on probation. Eddie was already on probation, he violated his. Our Dad and Uncle had a sit down with my brother about taking his probation serious. And I got yelled at for not watching my brother. I already felt bad it was my fault I knew. I'm the one who told him, everyone, I got all my money from robbing cars. It was my fault for lying to everyone.

Jessie was on my Buddy list online. We were both insomniacs and we talked all night sometimes. Just lighthearted. We didn't talk about Nick or the abortion. I remember we made plans to go to the Zoo, I remember that much. We watched the same movies over and over together just to be doing anything. Trying to move forward. She'd just lay around while I played guitar, or make me coffee when I was recording or trying to apply Joshes piano to anything. All the coffee and none of the sleep we got close again. She called me from Eliza's one day and offered me a steak she told me she was surprised I came, she told me. I never left Eliza before curfew and I told her about what Kurt said and referenced the talk as the night of truth, She cleared the dishes away but I nudged her aside to do the dishes, it was the least I could do. She asked me what I was going to do. I shrugged and said "stick with Eliza All the good ones are taken or broke my brothers heart." I didn't even mean it, only as a compliment she told me. "I never ment for him to get hurt, for any of it, I never thought about what any of it would do to him, I was thinking about you the whole time I was with him." I just looked at her. She told me everything in that one sentence. I didn't want to accept what the thud in my

gut registered true. She was with him to get closer to me. His baby was a casualty. That is why she didn't tell us she was getting an abortion why she didn't give Nick a chance to talk it out, it wasn't a mutual decision it was an assassination. All the while she was crawling closer and closer to me and my dumbass kept pulling her closer. She lied to him. Lied to me and acted like she could turn killing my brothers baby into the smoothest pickup line in the world.

I was mad at her obviously, and I am notoriously hotblooded and passionate about what I love but I didn't even raise my voice. What was I going to do? Fight her? Yell at her? Kill her, like you think that is all I would do under such circumstances? The baby was dead. I could do nothing about it. I took for granted that the kid would save us, I never suspected abortion. Nobody got them around us. My Mom didn't even get abortions. Jessie can't even act like she did that kid a favor. She did it for herself. We had the means we had the support to provide our family. More importantly we had the will, we wanted to. We came from a broken home. We wanted to fix it. It was my punch out card from the stoned silent scene. A clean break from them, not outright abandonment. I mean that is the moral of the story. Stepping up to the plate to take care of family. We would of been a success story instead of the tragedy we became. I am not suggesting mitigating circumstances, these are facts. Our Mother left us for dead, now my brothers child was taken from him by the girl he shared his bed with. I couldn't tell him she did it because of me. I never did. I didn't want to know.

My sanctuary wasn't safe anymore. My sanctuary became hell. My peace of mind replaced with a merciless conscience lashing me with guilt over hiding out here when I should of been where I was needed. I abandoned all of them now look what happened. Every step I was taking towards my dreams I was taking another step further from them. I wasn't there when they needed me most. I wasn't living my dream. I was living my nightmare. I couldn't even get to sleep to take a break from it. I tried everything. Drinking, Pills, Classical music, Silent films. As soon as I fell asleep I woke back up with a start. I always stay awake once I wake up and these naps jolted enough life back into me not to be able to fall asleep again, my batteries were recharged. It was like I was 15 all over again the night I counted all my losses that I still had not recovered. Just because I wasn't being bad didn't mean I was being good. Yeah, I stopped stealing but I wasn't doing what I was supposed to do, I wasn't doing anything. nothing was different, I realized I had to make it different. If I make it in music I'll be able to get my sister back, I'll be 18, Mike and her will take me back. Then I thought why should I even wait to get my friends back? I wrote Stephanie a letter and got it to Ed to give to her. I was done feeling like I couldn't do anything anymore and I was going to do something about it.

First act of my new resolve. Take Kurt's advice. I inexplicably dumped Eliza after 15 months together. I started seeing other girls. When I wasn't practicing with Josh, I was practicing with Dave. I started hanging around the house more, keeping Nick company on his probation. We hung out on our front step, hanging with the girl next door, who hung with one of Nickys ex-girlfriend, I tried to talk him into hooking back with her. Since I wasn't sleeping I put more time in helping everyone out. Running errands, reading, but I crawled inside music and it was radiating out of me I had never been more up beat or positive and had so much energy. I couldn't wait to get to go on the road with my band. I was only getting better and writing more material in the meantime I told Nicky I was taking him with us.

The new Lilys album "Precollecion" was being released May 20th 2003, Kurt

was embarking on a tour in support of it. Before he left he insisted I keep Peppermint company. He didn't have to but I never took for granted the welcome he extended. Remember, we were all his fans I was no exception. It was my first time being around the magic that goes into making a record, honestly since I met him I was in awe of my whole experience. I felt like the universe was paving my destiny and I thanked God every night for every day. My optimism could not be fatigued. Before he left I accompanied him somewhere behind Spring Garden St. to say goodbye to some people before he shipped off. He introduced me to this woman like "This is Domenic, The last hope for Philadelphia." I shook her hand and smiled "Let's hope not." He didn't just like me, He was showing me off. I felt unstoppable. You could not have told me I would never see Kurt again.

When Justina came back in the picture I hoped she would help my brother begin to move on. She had been through a lot over the years, I heard of her stints in Friends Hospital. Her Mom told me about her concerns over her drug use but I had no room to talk. Her Mom was subjecting her to Urinalysis testing at random, she took hanging with Nick, Eddie and Dave. I learned later Nick confided in April about the abortion because she was someone he could talk to about it. She asked him to tell me to get in touch with her, inevitably *I would have* anyway hanging out with my brother.

When I called her she made no secret of her surprise, it had been almost four years since I stopped talking to her. She asked me out to a concert. I told her no and her voice dropped an octave "OH" I quickly reassured her. No, No, I don't want to see the band, that don't mean I don't want to see you. I heard she was living in Jersey with her boyfriend after getting out of a long term relationship with another friend of mine. Who was trying to get back with her since she broke up with the guy in New Jersey, but she was single now. She came around our house took me by the arm and led me back to her house and we hung out. Everyone at the house was surprised to see me back there, I took some time catching up with everyone. April came after me and picked a play fight with me and we wrestled around. She clung to me everywhere. It felt good to be back, Her ex-boyfriend kept coming around and she kept getting upset. I asked her if she might get back with him, she told me she wouldn't go back with him because he was abusive and now he can't let her go. I lost all sympathy for him when I saw how upset she was. I took up Excalibur and was her Chivalrous King Arthur after that.

In the years apart we had a lot of catching up to do, she brought up Stacey, I told her about our falling out over Nicky she asked me if Nicky knew Stacey liked me, then offered to hook me up with her, I declined, figuring it is beyond fixing at that point. And I learned my lesson the first time I was with April not to hesitate I told her I'm not after Stacey, I'm after her.

But getting as they say "Hot and Heavy" brought its own world of complications, we didn't waste another second. While we were undressing each other I told her I didn't have a condom, she told me it was cool in between kisses. I assured her I would pull out. She kept kissing me and cooed it's okay, I can't get pregnant Dom she told me about her gynecologist saying something like her ovaries wrapped around her fallopian tubes and she can't be impregnated. I remember how bad she wanted to have a kid when we were 14 and told her "sorry that is so sad she quickly dismissed it" It's okay... so like I said we don't need a condom. I had a flashback of Kurt breaking into the song to lift his spirits about his job when he wasn't performing. Every verse was call and responded with "I do it for the kids." I let go of her and I don't know how I got the words out I told her "Things are moving a little fast maybe we should take it slow she flared up at me huffing- Are you saying I'm easy Dom?" "No," I responded weakly it was all down hill from there.

I wanted her but I didn't want a kid. I wanted to believe her but I knew better. I should of asked her Mom but we just got reunited, I didn't want to make such accusations, God forbid it was true, it had to be a sensitive subject. I thought about pulling out anyway, then in my brilliant state of



mind I dreaded her getting a grip on me not being able to get out in time. What would I do? Hit her? Ain't I supposed to be protecting her from being abused? I even mused maybe Her ex hit her out of self-defense.

Eliza called me to pick up some C.D.S, we were still friends, there were still benefits to staying close it wasn't long for exchanging pleasantries to let's just say get more pleasant. Eliza's Mother yelled up the stairs abruptly telling me my brother was at the door for me. I closed the door asked him curtly "What?" I saw April peak her head out from around the corner waving me over. I shook my head and left with them. Eliza tracked us down Memphis St. screaming at me: "Yo! What the Fuck!" April clung closer to me "Oh my God Dom!" I just said to keep walking. But Eliza didn't let up screaming "You don't even say goodbye? Get the fuck back here and give me my hug Dom!" She didn't have shoes on. April was snapping at me "You said you broke up with her Dom." I told her I did. Eliza was still screaming gaining on us. April stopped me "Just give her a hug Dom, She kept her distance while I hugged Eliza." Eliza sneered at April "Got my fucking hug though!" Then walked back home bare foot. April and I were dumbfounded, All that for a hug? As soon as I could I cornered Nicky, "Why would you bring her to Eliza's?" He through his hands up in the air "She made me Dom." As soon as you left April got pissed off and kept saying I know he's fucking her, No thanks to you I shot at him. He defended April your going to cheat on April? "I'm not sleeping with April" then I decided to ask him while he was offguard, "Did you know Stacy liked me?" "Yeah" I nodded and changed the subject.

One of April's older sister's Natasha eventually talked to me about April being on Anti-Depressants, when I asked her why out of surprise. She told me she has negative self-image issues which I pointed out was ridiculous, and told her all the girls in her family from Mom on down were beautiful, if I could find the family tree I would be a dendriphiliac. It put more pressure on me knowing not putting out is making her feel rejected. But she wasn't helping the matter. She would go on my laptop and google baby names and hint to me how proud she was to be Italian and wants to expand her Italian family with an Italian baby, by this point she stopped wearing pants around me and switched to Sarongs, that barely hid her legs and failed to completely the way she draped herself all over me. I almost decided to leave her but I couldn't leave her to her ex and I didn't want to. I wanted her.

A solution presented itself, Nicky was on his latest dope run for Heroin and I got an idea. I sold April on the idea of me doing some heroin and I'll be so high I would be able to go all night in bed, (I neglected to mention I wouldn't be able to come at all) that plan fell through when I kept nodding out on top of her, until at one point I came to and told her I dreamt I saw a lion and she pushed me off her that is play by play the last time I got laid. I wish I was kidding. Every night I had this gorgeous girl practically humping my leg. I didn't know what to do if I slept with her I could get her pregnant. If I left her I left her to her ex. I was stuck, checkmated by the mating game. I still got high but I couldn't sleep. There is only one way to get any rest around a beautiful woman but I couldn't afford it. So I went without sleep.

The first mention I heard of anyone talking about killing Jason. I was smoking Angeldust with Nicky, Eddie and Jason in Eddie's basement. Nicky and Eddie kept telling him they were going to kill him then just laughed. I took it serious. Among other topics discussed we just carried on bull-shiting, I don't remember I had other shit on my mind. I know eventually Nicky and Eddie tried to rob his house but as evidenced I wasn't in the picture. They were also talking about they ran a train on Justina but I didn't even believe that. I didn't really know her either but I knew her

family. Nicky did too I couldn't see him treating her like that, there is nothing cool about it.

Before Memorial Day weekend 2003 Eliza called me distraught about Dave hitting on her and accused me of testing her faithfulness. I told her that was not so, I told her I'm seeing someone I asked if she was seeing someone. She said no but she said she had someone in her sights. I rooted her on telling her the truth, "You'll get who ever you want." I said goodbye. Dave wasn't home he was hanging with Nick and Eddie I found out on the phone, I told them to meet me up the trails, Josh and Justina were there also. Dave kept playing, running ahead of us, sitting down putting his head down then popping back up when we approached over and over again he played this sullen Peekabo. Justina exclaimed "What the fuck is he doing?" I told her "He likes you it's an emo mating ritual" She told me "He knows I don't like him, I kissed him once for Nick but he tried to press up on me at his house and I told him to fuck off" "Oh Yeah?" That just pissed me off more. I wasn't <sup>pride</sup> ~~pride~~ to the extent of Justin's sex life yet but irregardless. I don't agree that made her fair game at any rate. I may not of been able to tell her to quit getting high but I can punch a creep in the face for her.

When we got settled somewhere, he took out a knife and started sharpening it on a support beam. I asked him "What's the matter Buddy?" He shook his head goofily. Drop it Dave, this game your running isn't working on Justina anymore than it worked on Eliza. He scrunched his face up stuipdly and played dumb "What are you talking about?" "I looked at him" you tried to hook up with my ex. I mean you didn't think to ask if it was ok? Maybe with my blessing I could of helped you, instead you got her thinking I'm playing head games because I'm coming back to her. You fucked up a smooth break-up. He told me "I was just seeing how she was doing." I shook my head you don't know her, you never talked to her, let me guess you thought you would just be there for her? "She's lying Dom!" I told him "No your lying Dave." I punched him and he tried to run so I gripped him up but he scrambled out of his coat and shirt and ran away. I was pissed off, I was with her 15 months, Dave was a friend, we should of been better than that. He had no chance with her but it was the principle.

April and I hung at Josh's Grandpops, he was about to go to the shore for a month again. We were going to have the house to ourselves to record the demo. I turned 18 in a couple of weeks, I was ready to get everything copyrighted and tightened up before Kurt returned. It was strange to think I was back at Josh's Grandpops with April all over again where it all began. Josh and Jessie still did not approve of our relationship. Jessie threw a hissy fit and claimed it had nothing to do with me. I just ignored her April poked fun at me "Ah Dom, you fucking her too?" She struck that nerve, she killed my Brother's baby I would never touch her I told her. April was quiet then burst out in approval and hugged me "Yeah Dom!"

Taking April back home that night, we made it upstairs past C-A-T. Our Dad confronted us and yelled at me "I told you Donny she's under 18, this is my house I'm responsible..." I cut him off "She's 18 Dad its not Eliza" Who..? You got another one? "Yeah, Dad want her to show you some ID?" Don't matter Dom your under 18, and you woman are a pedophile and will not be molesting my child, April's jaw dropped. I shot up "Dad! come on you can't keep changing the rules on me to cock block me." If you don't like it move out he told me. On the way out we snuck into her house, where Tasha slept on the floor, I told her don't worry we'll stay at Joshes, we'll take Jessie's room. I stressed to her the demo was priority and Josh doesn't want her around, Yoko oncing everything, she said she would stay out of the way. Nicky was talking about Justina was leading Jason on to throw a party at his house and he invited me to kill him with his own tools. I didn't attend that party neither did Jason he went to work.

May 29th 2003: I took April around to see Peppermint with me and watch the kids so she could go out. I wish I could remember more maybe it's eclipsed by the events of the next day are the ensuing trying to erase it all by getting trashed, and so much hardly worth mentioning. Josh and Jess and I went to

New Jersey, we had a compilation of the local rock scene our age which we got a laugh out of because they were not going to see us coming. (Who's laughing now) we were looking at their online profiles, Josh was positioning himself on one bands new female guitarist, which I was not encouraging to avoid the risk of having to hang with them. So ordinary standard fare, April and I babysat for Peppermint so she could get out of the house. April loved their middle child and kept going on about wanting a son we played with them until we put them to bed. I remember saying goodnight to Peppermint, telling her she looked great tonight adding playfully I'm turning 18 soon, she was pretty tipsy, she just laughed, checked on the kids and went to bed. If I had any idea this was the last time I would ever see Peppermint, I would have given her a hug tried to express what she meant to me and not simply take note that she was wearing jeans instead of one of her usual pretty dresses and watched her go upstairs before I locked the front door behind me.

Earlier in the day Nick, Eddie and Justina did tell me they had a new plan. I laughed at the part they said Justina told him she had a fantasy to have sex by the water, we were laughing about the ridiculousness of the premise. When I went to bed in April's room that night it was the furthest thing on my mind. Tasha was asleep so I had an alibi not to put out again but it didn't make getting to sleep any easier, caressing her to sleep I thought about how she was with Peppermint's kids. My frustration with her taking sex out of the equation because I didn't trust her was a <sup>primary</sup> ~~factor~~ <sup>element</sup> of the reasons I had not to trust her in the first place. Her ex stopped coming around. I wasn't just looking for a way out of our stale mate I couldn't even justify being there in the first place to myself. But I knew if something bad happened to her because I left I wouldn't be able to forgive myself. God knows I had no idea I was the thing that was going to hurt her.

May 30th 2003: If I knew when I got up this morning I was about to end up in a Murder conspiracy with Eddie Batzig I would of stayed in bed. By the time we got up April's Mom had already gone to work. She headed to the shower, soon after she called me in to turn on the radio, I did then she asked me to hand her something, I handed it to her through the shower curtian she appeared from the other end like the Myth of Venus born out the water, brought to life her hair slicked back, water dripping off her. I could barely resist her night after every longer night, this was impossible but I didn't have to. She was already rebuffed she told me to get out. If I knew what we were about to do, Lord knows I would have got in that shower if I knew the dreams I had been chasing instead of her were all about to end.

Remember April has a large family, her living room held like five couches, I sat next to Justina and she brightened up your sitting next to me? Oh my God Dom you never sit next to me. I was worried about April, I figured she was busting my balls then realized she was serious. I figured she had a hangover or something and put my arm around her for a real quick hug. Bear with me. I can't wait to get past the teen gookiness either, although I'd rather be mired in it then about to be covered in the blood I was about to exchange it for. We started talking about the music we were listening to (No not the Beatles yet)

April was taking forever so I went to check on her door she didn't answer, She eventually came downstairs I told her I had to somewhere with Justina. She said if I go somewhere with her sister, she was going to her exes unless I stay with her. I told her to go to exes me and Justina left. She went to see Eddie and Nicky, I took a couple xannies. The only thing I was plotting at that point was seeing Pep later and challenging her to a round of suddendead spin the bottle after we empty one. I would later be accused of having other plans.

The killing has been detailed in the DA Brief at the outset, my statement I'll go into in it's place. I'm not disputing <sup>5/30/03</sup> ~~what~~ <sup>what</sup> happened, or how responsible I am for it because I am. But this is not as cut and dry and

expeditious as those who investigated it will have you believe. I didn't go there to kill him, nor is this a robbery that went wrong. I didn't go there expecting to rob him. That would have been pointless. We knew him, we wouldn't of got away with it. I thought we were fucking with his head, not about to bash it in. My concern at that point was him groping Justina if she didn't want to be touched. When we went up there the first time. They weren't there, we went back to Joshes, I figured end of expedition. I was staying there while Joshes Grandpop was on vacation. I told Josh and Jessie, my Dad and I were fighting about me getting a job to stay there all month without issue from Josh and Jessie's Mother's. I was even more welcomed when I told them I think April and I are over. Jessie had a bottle of Jacquins Rock and Rye and ordered a pizza, I poured myself a shot and Nicky swooped in and drank it. The thought passing through my head I still remember "He stole my shot." He threw his hands up and apologized goofily. I sat next to Jessica eating pizza with her. Eddie and Nick got on the phone and Eddie was outraged at Justina that she accused him of "Bitching out." They wanted to go back. Justina was still there, I told her I would be there so I went. On the way Dave's cousin told me she was going to beat her up the first time, so I meant to give her (Justina) a heads up too. When we got to the trails we walked by a cop and went no further than yards away (if I planned on doing anything that would of been a concern) (It is a fact on record) Jason had Justina's pants down and when we popped out I told her I always knew she had skinny legs or something. The DA later used this as my depraved mindset. All I was thinking of was her pouting at her navel ring before, telling herself she was over weight. As part of the case against us, Eddie was in agreement to hit him first which is true. It's not like we drew straws and he won. It was yeah Ed, go ahead. Hit him Buddy I got your back.

How was I supposed to know he would actually do it? All hell broke loose when I saw blood and him holding his head. All I thought about was the cop and us going to jail. Philly Daily news would go on to report Detectives speculating this was an act of rage or just throw their hands in the air that we are just evil and we did it for fun. Granted our "fuck it" attitude only fueled this. But fear is a more powerful motivator then anything their one sided speculation suggests. The paranoia of a tweaked out insomniac worried about his brother. There was no rush or thrill of the kill that came over me it was panic. That is one of the insanest things about the killing, there was a cop right there! We couldn't even bury his body.

I won't tell you how bad I felt, how much I wanted to throw up, how I prayed. This is the part where I took over. It wasn't a game no more. The game was over. I had to gain my composure even though I couldn't think, but I knew if I showed any uncertainty they wouldn't listen to me but, how do I make sense out of any of this? I just took a life. Now my life hangs in their hands. I had to stay cool I had to keep all of them cool. I had to act cool. I tried to think of something to say. Something funny I had to do so I said fuck it. "Group hug." It was ridiculous but it got things moving. We emptied his pockets, we couldn't bury his body without risking exposure the location was terrible it was so fucked, we had to leave him there, but I knew we had to go.

We ditched the weapons and returned to Josh's Grandpops, they were mortified they just sat on the couch I told Josh to wash my clothes, he wouldn't move, until I told him again. Jessica ran upstairs and I chased after her and grabbed her she was crying hysterically and I told her I know I understand, I freaked out, I fucked up, but I need you Jess, we all need you, I need you to be ok. I need your help I have to figure this out I'm scared too. I held her until Josh came up and I told him I am sorry but he stopped me and said It's going to be fine, we got this. I made up the alibi to say we were having a party and Jason never showed up that night. Everyone got the alibi down and I told them all that if we got caught say that I did everything. Put it on me and if they get implicated downplay their own role. I had the false assumption

this would make them held less accountable. What would I care if they put it all on me? I wasn't going to be around I would kill myself before I went to jail.

One thing we all agreed on next was getting wasted. We went to Joe's step-dads tattoo parlor and bought some heroin around there. I kept debating back and forth going to bury his body against the risk of returning to the scene of the crime and started eating xanax, I had my stash to pick at until I got arrested. On the way back I ran into ~~him~~ he gave me a letter from Stephanie saying something to the effect she would hang with me as long as I was sincere and if I'm not I should fuck off and die. As I didn't feel bad enough. Not only was I about to lose everything I was doing so while getting more to lose in the process!

I was everybodys best friend that weekend, got everybody high, made everyone laugh Jessi didn't do heroin (back then) so she sat to the side with her fresh bottle of J&B feeling left out. I never mixed heroin and alcohol, because of the risk of respiratory depression, then again I never killed anyone, so self preservation was not very high on my priority list. We went to South St. but I don't remember much of that except taking alot of xanax with Justina. Josh hearing about Eddie and Nicky running a train on her, in his trying to find an angle to sleep with her. Nicky told him she would do it, if I would sleep with her. Josh begged me too I said, "No." "Do it for Rock and Roll!" I remember him urging me. I remember crashing on the couch all weekend. Justina unsuccessfully waking me up, eventually took more heroin and slept on the couch with me. And being there when I was nodding in and out.

Monday Ed's Mom called me at Joshes and told me they found Jason's body and that he had been shot. I asked if she was ok. She was just concerned for the Sweeneys. We set the alibi in place, the Sweeneys wanted to talk to us about the party and asked us to come around. Nick and Ed went to see them but I couldn't I stayed back drinking coffee and taking xanax, when they returned they were fine with the alibi but they had one concern. They wanted to kill Justina. No. I told them absolutly not. They were saying she would get us caught. I told them she wouldn't. Honestly I didn't care I wasn't killing her or even entertaining the thought of another death. I still laughed and played with them but I knew they were serious I wasn't letting nothing else happen. I knew better then to not take them serious now.

April came around capping off so many strange things that happened. Too surreal to recount. I told her nothing. I just laid my head on her. I was so wasted and felt too bad to function. The Detectives came to question Josh, Jessica and I about the party. I hugged April goodbye.

So are you still with me? A little whiny? I know. Derivative indeed. Shoddy and out of perspective? Definitely. Still have no idea what the hell happened? Tell me about it, you don't know the ½ of it! The next part I will bring things into focus as it has been brought to me.

\*(id)

## (Chapter 4)

"Conscience is not the fear of God but the fear of the Police-Voltaire." The alibi was something short simple, easy to corroborate with plenty of elbow room to shrug our shoulders that we didn't know what happened. We had a party. He didn't show up. Fun fact: I can't recall if it was Maxim or Stuff magazine but in the July or August 2003 issue there was a feature on top 10 alibis, one similar to mine was listed as #1, the difference was getting him wasted before he leaves the party and killing him. Yeah, but that would of required premeditation. I had to work off the cuff. I knew as long as nobody says nothing, noone goes to jail that was all the law I knew.

On the drive down to the Roundhouse with the detectives, I sat with Josh and Jessica quietly. I held her hand. When we arrived we had to go through a metal detector. I set it off. I wore Steel toed Doc Martens. Detective Rossiter asked me why they were steel toed. I peeled them off and told him I bought them because they looked awesome. I didn't have to pay \$200.00 for steel toed boots. I can't remember the number of eyelets, but they laced all the way up to the knee.

This undoubtedly landed me in my own interrogation room all night. I saw my Dad in the vestibule he asked if I was ok, I nodded and they locked me in interrogation room A. Earlier in the day I read the Philly Daily News about finding Jason and it being yet another unsolved homicide that weekend. There was nothing in there but alot of phone books. I sat there and waited for about an hour before Detective Rossiter came in, leaned down on his haunches in front of me and said, "The Detectives think I should take a polygraph test" I responded "Aren't you supposed to talk to me before you call me a liar? Or do I look like I'm lying?" I leaned forward and told him "I think your lying" "He jumped up and sputtered 'your not cooperating!' and slammed the door. I was alone like another hour.

After that Detective Burns came in to take my exculpatory statement about the alibi, it took awhile and before we finished he got called out. Not long after, Detective Rossiter stood in the doorway yelling. You hacked him up with a Hatchet?! Then slammed the door when he ran away again. Next time the door opened my Dad and Nicky came in. As soon as I saw my Dad all the color drained out of his face. A new Detective came in behind him to tell me they had enough to hold us for murder. The detective left us together. Our Dad was shaking and his voice broke when he told us he couldn't take us home. I lit a cigarette and Nicky and I argued back and forth about who we were guessing told. I made him promise not to say anything. Our Dad hugged us.

Detective Watkins came in with Detective Mangold, Detective Watkins sat down and started shuffling paper work, he asked our Dad if he could take a statement from us. Our Dad told him no, that he was going to talk to our Uncle about a lawyer. Detective Watkins got up and left the room. Our Dad asked Detective Mangold if that was it? He told our Dad that was it and escorted him out the building. Nick and I looked at eachother and the door opened again and they took Nicky away.

I sat down and went to light another cigarette before Detective Watkins burst in yelled at me "Unh, Unh, you don't get to smoke, you think I'm going to let you smoke after what you did to that kid?" I gave him the cigarette and put the lighter back in my pocket. He went off, the lighter too hand it over, get it out of your back pocket, now you know what? Get up! Get up right now." He grabbed me by the arm and took me outside the room and pressed me against the wall, not shoving me but so I got the point and he started rifling through my pockets roughly. Jessie, was giving a statement at a desk, she got quiet when we made eye contact, She opened her mouth to say something, gave up and sobbed harder. Meanwhile Watkins was reading all the paper in my pockets and wallet muttering "Anything about the murder?" Including the letter from Stephanie he put it all in a pile with my cigarettes and led me back in the room by my arm. Then said loudly to someone I couldn't see. "This one wants to talk!" Then came in behind me and shut the door.

He started telling me I have committed one of the most heinous crimes. He said heinous alot. He said I don't have any rights "because we know every-thing kid." I said nothing I just looked at him. That girl you just saw, is telling on you. So is the other one, the Staad kid. Even the guy who did it with you, He can't wait to get a deal- he is giving us everything. He paused and we stared at each other. He shook his head. "You don't believe me? I can't believe this, I'm the one trying to help you I'll show you." He left the door open and returned a couple minutes later with a copy of Eddie and Joshed statement. Our names were all over it. I read the details, I saw Josh and Eddie's statement they were giving us up. Watkins asked me if I was "going to let this guy go home for sending you and your brother up the river to death row" I knew not to show interest in my brother, Watkins moved on talking about me "getting the needle" describing the chair I get strapped down in.

I told you I didn't know nothing about the law. If I ever planned to kill someone I would have passed the bar exam. Maybe if I don't feel remorse and was taking every drug in sight I would have brushed up on the law. All I knew was as long as no one told we were fine, Watkins demonstrated we were not fine, I was not happy about it. "Fine" I seethed. "What do I have to do?" Watkins smiled and nodded his head, Yes! Now you can have a cigarette, Now you can have a drink. "He got Detective Mangold. I will go into the statement later now in keeping with the narrative I'll tell you that I put my Brother's weapon in my hand as well as my own in a hopeless attempt to lessen his culpability. All I did was fuck myself I soon found out.

It didn't matter at the time, I intended to kill myself. Hours after they got everything they wanted of me, they put Nicky, Eddie and I together in another interrogation room. Any thought of suicide went out the window during the course of our conversation, I saw a fresh cut across Nicky's wrist. They kept us there another day and a half before they sent us to the House of Corrections.

I have not been in a cell like the first one we landed in ever since. Considering the spatial economy of the bunk beds in these 8x12 cells. Here they had 2 seperate bunks parralel to each other against opposing walls. Everybody inevitably must encounter themseleves in here. My first few days in I didn't have space too. I had to face something worse, I had to watch my brother going through what I was going through and I couldn't help him anymore than I could help myself. Everything I went through I suffered twofold.

Day by Day, clouds lifted <sup>from</sup> my head sobriety released a deluge of senses allowing me to feel excruciatingly acutely as the world came into focus. We felt we couldn't get any lower, the gravity of hte situation pulled us lower and lower and has still not relented. It would take almost two years to go to trial. By that time we got to trial, there would be remarks that we "had no fear" that we shrugged off our fate, but they weren't with us in the cells, with us to witness the impact at ground zero. The unspeakable anguish and expired dignity. We came to court not with an attitude of defiance so much as what else can you do? I will not belabor how much prison sucks, but it will get its honorable mention in its place later, but for now I must stick to what happened to us.

I was only there until I turned 18, days away at this point. It was June and it was so cold it seemed, we couldn't do anything because we were quarintined as part of the procedure when you first come through. We could come out for a shower and call home during a one hour period, then we were locked down 23 hours. At least me and Nick had each other. Eddie lived with a guy who wouldn't let him use the bathroom.

Naively we assumed there would be no publicity, when we were locked in everyone was yelling they were going to kill us if we came out of our cells. When we came out everyone just kept asking us questions, the topic was never the killing, it was if we were all sleeping with Justine. Nicky and Eddie

would smile and nod and field the questions. Then they would ask me why I didn't sleep with her. I would just wave them off telling them "obviously I had pussy to spare." I can not tell you how many times I have had this conversation. It always ended with the inquiring mind resolving to write her.

Calling home was horrible. Our Uncle's voice breaking on the phone asking us if we did it. I just handed the phone to Nicky. He came back in the cell perplexed and asked me what was wrong, I got him off the subject it was easy, just mention Justina. Him and Eddie didn't let me hear the end of it, or look at the next meal and freak out, not that we had appetites anyway.

I had alot of questions, many people who followed this case did, I asked him how the hell did we get here? He told me he tried to get a job when Jessis was pregnant, with Jason working for his Dad. Jason told me his Dad said no and made a big speech about his friends being slackers. My brother and Jason laughed about it then he told Jessie about it. Then Jessie got the abortion he went on talking about Jessie didn't even give him a chance to find another job, then he talked about Jason's Dad, calling him a slacker, for every reason he considered Nicky a slacker the same could of been said about Jason the only difference was it was his son, Nicky was mad, he never tried to work there until Jessie got pregnant, how does a friend of their family trying to provide for his unborn child get considered a slacker? Jason's Dad couldn't just say no, he lorded the refusal over him. Nicky said I showed him I'm no slacker, now he knows what it feels like to lose a kid.

I know this does not justify the killing but he had the whole Father's rage deal that gets championed a lot when a father loses their child. Nicky's kid was murdered lawfully though. He didn't have a legal process to appeal to. We didn't get no justice. We just had to take it after the child was taken from us. We had no choice. I love women and I absolutly believe in equality but in fair consideration of a woman's right to choose. What if I was about to have a niece? Shouldn't she get a choice over the right to be born? Jessie didn't kill his kid because she had a right to choose, she did it because she didn't want to be with my brother.

Did I tell my brother his vindictive bitch streak was misplaced? No. Did I tell him why she really had the abortion? No. You know why not? It was a mistake not to tell him before, a mistake that just cost Jason his life, it wouldn't of made a difference to tell Nicky now, it was to late. It wasn't to spare him the guilt of his misplaced motive, his guilt and remorse would come no matter what. I didn't want to take away the one thing he thought he had. Jessica. He is still in love with her. She is his whole idenity of love and happiness, his whole world. I couldn't take that from him. What I am writing isn't something I want the world to know about. It's what I didn't want him to know about.

Well now you know what happened. This isn't going to make a difference to the Sweeneys. I'm sorry my remorse isn't good enough and you don't believe I am sorry about what happened to Jason. I'm demonstrating here I did take life seriously, I did have plans and more importantly so did Jason, but since I took that away from him, I couldn't even try to dispel your belief that we had nothing better to do than sit around thinking about killing Jason everyday. I didn't take this serious, if you don't believe that this is something all of us involved wanted, If you don't want to believe my remorse, what about my self interest, why would I risk everything I was working on? I'm not even trying to bring this up. I wanted you to have some sense of closure. If you told yourselves and the world we are evil, Fine whatever gets you through the night but now you know the truth.

June 11th 2003: We were scheduled to have our preliminary hearing in front of the Honorable Seamus. P. McAffery (Now a PA Supreme Court Justice). Since we were juveniles we were transported to court in our own Paddy wagon with Justina sitting in the seat in front of us which was caged off. As soon as the



door was locked Eddie and Nicky went in on her, which as she was later quoted at trial they told her "We should have killed you but Domenic didn't let us" "We knew you would fucking tell."

Justina kept saying how sorry she was, she told us about the Detectives kicking in her front door, scaring her family for nothing she wasn't even there she was at the tattoo parlor. She also mentioned how bad she felt and about having nightmares about walking around with Jason and him not knowing he was dead. The van got quiet. Nicky told her to strip. Justina was like "What?" "Strip." They repeated goofily. She shook her head "Dom, don't want to see me naked." Nicky and Eddie and the other kids in the Paddy wagon started urging me "come on Dom!" They were pissed at her, they were pissed at me for defending her. I was pissed. I told her "I stuck up for you once, look where it got me." "See!" They got back on her strip Justina! When the story got repeated at trial. The Lawyers misinterpreted her flashing us, as flashing her breasts, she wasn't that confident. She took off her pants and underwear and there was Jaladora Justina in all her black widow glory minus self respect or self esteem. She bent over and looked at me over her shoulder and asked "Feel better Dom?" Our preliminary was postponed to June 17th.

Our Dad came to visit us as soon as he could and brought us clothes, and brought us to speed on what little there was to know. It was bleak. He told us there is nothing we can do to change what we did it was done. My time with Nicky and Eddie was running out too. When I turned 18 I was getting transferred to adult lock-up. I took comfort, He would have Eddie the next 14 months until he turned 18. We promised each other we wouldn't kill ourselves. One of the last moments we spent together, he kept writing Jessie letters, we didn't have our own stamps yet, so our letters had to be processed as indigent therefore took a little longer, making waiting to hear from her that much more agonizing. He tried to get me to write to April telling me "She still loves you Dom." I didn't write her. I never did. I shrugged it off. "It's just me and you now Nicky, I gave up everything for you." I said self deprecatingly. He shot back at me dead serious. "You did this to yourself."

At 18, I was administrated to protective custody due to my high profile case on top of just turning 18, and was dropped off on "A" block a freakshow at the Philadelphia Detention Center. The block was a hideout from the general population, pretty much if you weren't there for the reason I was, you were either a snitch, homosexual or an assault victim. It was mostly sex offenders. I was single cell status and left alone.

June 17th 2003: The Detectives narrated our statements. The medical examiner detailed the injuries and my best friend Josh was the star attraction. The courtroom was packed when we walked into a cacophany of noise in uproar of arrival. I made out one voice hissing "How dare Justina cry." I looked to face whoever said it but the Sheriff's flanking me sat me down for the testimony to begin. We were completely taken unaware of the legal process. I met my Attorney Lee Mandell who I immediatly disliked for shushing me when I asked him to explain something. Amid the tension and the foreboding hopelessness I developed a courtroom strategy that was full proof. Just keep my eye on the pretty reporter nibbling at her pen.

Josh who has the physical attributes of a Pygmy, wore a green suit. He was a (Top-Hat) short of looking completely like a leprechaun. I would of laughed if I wasn't so pissed off. Justina had been sobbing uncontrollably, I leaned over and whispered to her don't worry no matter what happens I will not let Josh steal your lucky charms, she stopped crying and straightened up. Josh's testimony was baseless, he got full immunity for washing our clothes and lying to the police for us. He stuck to putting everything on me that was until he was questioned about someone else and his testimony changed like the wind. He was quickly discredited. Justina's Attorney finished him off "According to your testimony your allegedly here." They never used him again. That was the

last I ever saw him. I'd only hear bits and pieces from him when Jessica wrote promising to wait for me forever.

The preliminary hearing gave me an idea though. The hatchet Eddie used had an axe on one side and a hammer on the other, and the medical examiner suggested everything could have been done with one weapon. I tried to get with Nick and Eddie to cover up my involvement, then I could get out and get some money to get them lawyers. I wrote Jessica to see if she could get Josh to go along with this and if it was a go to say on the phone "Flehasaurus" and if they won't do it say "Mo-ped." (Don't ask me the logic of the code words I largely communicated out of an over caffinated fugue state free word association at this time.)

While I was awaiting a response, the "A" block representative, killed himself. The lead Detective on our case Detective Booker came on the block to go over the crime scene. I was later told he was looking for me, even told another prisoner to say hi. The person who told me, I never really associated with perhaps I let him bum some coffee off of me, but I remember this when I later noticed he was not on the block a few days later. I made sure he was not in court from his cellie, I also found out he was not a pretrial detainee he was serving county time.

Days later a guard asked me to take the prisoner in temporarily until they fixed his door. I pointed out to the other guards there were other open cells. The guard went on about his door being messed up, I went to his cell and the prisoner was smiling asking me to bail him out and handed me a box of his property. I kicked his door and heard whatever he jammed it with fall. He quickly looked himself in, I turned around looked at the guard, he threw his hands up in the air. Until then I thought I was being paranoid, whatever he was telling the Detectives, they wanted a paper trail documenting we live together to establish we had contact. This prisoner was in jail for selling soap acting like it was crack. The Detectives had some use for him? I thought they already had me. This is when I started going to the Law Library and requesting discovery and began researching law. They moved that prisoner off the block, despite the open cells and operating door.

I also had to come to grips. That Josh and Jessica were not my friends anymore. They were friends with the District Attorney now. If they intercepted my letters, they had more on the way I began laying red herrings, false strategies and inane babble. What did I have to lose? Jessica? Ha.

I got a response back from Nicky and Eddie about the cover-up, they had a different strategy blame the oldest. Th both each wrote different sections of the letter, talking shit about turning the letter into their lawyers on me. I was trying to deal with them, I didn't go behind their back with nothing they ran to their lawyers to get out on me! I don't know what amazed me more their treachery or my stupidity. I had a lot of time to stew on this turn of events and everything that led me to this point. In all the stupid hippie love shit I sold myself on to make doing drugs seem meaningful. Forgiving my brother all his bullshit over the years was my downfall. I didn't just forgive, I forgot. That is how you survive you remember. I felt like my brother used me and threw me to the dogs because I was worthless now. I was shattered. No Nicky. No Josh. Not even Eddie. Just me alone and I was about to get the death penalty.

Speaking of the death penalty. I was appointed a second attorney to handle the penalty phase after he made sure I understood this when we first met Randolph Goldman pushed a blank piece of paper towards me and advised me to "write something down that will save your life" I realized this was the part where I was supposed to offer any excuse, blame anyone I could for any hope of avoiding the death penalty. I didn't offer anything, I didn't want to bring anyone into this mess that was not already unfortunatly involved. I was worried they would discover Kurt or the abortion, other things, but they turned up nothing. It wasn't anything cloak and dagger. On my part nobody asked! Randy thought he ~~thought~~ he overwhelmed me by putting me on the spot. I let him.

Despite the first impression. I came to actually like him he is a good lawyer and more in depth. The thing is I didn't have him on the front lines, the position I would have chose to have him in. Randy actually not only acknowledged me, he counselled me despite how stark the case was. He even sent me a Birthday card when I turned 19 after not meeting me awhile. Plus he came with Phyllis Pautrat a talented activist to serve as my mitigation specialist. I didn't need to be in a life or death situation to enjoy talking to her.

Randy was a far cry from Lee Mandell my Trial Counsel. He brought a private investigator who I raised some questions about a motion to suppress my statement Lee filed that I was not privy to, and he dismissed me telling me whatever needs to be done Lee will do. "I asked him what cases he cited and asked if he could pass on what I had been researching. He just flat out told me to stop reading law books!" I asked him "Then how am I supposed to take part in my defense? Lee don't even care enough to send me a copy." He shot back, "You didn't know what to do when you got arrested there is nothing you can do now, it's not Lee's job to care." Then why are you here? "I asked" To see if there is anything to investigate, he told me.

Early 2004, I called Lee about the status of my case. He told me I was "going to plead guilty and undergo a degree of guilt hearing." I asked him, "When did I ever say I was going to plead guilty?" What?! Lee yelled Domenic you can not seriously take this to trial. It is suicide. Why don't you take a gun and shoot yourself. Lee, How will I ever get a gun in here? I asked. After a pause , Lee went on Awright you have a constitutional right to a trial. No one can take that away from you, but I am afraid I am going to have to ask to be removed as your counsel.

I took this matter to our Motion's Court presided by the Honorable Benjamin Lerner, (I'm including the transcripts as an appendix (A).) The gist of it is, I detailed Lee telling me to kill myself, I argued about him filing a motion without my approval. Judge Lerner asked what my concern was, I said my statement being printed in the press and prejudicing me against potential jurors, (which is an argument for change of venue but I was trying to argue this as I said in the attached transcripts, "besides the motion itself") ((The statement I will argue a little bit later)) Judge Lerner then accused me of not doing my own homework and recieving counsel from other inmates. Then gently advised me to pay attention to my lawyers advice to plead guilty and to keep in mind the high likelihood, I may get the death penalty. (See fig.2 Lee's motion, literally fill in the blanks with my name.)

On 3/19/04 The press announced Justina cutting a deal for Third degree murder and a sentence of 17½-35 years in exchange for testifying to put the 3 of us away forever. Possibly before maybe not long after someone warned me she had turned in letters on us. I told my source I wasn't writing her, which I wasn't. I only wrote her one letter one time after I got the discovery and read all the statements against us and the timetable leaned towards Jessica initially telling. (Whom I promptly dropped the social niceties with and proceeded to curse out to the effect. First you kill my brother's kid, then you try to get us the death penalty? Why don't you just kill my whole family?) But back to Justina I wrote her an apology about giving the green light for her to strip and told her I felt like such an asshole about it.

Curiously after I was given the heads up about Justina, she wrote me apologizing about the deal. I explained to her honestly I didn't even care. I explained my falling out with Nicky and Eddie which pissed her off. She could sympathize because she had been used too. The enemy of my enemy is my friend and all. But it didn't make me trust her she was states evidence. Come on my own brother stabbed me in the back. I didn't have to worry about her intentions, her subject matter immediatly went dark. I figured she was trying to elicit sympathy.

(Fig. 2)

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ATTORNEY FOR DEFENDANT

COMMONWEALTH OF PENNSYLVANIA

: COURT OF COMMON PLEAS

VS.

: Philadelphia County

Dominic Coia

: CP-03-06-1389 4/4

**MOTION TO SUPPRESS**

The application of the above named defendant, by his attorney, Lee Mandell, Esquire, respectfully represents that:

1. Defendant was arrested on or about June 2, 2003 by officers of the Philadelphia Police Department: Murder, Conspiracy and related offenses
2. The police officers interrogated the defendant and subjected the defendant to unnecessarily suggestive identification procedures.
3. As a result of said interrogation, it is alleged that certain statements either oral or written, were made by the defendant.
4. The defendant did not knowingly, intelligently or voluntarily waive his privilege against self-incrimination or his right to counsel.
5. The interrogations were not incident to, pursuant to nor following a lawful arrest.
6. Prior to and after arrest, defendant was aggrieved by certain searched and seizures conducted by various law enforcement officials without a valid search warrant and without legal cause in violation of the Fourth Amendment of the United States Constitution and, independently, in violation of the Pennsylvania Constitution, Article 1, Section 8.
7. As a result of said search, defendant believes certain evidence will be used against him at the trial of his case.

8. Unnecessarily suggestive photographic displays were shown to various commonwealth witnesses.

9. The defendant was also subjected to various line-up identification procedures, uncounselled and unduly suggestive.

10. As a result of said photographic displays and line-up, the defendant was identified by various witnesses as having been seen at or near the scene of the crime in question.

11. The interrogation, identifications or confrontations were made incident to, pursuant to or following an unlawful arrest.

12. The defendant did not consent to such identification or confrontation.

13. Subsequent In-Court identifications of the defendant were or will be based exclusively on the illegal Out-of Court identifications.

14. The arrest, identification and confrontations were not pursuant to a lawfully obtained warrant.

WHEREFORE, the defendant prays that this Honorable Court order that: (1) all property and any and all evidence of every kind and description which was obtained as a result of the search and seizure shall be barred from being received or admitted into evidence and they be suppressed; (2) that all statements and admissions improperly taken shall not be received or admitted into evidence; and (3) all identifications resulting from improper procedures or made in the absence of counsel be suppressed and no testimony respecting the same be received.

Respectfully submitted,



LEE MANDELL, Esquire  
Attorney for Defendant

to elicit such material from me, but I realized the evidentiary value of having what the star witness was saying in writing, and kept it going.

She eventually requested my blood, which I was hesitant about but, recognized the value of getting her DNA on the letters. I'm not particularly one for self-mutilation. I even inquired of my cellie without telling him who I was writing. While he went on about ways to carve into myself, it came to me I told him. "Never mind- I'll pop a pimple!" She sent back my blood sample sucked dry and sent me a letter covered in blood, detailing how she cut herself with the page she wrote me on. She also offered not to testify, I told her to testify to take care of herself.

Eventually Nick wrote me a letter like nothing ever happened. Asking why I haven't been in touch? I explained to him along the lines of how I felt, that I know you tell yourself I did this to myself, but unlike you I would not put myself or anyone I love in this position. You did nothing but dig a six foot plot in the ground for us that I dove into headfirst for the lie that somehow less dirt would touch you. Not only do you sell me out. You fucking sell me out with Eddie. Really? Talk about out of sight out of mind, you have been in my face since you were born. If you don't like the idea of a cover-up tell me. Don't tell your lawyer on me! Your helping me get executed. I already fucked myself trying to help you. You left me for dead.

He wrote back apologetically and he wrote the letter quoted in the introduction to Justina in an effort to absorb the blame, he had been shielded from. I tried to talk him out of it, telling him now everything I did was in vain, that is not what I want. I told him I want the death penalty, it's the least I could do for Jason's family. He also told me they offered him the deal Justina got but he couldn't testify against me. I had my brother back but at such a cost. I couldn't turn back on trying to take the brunt of this now.

Randy did confirm to me that Justina was turning in letters on me. I had to meet Lee's investigator one more time. He asked if I could think of any character witnesses against Justina. I gave him two names. Then told him about the letters, what I had, he grumbled at me "Don't waste our time on love letters," I gave up on him. Both names I gave him produced zero results he claimed one moved, the others phone was disconnected. All I had was a private investigator who couldn't follow up either.

Meanwhile my Death Penalty team rocked. Phyllis visited me constantly and proved quite resourceful despite my polite uncooperativeness. I was also appointed a forensic pathologist Dr. Dougherty who was cool but realizing his function, I knew no matter what I said he was going to call me borderline retarded when the D.A.'s expert calls me a sociopath. So I played dumb to getting dumbed down. I'll never forget his face when he asked me where the Sahara desert was and I told him "Afrizona."

Of course ultimately my defense team didn't want us to go to trial. So if they couldn't use "reason" they worked on my emotions and got to my Father. He visited me and asked me to plead guilty and not to take it this far. We knew Nicky's lawyers were going to bash our Father to provide mitigating circumstances. I promised my dad I would not do that. I told him I am in this over family and I was not going to put them on trial and blame the only person who has ever been there for us. He doesn't deserve that after I already failed him, disgraced the family, I would not cause him to suffer more than I already have. If that means dying so be it. I turned away everyone that wanted to help be my character witnesses. Besides family, I kept who I could out the spot-light. As for the family and friends I couldn't it didn't matter I told my Dad my legal strategy. I was waiving the Penalty Phase and telling the judge and jury to give me the death penalty.

Oh, but guess who was ready to testify against me for the District Attorney to get me excuted? "Dave Cram." He called the cops on us when I hit him.

Claiming Eddie and I assaulted him. Eddie didn't do anything. I'm the one that hit him. When the Detectives got to him when we were arrested for murder, he spiced up the incident, claiming one of us had a knife but he didn't see who. He was the one that had a knife when I hit him. I mean I'm this cold blooded vicious out of control blood thirsty super predator right? I wouldn't stab him instead of punching him? Let alone when he's armed and I'm not? And he still denied trying to hook up with Eliza! Dave got in fights all the time, and he only called the cops on me? He knows he is so full of shit. I just broke up with her after 15 months, I still cared about her, she is a great girl and it was important to me that she would be okay and he stirred shit up with her that came back on me. I take people I care about seriously, I already hurt her enough.

When I hooked up with Stephanie her ex came after me. I didn't call the cops because I was wrong. I'm not saying that justify's hitting Dave but he is acting like he wasn't trifling with my personal life. The thing is, we would of put this behind us, I would of got over it. Smoke the peace pipe. He wants to help execute me because he disrespected me? I know this is a "Murder memoir" and what not and I'm supposed to be all zen and bygones are bygones but fuck you Dave. I've been in jail a decade and your chance of getting with Eliza are no better.

The DA wasn't just interested in his assault he tried, to establish it as my M.O. because of the location. Nevermind that "The Trails" are miles long and highly frequented by us, this is my violent theme. Defending Eliza's honor, Adds to how much of a monster I am. I'd die before I'd have Eliza take the stand against Dave. I had to just take it.

"I will not play the part of defending myself, where no defense is possible, and I will not simulate the illusion of dealing with a tribunal of justice.... A prisoner brought to trial can defend himself only if there is an objective principle of justice recognized by his judges, a principle upholding his rights, which they may not violate and which he can invoke. The law by which you are trying holds that there are no principles, that I have no rights and that you may do with me whatever you please very well, Do it... I will not help you to pretend that I have a chance. I will not help you to preserve an appearance of righteousness where rights are not recognized. I will not help you to preserve an appearance of rationality by entering into a debate in which a gun is the final argument. I will not help you pretend you are administering Justice.

-Ayn Rand

February 14th 2005: The date we were set to be tried in front of the Honorable Renee Cardwell Hughes. First we had to finish pre-trial motions and conduct voir dire on potential jury members. This is the first opportunity I had to see Nicky and Eddie. Since the preliminary hearing, Eddie and I were at peace by default. I figured I was fucked why hold a grudge? We were about to go to trial it was such a joke. We already knew what was coming, our lawyers and the D.A. are about <sup>to</sup> bat a beach ball brimming with hot air back and forth, each side brings its own experts to play I know you are but what am I against each other. The Detectives are going to use our alibi to call us liars as part of their alibi for violating our rights which is okay because the ends justify the means in getting that Murder one conviction and after all the contestants in this game show tally up their points I get the grand prize—strapped down to a chair and die.

Jury selection lasted from 2/15/05 to 2/25/05 in between screening potential jurors for any prejudice they may of formed from media exposure and eliminating anyone who can not vote for the death penalty (By law in a Capital Case , anyone who is not willing to at least consider sentencing me to death ; they are disqualified.)

None of which greatly concerned me at the time so much as my previous courtroom strategy. Eye candy for the duration but the one I liked that managed not to disqualify herself, my Attorney ended up striking, getting rid of her definitely did not effectuate my interests. I learned that Nicky and Eddie's defense was to pretend they were in love with Justina, it is believable for Eddie because he was hung up on her, and they killed Jason over how they felt. While true for Eddie, it's classic pin the tail on the turncoat legal strategy. I laughed until Lee told me that was my defense too. It was so tacky, I protested why we can't fight the evidence as it comes. He said he had a plan. Apparently the plan ~~was~~ , was a buy one get two defenses free in a lump sum. Then I decided to be absorbed in this may help my brother, and it couldn't hurt my chances of getting executed. In league with the sad theme of my defense attorney piggybacking their defense I had to get my co-defendant's to tell their lawyers to convince Lee to use the letters I got from Justina against the ones she was using against us. Lee had his moments, defending me but he had no interest in fighting anything, and no reverence for my concern about anything.

Randy had growing concerns about the penalty phase, he told me he never had a client get the Death penalty and he made no secret he was nervous, "You got me smoking again boy" He told me gravely. "I havent had a cigarette in years." He took me in a conference room before court one morning and all six of our attorneys combined tried to succeed where the two of mine could not alone. The deal on the table was I Plead guilty to Murder generally, recieve Life without Parole and they would drop the twenty two and a half to forty five extra years I was facing. They told me it was the same deal Nicky would get if we plead guilty together. Eddie's counsel told me how much Eddie could benefit if he



was tried alone. They brought Nicky in and everyone waited on my decision. I told them the only way I will agree to that is if you let us stay together. They came back after a moment and told me Judge Hughes could not make that decision, that was in the hands of the Department of corrections (D.O.C.) I let them know two brothers got that deal in another Philadelphia homicide, the Lex street massacre, and they had multiple homicides. When the lawyers came back the Judge told them she could only make a recommendation. Then all six lawyers put the question to me again. I looked at Nicky and told them "ok... no deal" one of my brothers attorneys Barbara Mcdermott looked at me and told me flat out. "Your going to get the death penalty Dom." I told her the truth. "I know." I saw Randy tell Phyllis and she looked down. Judge Hughes put in a separation between the four of us that is in effect to this day. As far as the DOC is concerned on the issue we have earned the privilege to write one another. Their hands are tied against Judge Hughes separation order. I have not been in contact with Nicky in seven years.

Our Trial started, my Attorney's opening statement was the next days headline in the Philly Daily News. "Client guilty of Murder Lawyer says." He was emphasizing this was not a capital case. This was his great plan he was talking about. When they asked me how I plea, I pled nothing on any charge. I didn't plead guilty or not guilty, I just wanted to get this over with and get executed.

The next day the United States Supreme Court ruled in Roper vs. Simmons. No one under the age of 18 at the time of the offense, could be executed. After Randy got the text, Phyllis kept smiling at me saying I must of known. She kept telling me to admit I had a feeling not to plead guilty. I had no idea. I had a feeling now: Dread. I was resigned to death for nearly two years. I wasn't relieved. I was pissed. I have come to appreciate it now but, at that moment I was lost. My family couldn't wait to smack me in the head, telling me that was God saving me. I came back to the cell block, everyone was following on the news and they all got quiet and clapped for me. I threw my arms up in the air victoriously and screamed "Yay! Now I'm getting life!" Then went in and slammed the door.

The next day in court Lee moved for a mistrial, noting he only conceded my guilt to combat the death penalty. Nick's other attorney Gary Server also pointed out we now had a death qualified jury for a non-death penalty case, we had to excuse multiple potential jurors for refusing to apply capital punishment. He argued Death qualified jurors are more prone to convict and it was unfair to expose us to this risk when it was no longer necessary. We didn't have a jury from a fair cross section of the community because if they couldn't execute me they couldn't serve. N/T 2/28/05 pg 106 on...

The DA argued this has been a matter of degree, not of guilt or innocence, he suggested my attorney be given the option to make a new opening statement. (Like what? Ladies and Gentleman, when I told you he was guilty of Murder and should get life in prison not death, what I really meant was...) The DA also pointed out Nicky and Eddie weren't facing the death penalty to begin with so nothing really changes.

Judge Hughes ruled none of us had been disadvantaged by the selection of the jury in this proceeding since I was afforded extra strikes "A more balanced and fair jury could not exist." And "Judicial efficiency has in no way been compromised." In fact these young men have benefitted by having a greater opportunity to select a fair and impartial jury. (Unless they believed the "ultimate penalty" was too much.)

Justina took the stand next. I am not trying to put her on trial, she has been through enough, but to demonstrate we had nothing coming, we couldn't even get the psychiatric records of her to discredit her despite all I offered to devastate her credibility. Consider the evidence I produced.

DA Judge Conroy: And I want to ask you, just so it's clear, do you feel any

sense of remorse for what happened to Jason?

Justina: Yes I do.

Conroy: I'm just going to go to my personal favorite here, C-17, you see the last paragraph... of a letter you wrote to Domenic?

Justina: Yes

Conroy: See that paragraph?

Justina: Yes.

Conroy: Why don't you read, you know after you thought about, you felt remorse, why don't you read what you wrote to Domenic Coia your friend over there.

Justina: That's cool you ~~but~~ I'm guilty, but I still don't feel bad for any of it. I'll always be guilty and I don't care. I still enjoy my flashbacks, they give me comfort I love them.

Conroy: You wrote that Ms. Morley?

Justina: Yes I did.

Conroy: Do you understand how vile that is ma'am? ... How can you tell these good people with a straight face you have any sense of remorse for what you did? When your writing stuff like this? That's just one sample you've written other stuff you know, correct?

Justina: Yes.

Conroy: Explain that to these good people.

Justina: I was looking for acceptance

3/1/05 pg 64 to 68

on subject of her credibility and capacity to manipulate:

Justina: So you say I am manipulative and, yes I believe I am in many ways. I'm persuasively manipulative and I think I'm pretty good at it too. I like it as a matter of fact, because I'm believable most times as you are too. I'm sure you enjoy dragging people along on bullshit, no matter how small. Come on tell me you don't enjoy these gullible humans. It is funny how easy it is to persuade them into lies. 3/2/05 pg 219

She read another letter:

Justina: It would be hard to make myself cry, so they could think I'm remorseful or scared, whichever. It is fun making people think and be confused

Mr Schwartz: You were talking to Domenic about what is going to happen when you go to court right?

Justina: I was talking about anything.

Mr. Schwartz: Well, weren't you talking in that letter in the context do you know -- do you know -- in the paragraph in that letter, weren't you talking about when you go to court to testify yes or no?

Justina: I don't remember.

Schwartz: All right well, would it refresh your recollection if I read to you the sentence before that section? He is so scared, that just makes me more tempted to testify. Next sentence same paragraph. It would be hard to make myself cry so they would think I'm remorseful or scared, whichever it is fun making people think and be confused, Now that you have heard that, you would agree you were talking to Domenic about what is going to happen when you come into court, sit on that chair and tell your story. Yes or No?

Justina: Tell the truth yes.

Schwartz: Well about the truth lets go back about 7 or 8 seconds and let me ask you this when I asked you "you knew you were talking about your testimony didn't you?"

Justina: No, because the letter is old.

Schwartz: Oh, Okay. All right but now you do right? Now you have been refreshed and you know you were talking about your testimony?

Justina: I would agree I was, yes.

Schwartz: Are you talking about the people who have to make a decision as

to what is the truth and what is a lie?

Justina: No

Schwartz: Are you talking about the people that sit on this jury?

Justina: No, I'm not.

Schwartz: Were you thinking about getting up there and crying at the right time, making yourself cry.

Justina: I don't know. 3/2/05 pg 145-149

The nature of the testimony she proffered for her end of the bargain with the DA.

Schwartz: When you testified in court yesterday and when you gave your proffer about a year after the incident, you talked about these plots- about a safe and about taking Jason down to Atlantic City. You are aware of that testimony right?

Justina: Yes.

Schwartz: Okay that you never mentioned that to anybody before you made your proffer on 3/4/04 right?

Justina: Yes.

Schwartz: All right and that was after you had extensive meetings with your lawyer about cooperation right?

Justina: Yes.

Schwartz: Okay, and it was made clear to you that all 3 of these guys was facing first degree murder charges right?

Justina: Yes.

Schwartz: And you understand- would have to prove he intended to kill right?

Justina: Yes.

Schwartz: And you were told by your lawyer, that you were going to be an important piece of that effort, that you were going to be a witness, that you are going to be a witness to aid that effort right? Am I right? . . . And you discussed that at great length didn't you?

Justina: Yes.

Schwartz: With your lawyer?

Justina: Yes.

Schwartz: Okay, you went over your story over and over right? Like any good lawyer yes or no?

Justina: Yes.

Schwartz: Yes. And so there was preparation?

Justina: Yes 3/2/05 pgs 242-245

Barbara Mcdermott representing Nicky followed this up the next day.

Mcdermott: Now lets go back for a moment to those five maybe, roughly five times that you went to the DA's office to prepare your testimony. During that time you were instructed how to dress for court is that correct?

Justina: Yes. They didn't tell me exactly what to wear but they aske me to wear something appropriate, yes.

Mcdermott: You were instructed what kind of questions you would be asked is that correct?

Justina: Yes, they told me some questions, yes.

Mcdermott: You were instructed to answer the judge is that correct?

Justina: No.

Mcdermott: No. Okay you were instructed how to answer the defense counsel?

Justina: No.

Mcdermott: Did anyone when you were talking these multiple times pretend to be a defense attorney?

Justina: No.

Mcdermott: Were you told well, they may ask you these kinds of questions and this is how you should answer?

Justina: No.

Mcdermott: Well I'm a little confused then. You were over there at least several hours each time you went over there right?

Justina: Yes.

Mcdermott: And you told us besides being at the Police administration building, you think you were there at least five times right?

Justina: Yes.

Mcdermott: Well what happened during those times, Did you just sit there and read your statements or did someone one question you?

Justina: I was questioned.

Mcdermott: By the DA right?

Justina: Yes.

Mcdermott: and you were asked questions for several hours is that correct?

Justina: Yes.

Mcdermott: And he would tell you; well, when I ask you this question, I want you to say this right?

Justina: No.

Mcdermott: Well what did he say to you for all that time?

Justina: He would ask me questions and I will answer them, . . . He would tell me to tell the truth, "Tell The Truth."

Mcdermott: About how many times do you think he told you to say the truth?

Justina: I don't know.

Mcdermott: Would you agree with me that you were - everytime you were there for several hours.

Justina: Yes.

Mcdermott: And each time did you just do - go over the same questions and answers?

Justina: No we -- Like we would -- if we couldn't finish where we were, then we would pick up from where we were.

Mcdermott: Okay: And it was the same Detectives that were there each time or were there different ones?

Justina: Usually the same.

Mcdermott: And how many Detectives?

Justina: (No response)

Mcdermott: I'm sorry?

Justina: I'm not sure.

Mcdermott: More than one?

Justina: Yes.

Mcdermott: More that two?

Justina: There was about three, I think.

Mcdermott: Was your attorney there?

Justina: But they weren't all in the room at one time. Like usually there was just one there at a time one or two there.

Mcdermott: Did your attorney come over on each of those five occasions?

Justina: No.

Mcdermott: Was your Mother present on each of those five occasions?

Justina: No.

Mcdermott: So it was just you and representatives from the District Attorney's office or the police department. Is that correct?

Justina: Yes, 3/3/05 pgs 34-39

Our side is hardly more straight forward, born from Ed's feelings for Justina came a ludicrous defense tactic stemming from his letter to her when we first got arrested. Eddie pitched woo to Jus; thusly. . . "You are a great person, awesome chick and a beautiful girl or should I say woman. . . it wasn't love yet but almost. I liked you enough to do the unthinkable."

3/2/05 pg 189-190

From this we get this radical reinvention of the night Nicky and Eddie "Ran a train" on her promising her heroin in return.

Mcdermott: But isn't it true they were both virgins that day right?

Justina: No.

Mcdermott: You are saying that they weren't? - it wasn't Eddies first time?

Justina: It was his.

Mcdermott: It wasn't Nickys first time?

Justina: No.

Mcdermott: And you know that?

Justina: That is what he said.

Mcdermott: As fact as you are sitting there?

If Justina knew about the abortion, she would of thrown it back in Nicks face. Just like Nicky threw her Mom making me a birthday cake in her face when she said she was looking for acceptance from us, when her family was the ones accepting us. If only my brother were a virgin. Jason would still be alive, I had to sit there and stomach this defense, Innocent little Nicky paying with his virginity to be inittated into Justina's Murder cult.

Why couldn't we just focus on her function for the prosecution and police? who not being content with the ease they solved a homicide but in their scrambling to seize the most they can out of this conviction, doggedly pursuing First degree Murder and that's what her freedom is paying for. They only tell her to tell the truth? The DA tried to elicit me into everything in this case, with little success but where I was actually involved the killing itself which is all that should matter, but it's not enough they want "Premeditation." They want to prosecute to the fullest extent of the law, they want the gold. They don't want the silver. They don't want the bronze. It's not a point of how much we should be punished, but how great a victory they can achieve. It's their Job. Their graded on performance.

So all the Detectives and the Prosecutor <sup>have</sup> to do is tell the truth right? When A.D.A. Jude Conroy first questioned his star witness seemed to have a little trouble accepting the truth.

Conroy: Tell the ladies and gentleman of the jury, tell them what the hatchet looked like that Eddie had in his hand when he said that.

Justina: It had a wooden handle it had a blade on one side and like a hammer on the other.

Conroy: And he said he was going to hit Jason first?

Justina: Yes.

Conroy: What else was being said? Domenic was present right?

Justina: Yes.

Conroy: And what weapon if any did you see in Domenic's hand?

Justina: He didn't have nothing in his hand.

Conroy: Did he have a weapon there with him?

Justina: Yeah.

Conroy: What was it?

Justina: A hammer.

Conroy: Describe what the hammer looked like.

Justina: It had a wooden handle.

Conroy: What did the top of the hammer look like? I know it had a wooden handle but I want you to describe the top part of the hammer.

Justina: It looked like a hammer.

Conroy: Hard?

Justina: Uh huh.

Conroy: You could hurt somebody with that, would that be fair to say? It was that kind of hammer the kind that hurts?

Justina: Uh huh.

Conroy: The kind that hurts when it hits correct?

Justina: Yes.

Conroy: What if anything was Domenic Coia saying, Miss Morley, about Jason and striking him if anything?

Justina: He didn't say anything.

Conroy: What was he talking about during this period of time Miss. Morley? What was Domenic Coia saying during this period of time?

Justina: (No response.)

Conroy: You are under oath. You have to tell the jury the truth.

Lee Mandell: Objection your honor.

Conroy: Tell them what if anything Domenic Coia was saying down on the basement.

Justina: They were all saying stuff. So I don't remember who said what like.

Conroy: Well as best you can remember, what if anything was Domenic doing with the hammer? Where did he have the hammer?

Justina: In his pocket.

Conroy: What if anything was Domenic saying in relation to getting in touch with Sweeney?

Justina: One of them told me to call him. One of them told me to call Jason.

Conroy: You told the ladies and gentleman of the jury that Eddie Batzig wanted to hit Jason first, and he had the hatchet in his hands correct? Who said if anyone who was going to hit him next?

Lee Mandell: Objection.

Conroy: If there was an agreement to do so. .

Judge Hughes: Mr. Conroy ask one question at a time.

Conroy: If it pleases Your Honor, I'll rephrase. You said Eddie wanted to hit Jason first with the hatchet correct?

Justina: Yes.

Conroy: Who was going to hit him second?

Lee Mandell: Objection.

Judge Hughes: Overruled.

Justina: Domenic.

Conroy: Tell us how you know that.

Justina: Dom.

Conroy: Dom said what?

Justina: That he was going to hit him next.

Conroy: Miss. Morley, Just so it is clear, while you have been in custody, you have written many, many letters to Domenic Coia have you not?

Lee Mandell: Objection.

Judge Hughes: Overruled.

Conroy: Correct?

Justina: Yes.

Conroy: Okay, and would that be fair to say? I'll get into the specific content. But would it be fair to say that in many, many letters. . . You are pledging your love to Domenic? would that be fair to say?

Justina: Yes.

Conroy: And while you sit here on the stand do you still love Domenic?

Justina: No.

Mandell: Objection.

Judge Hughes: Overruled.

Conroy: Do you still love him now as you sit on the stand ma'am?

Justina: No.

Conroy: But would it be fair to say that you sent him countless letters, would that be fair to say?

Mandell: Objection.

Judge Hughes: Sustained, You have already asked that. She said yes.

Conroy: Miss. Morley, what if anything did Domenic say about hitting Jason with the hammer?

Justina: He just said he was going to swing second.

Conroy: What if anything else was Eddie saying - strike that - Nicky saying about what he was going to do up at the trails?

Justina: He was making alot of noises. He makes noises. He don't talk much. He just makes alot of noises. But he was saying like that he was going to hit him with a brick. 3/1/05 pg131-138

When ADA Conroy suggesting she loved me <sup>it</sup> was his subtle way of prodding <sup>to remind</sup> Justina that he can impeach his own witness, and she will lose her deal, if she don't give them the answers they want, she don't want the deal. They didn't just tell her to tell the truth. They told her how to tell the truth.

Judge Hughes ruled on the possibility that Justina was trying to help me: "Given the fact that Miss. Morley has testified that Domenic Coia beat the boy to death with a hammer, one would wonder if they did conspire to alter the facts, it certainly changed by the time she got to court. So again if she sought to protect Domenic at some moment in time, truly her testimony on direct does not protect Domenic. 3/3/05 pg 45

Judge Hughes also commented on Justina's Testimony in response to Eddie and Nicky's attorneys pursuing the pin the tail on the turncoat defense.

Judge Hughes: She has not denied that she was a full fledged co-defendant in this proceeding. She has not denied that she was guilty period.

Server: She is going to deny she exhorted them to kill.

Judge Hughes: We don't know yet do we?

Server: No.

Judge Hughes: We will wait and find out. . . And if she does then there are letters she has written directly to Nicky that be relevant at that point, which is why we weren't going to deal with the letters until after direct, so you knew what you had and I could make a ruling on what you needed to attack her credibility. Now the way she talks - - because everything is Nicky and Eddie, Nicky and Eddie, Nicky and Eddie, Nicky and Eddie, Nicky and Eddie. 3/1/05 pg 156

Eddie's lawyer asked her about her first statement giving us up to the Police but leaving herself out, to test her veracity against her own interests

Schwartz: - Well you decided you would cooperate with the Commonwealth right

Justina: Oh, Yes.

Schwartz: All right and now it's time to tell the truth, right? . . . And Mr. Brennan (Her lawyer) comes along and says: Boy your are getting the deal of your life didn't he? Didn't he say that to you?

Justina: Yes.

Schwartz: And you had best tell us everything right?

Justina: Tell the truth yes.

Schwartz: Right don't leave anything out he said right?

Justina: Yes.

Schwartz: All right and you sat down for a long time at the District Attorney's office in March of 2004, and now it was time to make a clean breast of things, to tell the truth, tell everything right?

Justina: Yes.

Schwartz: You never mentioned that Eddie Batzig said "We should have killed you." You never mentioned that did you?

Justina: He never said we should have killed you. He said we were going to kill you.

Schwartz: Ok were going to kill you, You never mentioned that did you. Had they even asked you something like that?

Justina: They asked me questions. I answered them.

Schwartz: Ok, so they were kind of like Yes or No questions, would that be right or not?

Justina: No. . I wasn't just saying, yes, no, I was answering the questions.

Schwartz: You were giving long extended answers to the questions?

Justina: Yes.

Schwartz: They wanted to know all the details right?

Justina: Yes.

Schwartz: All right this is a detail you never mentioned did you?

Justina: No.

Schwartz: All right, sure it happened?

Justina: Positive.

Schwartz: As positive as you were to Detective Rossiter when you told him that you had nothing to do with this incident? Or more positive?

Justina: I lied to Detective Roositer.

Schwartz: Why did you lie?

Justina: Because I didn't want to go to jail.

Schwartz: Right, You lied so you could accomplish what you needed to accomplish which was your freedom right? 3/2/05 pgs 181-184

My attorney Mandell probed deeper into the assistance the DA would lend to Justina's effort to go home.

Mandell: When you agreed to this, that in order for you to get assistance from the Commonwealth you had to do everything that they wanted you to do?

Justina: I had to tell the truth yes.

Mandell: I didn't ask you that. I said you knew you had to do what they told you, you had to do.

Justina: Yes.

Mandell: Now you know and did know when you signed this agreement, that if you didn't do what they wanted you to do, you weren't going to get their help with the parole board?

Justina: Yes.

Mandell: And if you didn't get their help with the parole board, you know there is a possibility if not a significant probability that you won't get released on your minimum?

Justina: Yes.

Mandell: And the reason for that of course is because in our system as it (exists) today, it is not so easy to get released at the expiration of your minimum is it?

Justina: No.

Mandell: Especially without the help from a body or organization like the Philadelphia District Attorney's office wouldn't that be fair to say?

Justina: Yes.

3/3/05 pg 71-72 Despite everything, we did not put a dent in her credibility. No matter how much of a beat up jalopy Justina was she had to puff and sputter across the stage for them to argue intentional murder. The Da asked Justina what she did after the killing.

Conroy: You go to bed?

Justina: No.

Conroy: Why not?

Justina: (No response.)

Conroy: Why couldn't you sleep?

Justina: (No response.)

Conroy: What was your mood then?

Justina: I think I was in shock.

Conroy: But can I ask you why? I mean you knew they had hatchets, hammers and bricks you led them right up there?

Justina: Yes.

Conroy: You knew they were going to kill him right?

Justina: Yes.

Conroy: They did right? Why are you shocked? Whats the shock? I mean let me-. Go ahead answer the question.

Justina: I didn't think they'd really do it.

Conroy: You didn't think they'd really do it? Ms. Morley you led Jason up there two separate occasions. Would that be fair to say?

Justina: Yes.

Conroy: And on both occasions you knew - Eddie told you he was going to hit him with a hatchet and Domenic was going to hit him with a hammer right?

Justina: Yes.

Conroy: They had that when they left the house correct?



Justina: Yes.

Conroy: You took them up there twice correct?

Justina: Yes.

Conroy: Whats the shock? Why are you shocked?

Justina: (No response.)

Conroy: This is what you wanted right?

Justina: (No response.)

Conroy: Yes or No.

Judge Hughes: Ms. Morley you have to answer the question.

Justina: Yes

Fortunately our defense team did not forsake her answer she didn't expect this to actually happen.

Schwartz: You are 16 or 17?

Justina: 16

Schwartz: 16. You feel like your still a kid?

Justina: I want to feel like a kid, I don't though.

Schwartz: All right and isn't it correct that part of the reason that you feel okay about taking this deal and that is because of something you said yesterday. You didn't expect this to happen. . . isn't that kind of what free's up your conscience so you can give yourself a second chance?

Justina: Partly.

Schwartz: There was something surreal, something unreal about this whole incident wasn't there?

Justina: Yes.

Schwartz: About the life that you guys were living shortly before this happened. The drugs, the sex, the violence, it was alittle unreal, wasn't it?

Justina: Yes.

Schwartz: And is it fair to say that if you were operating by yourself, you don't think you would have done this? Is that fair?

Justina: Yes it is.

Schwartz: Something happened because there was this group. Didn't something?

Justina: Yes.

Schwartz: Everyone kind of fed off each other?

Justina: Yes.

Schwartz: . . . everyone kind of revved each other up in this drug addled, sex influenced little culture you had there, is that fair?

Conroy: Judge I mean. . .

Judge Hughes: Sustained. Objection works.

Schwartz: That is fine. It still seems kind of unreal to you doesn't it?

Justina: (No response.)

3/2/05 pg 237-239

Ms. Modernmott encourages Justina to talk more this next day.

Modernmott: Would you agree with me that what happened to Jason Sweeney was a combination of the four of you. Your drugs, symbolism. . . Would you agree that is probably what motivated you guys?

Justina: That is part of the reason. Not all of it.

Modernmott: Ok. But you agree with me that certainly you would not have done anything like this on your own?

Justina: No, I would not.

Modernmott: And most certainly you would not have done this if you had not been a drug abuser for what four or five years is that correct?

Justina: Yes.

Modernmott: So the bottom line is and you certainly would not have done it if there wasn't this sense of allegience or devotion that you had to these individuals is that correct?

Justina: Yes.

Modernmott: And so we are clear, I want to make sure I heard right, that night when you first went up to that area you left because you saw a police car is that correct?

Justina: Yes.

Modernmott: And it had to have been unless, you can tell me some other reason this particular combination of drugs, alchchol, the devotion, the allegience that you didn't go to the Police

Officer and say; Officer there is a murder about to occur some feet from you, Please stop me and stop it.

Justina: Yes. 3/3/05 pg 146-148

But since Justina apparently has a vested interest not to be allowed to be in shock over this actually happening consider these over looked experts from other non-testifying witness, statements.

Jessica wildonger. 6/2/03

Detective: What exactly did Domenic tell you?

Jessica: He told me that he killed him and that he didn't know why he did it. He just freaked out. (Detective Booker)

Josh Staab, my Best frien, the only adult present who knew me best: 6/3/03

Detective: Is there anything else you can add? (Detective Burns and Mangold)

Josh: The only thing I can think of is that Friday wasn't the first time Eddie, Nicky and Domenic talked about killing Sweeney. At first it was Nicky and Eddie. Then Domenic got involved in it and also got Justina into it. It's been going on for a few weeks. I just never took it real serious. I never thought they were really going to do it.

See a criminal investigation is the darndest thing. It isn't a pursuit of what happened. It's a pursuit of what they want to charge you with. If we didn't expect this to happen it wasn't premeditated, it wasn't First degree Murder. Therefore we couldn't of been taken by suprise but I will argue this issue itself later. In fact I'm going to have to argue a lot of law because I have to defend myself, keep in mind I'm no lawyer, but I'm sure I can find an audience out there that would consider me sleazy enough to argue with them. My defense on the books before I wrote this has been only a formality. Little is expected these days of the criminal justice system, if the defendant be not overwhelmed to plead guilty. Upon conviction any higher court will hardly look down to review us and we can be dismissed by "overwhelming evidence of guilt." Without further inspection our case is never heard.

## Chapter 6

The Police take their cue from us: when we walk away. They walk in. The real ammunition is not rubber bullets and tear gas. It is our silence. - Naomi Klein

There is no book in the law library titled "How to go home." One must stand watch a long time, without abandoning your post before you eventually catch a glimpse of a rabbit pausing to check his pocket watch and leading you down the rabbit hole into a beaureacratc labryinth where in every direction runs you around another circle in purgatory. This forsaken land even has it's own language: legalese. A name given in jest poking fun at the loaded die vocabulary becomes in this arbitrary gamble you can only try your hand in, when tour chips are down.

I should tell you at the time of this writing I am not represented, my latest appeal is a motion for Post Conviction relief which was filed June ninth 2011, and has yet to be reviewed by anybody. So in describing my trial, what better way to demonstrate my issues then by dusting my P.C.R.A. off? (Post Conviction Relief Act) ((P.C.R.A.)) I wrote it myself, the legal cites can easily be by passed and it will sum up things appropriatly. I will clarify some things. I am seeking to show you my personal experience of the thrust of maximum prosecution, I'm not seeking so much to argue my P.C.R.A. here as to show I have an argument. And show some things I can't even bother arguing and why. Everything I submit to you I have submitted to the courts, the beginning of this project is about what noone bothered to investigate. This part is about what they already know and just ignore.

"See pages of Legal Brief" Pages 75-91

So when we las left me in Police Custody, I was just confronted with witness statements. The Detectives proving they know we were responsible and I was facing the possibility Nicky could get the death penalty.

Next lets review my statement from this encounter.

"See pages of Statement" Pages 92-102

My inculpatory statement with its batteries included, built in vitriol! It has been printed and reprinted in the press in good portion in the standardchilling killer confession mold, which the details of the homicide are absolutly but I'm not some psycho gloating over my kill. I was coming to grips with everything and trying to get this stomach churning process over with. And I was being sarcastic.

The Detectives testified I was "anxious" that night and I couldn't wait to talk to the cool police guys that gave me a sodapop. Let me remind you after seeing Josh and Eddie's statement, Jessie crying with a detective passing her more tissues. I was none too happy about my predicament, keep in mind since the killing I was getting wasted. I was trying to hold everything together for Nicky. Everyone was stabbing us in the back. I was losing everything, the only thing I could salvage was my brother.

So, did I rise to this task all Prince Valiantly and such? Not really. I was seething shame and furious with myself for ending up in this cliché. Fucking teen murderer. No one would have sympathy on us. I wouldn't have sympathy on us. I remember watching some news program with Eliza about some kid who was about to copycat the Columbine tragedy but stopped because he had an "incredible moment of clarity" (That's all I remember, that quote.) I was indignant at him, scoffing his moment of clarity came when he got caught, he was about to blow away innocent people because he didn't fit in, like it was their fault and that's the only solution. Here I am worse than that jerk off.

Before I argue my inculpatory statement, when I said I was being sarcastic this isn't a new claim, I devised ten years later. See after they took that statement they asked me to do a videotaped one. Which since the three of us went to trial together could not be edited to remove my co-defendants names without casting doubt over the whole video. They insisted I "tone down the sarcasm" Following this is the videotapes transcripts, it concludes with Detective Watkins asking .

Watkins: That's basically all I have to say, you have anything you would like to say?

Me: I left out sarcasm.

Ugh, I know saucy teenager patting himself on the back sarcastically.

P. Defendant seeks post conviction relief due to ineffective assistance of counsel.

Defendant Domenic Coia was represented by Lee Mandell ESQUIRE [court appointed] counsel represented defendant from the preliminary hearing until the affirmation of his conviction by the Supreme Court of Pennsylvania, when counsel's court appointment expired.

Defendant now raises his claim of ineffective assistance of counsel pursuant to west criminal law key 1035[7] claim of ineffective assistance of counsel must be raised at the first point in proceedings at which allegedly ineffective counsel no longer represents defendant com.vs Grant 813a.2d726 General rule practitioner should wait to claim ineffectiveness under colateral review.

Because counsel is presumed to be effective the defendant has the burden of establishing ineffective assistance of counsel. In order to prevail on claims of ineffective assistance of counsel he must show 1.the claim is of arguable merit, 2. the particular course of counsel did not have some reasonable basis designed to effectuate his intrests, 3.counsels ineffectiveness prejudiced him. com.vs Pierce 527a.2d 973 at 975. In defendant's appellate brief to the superior court of Pennsylvania manufactured by counsel Mr. Mandell confused the defendant with his brother and co-defendant Nicholas Coia and misrepresented defendant throughout.

In the appellants brief page 10 shows... "the defendant striking the victim with a brick"...on page 33 "appellants contention that all he did was throw a rock" on page 13 "the appellant was born 08/30/86 [Nicholas Coia's birthday] on page 14 "he had a juvenile adjudication at age 16 for theft from a motor vehicle for which he recieved probation" on page 29 he confuses us again in an excerpt of a letter from Commonwealth witness Justina Morley which states..."she can't decide whether defendant or Eddie Batzig [co-defendant] were better sexually." The defendant was accused of using a hammer, not a brick. At defendants sentencing counsel represented..."Mr.Coia has a prior record score of zero." N/T 5/06/05 page 10. Nicholas Coia is the one with the previous record. The defendant is

a first time offender, counsel knew this at sentencing, evidently he has not kept up with the facts. As the assistant district attorney pointed out in her counterbrief, defendants birthday is in fact 06/13/85. In regards to Ms. Morley the defendant did not have sexual relations with that woman. The defendant expressed concern to counsel over the inconsistencies. Counsel never corrected the brief to set the record straight on defendants behalf. Defendant also expressed additional concerns that also went unacknowledged including counsel limiting arguments to the exclusion of the rest of the statement of matters complained of on appeal or why he would not argue the loss of eight potential jurors through the death qualification process. Under PCRA 9543 [a] [2] [ii] defendant is eligible for relief where counsels acts and omissions so undermined the truth determining process that no reliable adjudication could have taken place. Counsel ignoring the defendants concerns over these omissions and leaving his client to be picked apart like a moron who doesn't even know his own birthday, deprived the defendant of his constitutional right to due process of effective representation. Counsels actions were not in the defendants best interest. He was misrepresented and deprived of fair review before the higher court. To be misrepresented as a repeat offender caused undue prejudice. Counsel also failed to exhaust the following issues nor litigate them to the satisfaction of defendant's right to effective representation and due process there of...An issue is previously litigated if the highest appellate court which the petitioner could have had review as a matter of right has ruled on the merits of the issue. Com. vs Banks 656 a. 2d 467, defendant now seeks to demonstrate eligibility for relief due to counsel's ineffectiveness and the merits of the following issues.

2. Defendant seeks to argue statements to the police were taken in violation of his constitutional right against self incrimination as they are the fruit of the poisonous tree and were introduced against him in violation of his constitutional right to due process. Where counsel failed to develop or exhaust this issue which could not have been the result of any rational or strategic or tactical decision by counsel with the facts of the case and the legal resources available to him. Defendant now seeks post con-

viction relief from the prejudice that resulted. On 6/3/03, the defendant ten days before turning <sup>18</sup> was charged with homicide and his father refused permission to the police to question the minor defendant. His father then left to talk to his elder brother, defendant's uncle as reflected in n/t 3/7/05, page 222...counsel question the interrogating officer...Q: now I want to go back for a moment when you told us that you respected his father's wishes not to talk to him until the father spoke to his brother, why did you do that? A: well you know after I went back into the room and going back to the original part of this when I sat with the father, the father, we could see that he was more concerned about Nicholas but that time was also when the father said: I don't care about him, my concern is pointing at Nicholas. So having that going back in and talking again about how persistent, we again attempted to call his father which we were'nt able to do. This brings the defendant to the first grounds of suppression under the Interested adult being tantamount to counsel, as demonstrated above police took statement despite assuring father the interrogation was over, so father left, any statement thereafter is fruit of the poisonous tree and should have been suppressed, since when counsel evokes the fifth ammendment the interview should have ceased, but it didn't end, after father left the police decided defendant was almost 18, and continued interrogating him anyway and obtained a statement. Police have since claimed the defendant's father had no intrest in him, to admit he was an interested adult, would be to admit they violated the defendant's rights, so they contrived to declare him as an uninterested adult, which still leave's them at fault for never providing the defendant an interested adult to consult with. The motion court rejected father's testimony at the suppression hearing, on the grounds he was uninterested on the interrogator's word. At trial the prosector painted a picture of police protecting the defendant's fathers interest under guise of thier not interrogating the defendant's younger brother and co-defendant. All the while this does not preclude securing the defendant an interested adult. The same detectives who interrogated the defendant testify to protecting the father's intrest in Nicholas Coia, do so while also testifying that Nicholas Coia made incriminating statements against himself, N/T 3/07/05 page 237 on...3/08/05 page 17

on statements the detectives accuse Nicholas Coia of making, they admit to not even ~~memorializing~~ until days later, when the detective was asked why, N/T 3/07/05 page 243. Q: Why didn't you write an activity sheet at the time of the event? In other words at the time that Nicky said all I did was throw a "rock" A: Because I didn't. Defendant is not seeking to represent his brother, but to display police's regards to the accused silence. They make more accusations, and according to their own activity sheets they can do it whenever they feel like it.

Detective Mangold also interrogated the defendant, he also attest to the fact the defendant's father never gave them permission to interrogate him at N/T 3/08/05 page 36 Q:...did he ever tell you or detective Watkins in your presence that you had permission to interview Dominic Coia jr., his son? A: he didn't use those words. Q: did he ever give you any words to give you the permission that you could interview Dominic Coia jr.? A: He did not use those words. Counsel for Nicholas Coia questioned detective Watkins: on N/T 3/07/05 page 237 Q: Do you believe that there is a law that prevents you from speaking to juveniles unless you have permission of their parents or guardian? A: Yes and you have to show, if you are going to or trying to get in touch with a concerned adult, guardian or parent, you have to also show that. (page 238) Q: So basically you decided at that point for whatever reason that you weren't going to follow your understanding of the law. A: After making the attempts that I needed to make, yes I took a statement.

The detective claims the police tried to contact the defendant's father. Why would they contact someone they testify was not concerned with the defendant? Why didn't they find someone who was interested, it didn't have to be the defendant's father, it could be a brother. (Com.vs. Webster 435 A.2d 1217 ) In Com. vs Jenkins 453 A.2d 945. The Philadelphia police are ~~commanded~~ for tracking down Jenkins uncle to act as interested adult and sign off on a waiver for the seventeen and seven and a half months old Jenkin, when his father could not be reached. As reflected on record the defendant was never offered such an opportunity despite what the police considered defendant's father's disinterest as they testified to, yet they shunned the prospect of seeking the defendant's uncle when they obviously had knowledge of him.

No, they pawned it off on the fact the defendant was about to turn 18, when in Com vs. Laudenberger 715 A.2d 1156 the interested adult standard is met where 17 1/2 year old defendant claimed mother was disinterested is reviewed by the suppression court and denied due to chance to consult with her and mother's signing waiver. 847 A.2d 67 Com vs. Garcia, features the 17 1/2 year old's mother signing off on his rights. In Com vs. Hunter Philadelphia police still got an interested adult to sign off on his rights even though he was two weeks shy of turning 18. If the defendant's father would have consented to the police, clearly they would have accepted it and used the fact against him. The fact that they can't use it against the defendant, he still loses all the protection his father nor any other interested adult ever waived.

The police nullified the father's input since it did not support their agenda. The defendant realizes this is out of jurisdiction but it bears noting, in civil court, he is being sued through his father for the same charges these issues arise from. Since he was under 18. On another side of the bureaucratic red tape, in accordance with sales law on tobacco in this commonwealth. 18 PA C.S.A. 56305 section E. retailers are directed to post notification they don't sell tobacco to minors. Back in the defendant's day, these notices consisted of calendars exhibiting a born of date stating emphatically. If you weren't born before this day in 1985, don't even ask. No ID, No tobacco. The defendant could not convince a retailer to sell him a pack of cigarettes because he was about to turn 18 without the retailer facing severe fines and sanctions. He couldn't reason hey I'm staying at a friend's house for a few days because my dad's threatening to kick me out again. The defendant couldn't purchase cigarettes but he could incriminate himself.

Police didn't face fines and sanctions like these when dealing with minors.





They face the totality of circumstances rule, circumstances their in control of. circumstances they created when they didn't get what they wanted when the defendant's father said they couldn't talk to him. So the best they could come up with is the defendant initiated a conversation after being charged with murder about a job he didn't have, a school he didn't go to and asked for a cigarette police confiscated off him to justify the statement in their defense to cover up interrogating the defendant as soon as his father left.

(K)

~~\_\_\_\_\_~~ ~~\_\_\_\_\_~~ ~~\_\_\_\_\_~~

Defendant now seeks to present second grounds for surpression: The motion court abused it's discretion in it's determination of the totality of the circumstances. The test is: The requirements of due process are satisfied and the protection against the use of involuntary confessions which law and reason demand is met by application of the totality of the circumstances analysis to all questions involving the waiver of rights and the voluntariness of confessions made by juveniles. All of the attending facts and circumstances must be considered and weighed in determining whether a juvenile's confession was knowingly and freely given. Among these factors are the juveniles youth, experience, comprehension and the presence or absence of an interested adult. Com vs. Williams 475 A.2d.1283.

Since the police want to claim the father was not interested in the defendant they never provided him an interested adult to consult with. This was the defendant's first arrest and has never been subject to police interrogation and had previously zero experience with the criminal justice system. The defendant was 10 days shy of turning 18, since the interrogation lasted past midnight, although he was 11 days shy when police picked him up, June 2nd, he never completed the ninth grade. As shown in the Hunter case cited above, Hunter was two weeks shy of turning 18, Hunter also completed the tenth grade, yet the Philadelphia police still sought consent from his mother. Why



should someone higher educated than the defendant 14 days shy of turning 18 still need an interested adult? The trend of case law continues in Garcia 17 1/2 years old, Smith 17 years old, Laundenberger 17, and Hunter two weeks shy of turning 18. The defendant's father refusing the police permission to question him should have been observed by the police. The fact that he did not give them permission should speak volumes. Only when he left did the police get what they were after. This is what the juvenile Miranda wavier is in place for and this protection was denied the defendant.

The motion court announced it's finding for denial of suppression on the statement after declaring his father an uninterested adult itself, as follows: As a matter of law, with regard of the totality of circumstances, it is absolutely clear to me that Dominic Coia, who was just 10 days shy of his 18th birthday when he gave this statement had the intellectual capacity, the ability and the willingness to make a free and voluntary decision on his own about whether or not he wanted to give a statement. N/T 3/19/04 page 94 on page 95 the motion court continues, having demonstrated that he was completely capable of making a knowing and voluntary decision to waive his miranda rights and waive his rights against self incrimination.

The motion courts abused it's discretion on ruling on defendant's intellectual capacity citing: on the review of a defendant's appeal of the suppression courts ruling we consider only the evidence of the prosecution and only so much of the evidence for the defense as fairly read in the context of the whole remains uncontradicted Com vs. Jackson 689 A.2d 571, page 572. If there is support in the record, we are bound by the facts as found by the suppression court and must reverse if those conclusions are in error or the law is misapplied. Com vs Albert 767 A.2d 549



The motion courts opinion of defendant's capacity "fairly read in the context of the whole" does not remain uncontracticted. not after you take into account the moitons court findings for defendant's attempt to get another lawyer instead of Lee Mandell which the motion court denied ruling: N/T 3/11/04 page 18 that a tremendous amount of misinformation and stupidity gets traded back and forth among people who are in custody awaiting trial, especially on serious offenses. And the people who are most in danger often of being taken in by that are people like you who don't have prior to this case, a lot of experience in the criminal justice system.

Here the motion court is clearly making a ruling against defendants intellectual capacity to discern his legal interest in a criminal preceeding. It defies all logic that the motion court denied the defendant new counsel finding the defendant vulnerable nine months after he turned 18, to be taken in by other prisoners and suffer from his inexperience in the criminal justice system in discerning his legal interest in a criminal preceeding on 3/11/04. Then nine days later on 3/19/04 rule again on his intellectual capacity and say he was not vulnerable 10 days shy of his 18th birthday to be in danger from his inexperience in the criminal justice system to discern his legal interest in a criminal proceeding to be taken in by police to incriminate himself. The defendant can not be more vulnerable to be misguided nine months after his arrest than he was the instant he was arrested. If he could, experience would not be a factor in the totality of circumstances. 87.S.ct 1459 In Gault, Greatest care must be taken to assure that, before he made his decision that the admission was voluntary in the sense not only had it not been coerced or suggested, but also that it is not the product of ignorance of rights or adolescent fantasy, flight or despair. The motion court made a clear ruling on the defenadnts intellectual capacity that he was in danger of being taken in due to his inexperience in the criminal justice system. Nine months after he turned 18



Then did a complete 180 to contradict itself nine days later to say he was not in danger to suffer from his inexperience in the criminal justice system to be taken in by police to incriminate himself. There can be no double standard here absent tyrannical oversight. Every right as a juvenile the law provided was denied the defendant.

Therefore the statement should never have been introduced against the defendant, in violation of right against self incrimination it was the fruit of the poisonous tree. Defendant's father refused police permission to interrogate him and they did anyway. In addition the totality of circumstances does not support a voluntary waiver, instead they warrant the statement's suppression. The motion courts double standards are a pure abuse of discretion. The defendant's right to due process were violated not only there but in violation of his right to effective representation. These issues are of arguable merit, counsel's failure to litigate did not effect the defendant's interest to leave this blatant violation of his rights uncontested prejudiced him.

3. Defendant seeks post conviction relief from prejudice suffered from counsel's misstating appellante issue on statement of matters complained of an appeal regarding trial courts erring as a matter of law when it instructed the jury on third degree murder. Counsel's failure to develop, exhaust or correct this issue was not a course of conduct to effectuate the interest of the defendant on any reasonable basis and he abandoned his client to suffer the prejudice from his inaction. Defendant now seeks to demonstrate this issue is of arguable merit.

On page 4 of the defendant's statement of matters complained of appeal. Counsel raises his ninth issue as follows, The defendant is entitled to a new trial where the court erred as a matter of law when it re-instructed the jury on second and third degree murder pursuant to a jury question and as reflected in the record at N/T 3/4/05 page 149-150.

In it's ruling on direct appeal trial court found that apellant asserts that the trial court improperly re-instructed pursuant to a jury question after start of deliberations (page 9 trial courts decision to direct appeal) and denied it pursuant to counsel'a mistake.The error on third degree murder was before the jury question.

The instance counsel cited in record 3/9/05 page 149-150,co-defendant Batzigs counsel raised the issue:N/T page 149-150,When the court first instructed on third degree murder,the court I believe stated to the jury that,that is any other murder,which the trial court immediately approved counesl for the defendant to join in these request as well.3/9/05 page 151 N/T.

It is evident there is no other instance counsel can be refering on the issue of instructions on ~~third~~ degree murder and as demonstrated above counsel has problems keeping facts straight.

At this point defendant seeks to raise the issue in case it isn't already, if it hasn't been,for the reasons prsented above it is the resulting prejudice of counsel's ineffectiveness. counsel's failing to accuratly present claim tainted the defendant's argument,hindered the defendant's actual issue and resulted in prejudice he is trudging through now.If he has failed to clear up the confusion he only does so emphasizing counsel's ineffectiveness and the prejudice he has caused which the defendant now seeks to prove.this is of arugable merit.

In com vs. Cain 398 A.2d 1359 at 1363 shows it is an elementary rule of construction that effect must be given, if possible to every word, clause, and sentence of a statute. A statute should be constructed so that effect is given to all it's provisions, so that no part will be inoperative or superfluous, void or insignificant, and so that one section will not destroy another unless the provision is the result of obvious mistake or error. and at page 1359, west criminal law key 110 K 1172.1(1) although instruction to jury be correct in abstract, if instruction is misleading because of manner in which ideals are couched judgement maybe reversed. Page 1363 where a court gives two instructions one erroneous and prejudicial and the other correct reversible errors occurs.

The trial court instructed the jury N/T 3/9/05 page 108... I have this short hand way that helps you remember the distinction between first, second and third degree murder. You can bring in a verdict to either of one of those guilty or not guilty. To remember them think of it in this way. Murder requires malice, first degree murder requires specific intent to kill. Second degree murder is a felony murder, and third degree murder is any other murder, So first is specific intent. second is felony, and third is any other.

In it's decision on the defenadnt's direct appeal the court reminds us: The primary duty of a trial judge is to clarify the issues so that the jury may understand the questions to be resolved. PAGE 23 quoting Com vs. Litman 419A.2d121

At the outset of it's instructing the jury the court told them: Now ladies and gentleman it is critical that you must only apply the law in which I instruct you. You must not apply anyother law which any of you know or think you know, N/T page 58-59 3/04/05... it is my responsibility to decide all questions of law. You must accept and follow my ruling and instructions on matters of law... page 59... You then apply the rules of law which I give to you, to those facts and decide whether each defendant has

or has not been proven guilty of any of the charges beyond a reasonable doubt.  
page 60.

The defendant resist, highlighting excerpts in the entirety of the jury instructions on degrees of murder given in consideration of Com vs. Woodard 394 A.2d 508 at 510 In reviewing jury instructions for prejudicial and reversible error the charge must be read and considered as a whole. Com vs. Rivera 597 A.2d 609 at 694, Error can not be based on isolated excerpts; it is the general effect of the charge that controls. Upon review the record shows after the court instructed the jury to follow the law as it states, There is an overt emphasis on first and second degree murder in contrast to the way ~~Third~~ degree murder was defined.

Error in jury instructions warrants new trial only where such error has been clearly prejudicial to the defendant. Com vs. McCauley 588 A.2d 441.

The trial court's short hand way dismissed ~~third~~ degree murder as any other murder. It is evident from when the jury requested to be re-instructed on the law for first and second degree murder. N/T 3/04/05 page 136. The death qualified jury was primed against it and the ~~Defendant~~ was clearly prejudiced. His right to due process were violated in addition to due process violation of his right to effective assistance of counsel.

4. Defendant seeks Post Conviction relief due to Ineffective Assistance of Counsel, Failure to develop or exhaust issue of denial of motion to sever trial from Co-Defendants and prejudice suffered in joint trial.

Antagonistic defense alone is not grounds for severance, as reflected in Com vs. Chester 587 A.2d at 1373...the fact that defendant's have conflicting versions of what took place, or the extent to which they participated in it, is a reason for rather than against a joint trial because the truth may be more easily determined if all are tried together.

The central inquiry is always whether undue prejudice has inured to the defendant. Com vs. Morales 494 A.2d 373.

In the court's decision of defendant's direct appeal. The court stated the appellant is required to show the prejudice he suffered by joint trial. Counsel for the defendant offered no assertion of prejudice when clearly it was evident.

As reflected in N/T 3/02/05 pages 240-256 counsel for co-defendant Batzig unsuccessfully attempted to elicit testimony from Commonwealth witness Morley, falsely accusing defendant of taking Batzig's hatchet off him and committing the homicide. The witness denied this ever taking place throughout.

When the expert witness, Medical examiner Ian Hood testified in N/T page 130 3/07/05.

Q: Dr., leaving aside the irregular injuries that you testified to, could c-8, that-that-the hatchet with the hammer on the other side, could that have caused all of the other injuries, that impliment?

A: It could certainly have caused the bulk of them.

All along co-defendant's counsel was absorbing the M.E.'S expert testimony to rather than refute that Batzig's hatchet could be solely responsible, to put his client's weapon in defendant's hands.



On counsel for Batzigs closing argument he used a prior statement from Commonwealth witness Morely N/T 3/08/05 page 178.

...She said that Edgie had struck Jason several times but that he stopped when Jason went to run, and that the hatchet was taken away from him by Dominic and that Dominic did the rest of the damage, killing Jason Sweeney.

He used this despite as mentioned above (N/T pages 240-256 3/02/05) The witness refuted this. It didn't stop him from presenting the unattested heresy statement to shift blame onto the defendant before the assistant district attorney even had a chance to. In effect defendant had to face two prosecutors.

Defendant's counsel didn't even defend him against these unsubstantiated claims. Besides the fact that in addition to Morley denying defendant was ever in possession of the hatchet, by his own admission Batzig never said anybody else had it.

This was an ambush by co-defendant's counsel, therefore there is no claim of abuse of discretion by trial or motion court. Counsel's failure to deny these false accusations did not effectuate the defendant's interests. The prejudice to the defendant was undue, joint trial violated due process. The only cure is to be re-tried seperatly.

5. Counsel is ineffective for failing to raise and develop the issue of the trial court abusing it's discretion in denying the defendant's motion for mistrial due to mid-trial ruling by the Supreme Court of the united states, barring the execution of anyone charged with homicide under the age of 18, making a death qualified jury unwarranted and violated their rights to a fair and impartial jury represented by a cross section of the community and due process of being provided one.

Counsel raised page 121 N/T 3/2/05...we picked a jury based on the fact that at the time of the initiation of these proceedings, that my client was facing

the death penalty. And since that is no longer the case, that is one basis for the mistrial.

The court denied this motion ruling Judicial efficiency has been in no way compromised. In fact these young men have benefitted by having a greater opportunity to select a fair and impartial jury. page 124 N/T 3/2/05

If there were any benefits it was at the expense of eight potential jurors who were disqualified because of their opposition to the death penalty. Juror #12 page 61 2/16/05 N/T, Juror#21, 2/16 page 113 N/T, Juror#26 page 147 2/16 N/T, 2/17 page 100 Pool #2 juror#3, N/T 2/22 page 72, juror#51, 2/22 page#112 Pool#3, juror#2, N/T 2/22 page 345 juror#16 page 345 N/T, 2/24 page 243#58 N/T. 569F. Supp 1273, 758F. 20 226 Grisby vs. Marby argues the evidence clearly establishes that jurors attitude toward the death penalty. Is the most powerful known predictor of his overall predisposition in a capital criminal case. Those who favor the death penalty are more likely to trust prosecutors, distrust defense counsel, to believe the state's witness, and to disapprove of certain of the accepted rights of criminal defendants. they are uncommonly predisposed to favor the prosecution, a jury organized to convict.

The defendant concedes that this has never been accepted by the Supreme Court, but the contested risk of prosecution proneness was no longer necessary. The trial court abused its discretion finding the defendant benefited from death qualification, when he suffered the loss of 8 potential jurors. Counsel is ineffective for not raising this issue, it is of arguable merit, ignoring it did not effectuate his interests and the prejudice of being tried before a death qualified jury, whom counsel previously conceded guilt to before the high courts ruling is evident. There should have been a mistrial. The only cure is a new trial.



6. Counsel was ineffective for failing to challenge the established exclusion from the jury by the prosecution of anyone near the defendant's age. It was a violation of the equal protection clause. It violated the defendant's right of a jury selected from a fair cross section of the community.

In N/T page 133-137 2/23/05 the court and the prosecution established the exclusion of anyone near the defendant's age. In *Batson vs. Kentucky* 106 S. Ct 1712 it demands ... A defendant may establish a Prima Facie case of purposeful discrimination solely on evidence, concerning the prosecution's exercise of peremptory challenges at defendant's trial.

On page 133 the court found... C-eight I know you struck because she was young, and it is pretty clear to me that you don't want any young jurors.

The prosecutor admitted he struck C-five also because of youth, page 136. MR. Conroy; which—the uncle really didn't factor in. He was nineteen years old.

The court: It was youth : The court then denied defence counsel's Batson challenge finding : Mr. Mandell, no pattern of racial bias has been established, because Commonwealth clearly has a theory that they didn't want anybody close to the age of the defendant's on the panel. page 137

The precedent set forth in *Lockhart vs. Mcree*, 88 S. Ct 1770 at page 1766 cites; the exclusion from jury service of large groups of individuals not on the basis of their inability to serve as jurors, but on the basis of some immutable characteristic such as race, gender or ethnic background,

individually give rise to an " appearance of unfairness "

The exclusion of anyone near the defendant's youthful age was purposeful discrimination designed to create a generation gap to deprive the defendant of a jury of his peers and replace them with adults out of touch with the problems youth face today and the mindset that unfortunate circumstances can foster within them.

The failure of counsel, to object did not effectuate the defendant's interests, the issue is of arguable merit as presented and the denial of the right to a fair jury of our peers selected from a cross section of the community by their exclusion on the basis of the immutable characteristic of youth alone was prejudicial to the defendant.

- 7. The defendant seeks post conviction relief for counsel's misrepresenting the defendant on the issues of sentencing anyone to life imprisonment for crimes committed under the age of 18.

Counsel misrepresented the defendant. Literally, He confused defendant with his brother Nicholas as demonstrated above. He went so far as to misrepresent the defendant as a prior offender, where he's a first time offender. This could not have been a tactic designed to benefit the defendant in any way conceivable. It unduly prejudiced the defendant before the high court. Counsel rather than correct his mistake as the defendant requested, left it in and he abandoned the issue altogether in the appeal to the supreme court of pennsylvania.

The defendant was under the age of 18 at the time of the offense. In the middle of his trial the supreme court of the united states ruled no one at the time of the offense under the age of 18 can be executed in america. Roper vs Simmons 125 S.ct 1183 2010, Graham vs Florida the same court found no one under 18 can be sentenced to life in prison for a non-homicide offense.

Article 37 of the united nations convention on the rights of the child expressly forbids sentencing a juvenile to life without parole, which besides our county every member of the united nations has ratified besides Somalia.

Life without parole to anyone under 18 is cruel and unusal punishment and a vilocation of rights against it, and a violation of his right to due process. It should finally be forbidden. It is dis propontionate to evolving standards of decency that marks the progress of a maturing society.

78 S.ct 590 Thomas vs. Pulles.



STATEMENT OF:

DOMENIC COIA 77 W/M (6-13-85)

DATE AND TIME:

6/3/03, Tuesday, 1:00 PM

PLACE:

750 Race St. Homicide Unit Room "A"

CONCERNING:

THE DEATH OF JASON SWEENEY  
16 W/M

IN PRESENCE OF:

Det. Carl Watkins #613  
Det. Patricia Mancuso #805

INTERROGATED BY:

Det. Carl Watkins #613  
Det. Patricia Mancuso #805

RECORDED BY:

Det. Carl Watkins #613

I am Det. Carl Watkins and this is Det. Mancuso

We are questioning you concerning

THE DEATH OF JASON  
SWEENEY 16 W/M.

We have a duty to explain to you and to warn you that you have the following legal rights:

- A. You have a right to remain silent and do not have to say anything at all.
- B. Anything you say can and will be used against you in Court.
- C. You have a right to talk to a lawyer of your own choice before we ask you any questions, and also to have a lawyer here with you while we ask questions.
- D. If you cannot afford to hire a lawyer, and you want one, we will see that you have a lawyer provided to you, free of charge, before we ask you any questions.
- E. If you are willing to give us a statement, you have a right to stop any time you wish.

1. Q. Do you understand that you have a right to keep quiet, and do not have to say anything at all?

A. *yes*

*D.C.*

2. Q. Do you understand that anything you say can and will be used against you?

A. *yes*

*D.C.*

3. Q. Do you want to remain silent?

A. *NO*

*DC*

4. Q. Do you understand that you have a right to talk with a lawyer before we ask you any questions?

A. *yes*

*DC*

5. Q. Do you understand that if you cannot afford to hire a lawyer, and you want one, we will not ask you any questions until a lawyer is appointed for you free of charge.

A. *yes*

*D.C.*

6. Q. Do you want to talk with a lawyer at this time, or to have a lawyer with you while we ask you questions?

A. *NO*

*D.C.*

7. Q. Are you willing to answer questions of your own free will, without force or fear, and without any threats or promises having been made to you?

A. *yes*

*D.C.*

Statement of: Domenic Coia 1724/M Date: 6/3/03

*Domenic Coia*

<b>INVESTIGATION INTERVIEW RECORD</b>		PHILADELPHIA POLICE DEPARTMENT HOMICIDE DIVISION		CASE NO. M03-128	
NAME Domenic Coia		AGE 17	RACE Wht.	INTERVIEWER Watkins/MANGOLD	
ADDRESS 1414 Columbia Ave.		APARTMENT NO.		JOB 6-13-85	
NAME OF EMPLOYMENT/SCHOOL No School/unemployed.				PHONE NO. 215-425-4918	
ADDRESS OF EMPLOYMENT/SCHOOL		DEPARTMENT		SOC. SEC. NO. <del>XXXXXXXXXX</del>	
DATES OF PLANNED VACATIONS				PHONE NO.	
DATES OF PLANNED BUSINESS TRIPS					
NAME OF CLOSE RELATIVE Father: Domenic Coia					
ADDRESS 1414 Columbia Ave.				PHONE NO. 215-425-4918	
PLACE OF INTERVIEW 750 Race St. Homicide unit Room "A"				DATE 6/3/03	TIME 12:00
BROUGHT IN BY Det. Rossiter and Det. Burns				DATE 6/3/03	TIME 8:30
WE ARE QUESTIONING YOU CONCERNING THE DEATH OF Jason Sweeney 16 y/o on Friday, 5-30-03.					
WARNINGS GIVEN BY				DATE	TIME
ANSWERS (1) yes (2) yes (3) NO (4) yes (5) yes (6) NO (7) yes.					
Q. Domenic, Earlier on 6/3/03, at 12:05am, Detective MANGOLD AND I WERE IN THIS SAME ROOM "A" WITH you, your Brother and your Father is THAT CORRECT?					
A. yes					
Q. Domenic, AT THAT TIME your Father STATED THAT HE DIDN'T WANT you TO TALK UNTIL HE TALKED TO HIS Brother, IS THAT CORRECT?					
A. yes.					
Q. Domenic, AT ABOUT 12:45 AM, I GAVE you A CIGARETTE (MORIBOND 100) AND WHILE WE WERE TALKING ABOUT you GOING TO SCHOOL AND WORKING, you TOLD ME					
RECORD <input type="checkbox"/> Yes <input type="checkbox"/> No		CHECKED BY			
REVIEWED BY Domenic Coia					

INVESTIGATION INTERVIEW RECORD  
CONTINUATION SHEET

CITY OF PHILADELPHIA  
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NAME Domenic Coia 17404

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... That you wanted to tell me what happened, is that correct?

A. yes.

Q. Domenic, do you fully understand that you do NOT have to talk to us at all about what happened to Jason Sweeney?

A. yes.

Q. Domenic, are you willing to talk with us about what happened to Jason Sweeney without your father present?

A. yes

Q. Domenic, did I or Detective ManGold force you or promise for anything to give your statement?

A. No

Q. Do you fully understand your rights as I read them to you?

A. yes, absolutely

Q. Domenic, can we get for anything before we begin?

A. I would like a soda (Given a Sprite Soda) 123



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NAME Domenic Coia 17 W/M PAGE 3 CASE NO. 103-1

Q. Domenic, How far did you go in school?

A. 10th Grade.

Q. Do you read, write, and understand the English language?

A. Yes

Q. Are you presently under the influence of any alcohol or drugs?

A. NO

Q. Domenic, in your own words tell me what you know about the death of Jason Sweeney?

A. On Friday, ~~March~~ <sup>MAY</sup> 30th, I was sitting in April's house with Tina. April <sup>GM</sup> gave me an ultimatum to either go with her or Tina. I left with Tina. Me and Tina went to Eddie's house, we hung out in Eddie's basement. We must have listened to Helton Skelton about 42 times. During this time in Eddie's basement Eddie and Tina were trying to reach Sweeney. They reached him and Sweeney said he was still at work. At about 430 or 500, Sweeney called and said he was out of the station. I'm pretty sure Tina was talking to Sweeney. Tina went to go meet Sweeney. Me, my brother Nick, and Eddie

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.... Went to an area we call the "TRAILS". We stayed in the bushes, putting on latex gloves waiting for Tina to bring Sweeney up the trails. We then saw Tina and Sweeney walking up the trails, that's when we put on the gloves. Then we didn't know where they went, we couldn't find them at all. See, we were hiding in the bushes, putting on the gloves, and we lost sight of Tina & Sweeney. We then went to Josh's Grand-Pops to use his phone because we knew Tina had a cell phone. We started to drink Rock n' Rye when we went to Josh's Grand-Pops. I don't remember who got Tina on the phone, but she was mad saying we ditched her and that we ditched her. It was a mutual decision, but we told Tina to get Sweeney back up the trails. Unfortunately, Sweeney was foolish to go back up the trails with Tina. Me, Eddie, and my brother Rusten back up the trails, and we sat in the bushes waiting. Eddie decided he was going to hit Sweeney first. When we finally seen Sweeney and Tina, Tina had her pants off. We then got up our courage to do what we did. When we came out of the bushes, Sweeney said, "What are you guys doing up here?" I looked down at Tina and told her I knew she had skinny legs. Eddie, counting down to one, 3-2-1, Eddie hit Sweeney in the face with a hatchet and I followed up with a brick. Sweeney was like in a daze, on

## INVESTIGATION INTERVIEW RECORD

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DOMENIC COSTA 17W/14

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103-1

... Like a Stupor. Me and EDDIE CONTINUED HITTING SWEENEY UNTIL HE WAS ON THE GROUND. I WAS HITTING HIM WITH A BRICK AND EDDIE WAS HITTING HIM WITH THE HATCHET. SWEENEY WAS TRYING TO GET UP AND RUN, AND MY BROTHER HIT SWEENEY IN THE HEAD WITH A BULLETT. THERE WAS BLOOD POURING OUT OF SWEENEY AT THIS TIME. THEN IT WAS ME AND EDDIE ON HIM UNTIL SWEENEY DIED. I WAS HITTING SWEENEY WITH A HAMMER NOW, AND EDDIE WAS HITTING HIM WITH A HATCHET. WE JUST KEPT HITTING AND HITTING HIM. WE TOOK SWEENEY'S WALLET AND SPLIT UP THE MONEY, AND WE PARTIED BEFORE REDEMPTION. WE ALL WENT BACK TO JOSH'S GRAND-PA'S AFTER, THAT'S WHERE WE SPLIT THE MONEY. WE ALL THEN WENT AND GOT HIGH. I BROUGHT AGENIC, POT, AND ZAWAX.

Q. What is APRIL'S FULL NAME?

A. APRIL CONSTANCE MORLEY

Q. Where Does APRIL LIVE?

A. PALMER ST. I DON'T REMEMBER THE ADDRESS

Q. What is TINA'S FULL NAME?

A. TINA MORLEY

Q. What is EDDIE'S FULL NAME?

A. EDDIE BATZIG.

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Domenic Costa (7/1/04)

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M03-1

Q. Where Does Eddie Batzler Live?

A. ON Houston & Memphis St.

Q. What is JOSH's Full Name?

A. JOSHUA ~~STAB~~ STAB.  
CSW

Q. Where Does JOSHUA's Grand-Pop Live?

A. 1117 CREASE ST.

Q. Domenic, Why Did you, Eddie, and your Brother Beat Jason Sweeney TO DEATH?

A. MONEY

Q. How Many Days Prior TO THIS BEATING Did you Plan TO DO THIS TO JASON SWEENEY?

A. ABOUT TWO DAYS BEFORE

Q. Whose Idea Was IT TO DO THIS TO JASON SWEENEY?

A. I Belong My Brother Nick and Eddie and Tina.

Q. What Did you use TO Beat Jason Sweeney?

A. Hammer, Hatchet, AND BRICKS.

Q. What Did you Do WITH THE Hammer AND Hatchet?

A. PUT THEM IN A Sewer, Eddie Will Know What Sewers.

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Pomevic Q5A 17W/4

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... We ALSO put our clothes in the Semea.

Q. How many Semeas?

A. AT least Three

Q. Did you get any blood on your clothes?

A. NOT THAT I KNOW OF.

Q. Pomevic, how much money did you get from Jason Sweeney?

A. \$ 125.00 Dollars EACH.

Q. Was Tina there when you and Eddie and your brother was beating Jason Sweeney?

A. YES. SHE TOOK HIM THERE. SHE WAS THE BAIT TO GET Sweeney there.

Q. Did Tina get any of the money?

A. SHE GOT \$ 125.00 ALSO.

Q. What did you do after the beating of Jason Sweeney?

A. A GROUP HUG. IT WAS LIKE WE WERE ALL HAPPY  
WHAT WE DID

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Domenic Coia (TW/04)

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CASE NO.

M03-1

Q. Domenic, Were Any of you Hit on Drugs During This Beatdown of Jason Sweeney?

A. NO. I WAS AS SOBER AS I AM NOW. IT IS SICK ISN'T IT.

Q. Domenic, How Many Times Did you Hit Jason Sweeney with the Brick and Hammer?

A. I DON'T KNOW HOW MANY TIMES, BUT IT WAS A WHOLE LOT.

Q. What Did Jason Sweeney Say When He Was Getting Beat?

A. I'M BLEEDING, AND HE SAID TO TINA YOU LET ME UP.

Q. Domenic, Is There Anything Else I Can Get you at This Time? (2<sup>21</sup> PM)

A. I'M ABSOLUTELY FINE AT THIS TIME.

Q. Domenic, Is There Anything Else you Want to Tell Us About the Beatdown of Jason Sweeney?

A NO

Q. Domenic, How Were you Treated During This Statement?

A MORE CIVIL THAN OUTSIDE. I WAS TREATED GREAT, IT WAS GOOD TO TALK TO YOU ABOUT WHAT HAPPENED.

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Q. Domenic, were you told before this statement that you can call and talk to your father and have him present, is that correct?

A. Yes. I told you I didn't want to talk with my father again, I wanted to tell you what happened. And now I feel good I told you what happened.

Q. Domenic, you just stated to us that you have been living on your own for the last 4 days. What do you mean by that?

A. My dad told me I had to leave on the 13<sup>th</sup> at 18<sup>th</sup> birthday so I left early. I was on my own for 4 days.

Q. When did you leave your dad's house?

A. 2 weeks ago is when he told me that. I left Wednesday that just passed.

Q. Where are the trails you described?

A. It's an open area to the left of Penn Treaty Park.

STATEMENT ENDED 7<sup>30</sup> AM.

Domenic Coia

There are a few contrast's between the videotaped statement taken after the unvideotaped ones, the Detectives get first. Is it just me or is it kind of funny they don't tape the whole interrogation? It's not unusual. Arizona videotapes everything, even when the suspect is alone, Thus we get to watch Jodi Lynn Arias doing head stands on Headline News all night long. How come the Philadelphia police get away with me being cooperative. And not the part where their making me be cooperative after my Dad leaves?

"See pages 104-109"

My unrecorded statement is 9 pages and is clocked in at a duration of an hour and a half. If they would have documented everything said back and forth after they took Nicky out of the room to interrogate me, in that hour I would have dictated War and peace to them. I'm Italian. I talk a mile a minute, let alone when I'm pissed off.

Notice the first weapon I said I used in the homicide? The rock. Nowhere else does this appear, except when Nicky's lawyer tried to use it against me at trial. The prosecution leaves that part of my statement alone, emphasizing in pursuit of charging me with premeditation, that I had the hammer on me, which I am not denying, How would that explain me using a rock first? That was going to be the theme of the statement but Watkins reminded me everyone saying my brother threw a rock. So I minimized that it was a chunk of concrete, it did nothing. I did more then him and Eddie. I kept saying boulder, but I emphasized it was small which was not reflected in the statement. But in the Police activity sheet, which I'll present in it's place. Boulder is a bad term for a small rock tell me about it, but I couldn't say pebble and I was stoned, tired and paranoid.

Huh, Did I just go there, I can already here the prosecutors snapping his finger like "Oh no he didn't." I never said I was not high. The detectives did. When they asked if I was high, I told them I popped xanax as usual and a hit of "E" because I am "so not trying to deal with what happened." I told them I was trashed all weekend, and that I had to drink a pot of coffee just to be up for this. Detective Watkins then told me "oh your fine then" He turned to Detective Mangold and asked "Whats the old lady always give you when you had one too many?" "Coffee" Detective Mangold replied, then Detective Watkins said what he was writing out loud. "Are you presently under the influence of any drugs or alcohol?" No. When he asked if I was "Intoxicated or high" during the crime? I replied No, I was sober as I am now it's sick isn't it? They didn't follow up on the video on that question oddly. .

When asked about my sobriety at the time of the offense Lee Mandell asked about the part we were drinking Rock and Rye.

Mandell: Now, you will forgive, but you did understand what he meant by "Rock and Rye?"

Watkins: Absolutely

Mandell: Rock and Rye is made by Jacquins. It is a type of - I call it a fruit liquor. Inside of the bottle you also have oranges and grapes and things of that , inside the bottle itself. It was an old saying about Rock and Rye, where they would use it for a cold remedy. But, Yes I did know exactly what he was talking about. 3/7/05 pg 228

I remember seriously wondering when he said that if the other Detectives sitting in the front row weren't going to get up and give everyone free samples. Do you seriously think they just prepped Justina for her testimony? They prep eachother.

Eddie's attorney questioned Detective Reinhold who took Eddie's statement if he asked Eddie if he was intoxicated at the time of the offense.

Schwartz: Did you ever ask him if he was under the influence of alcohol?

Reinhold: I could see that he wasn't.

Schwartz: Did you ever ask him whether at the time of the incident he was under the influence of drugs?

Reinhold: Not specifically, No.

Schwartz: Did you ever ask him if he was sober at the time of the incident?

Reinhold: I did not.

Schwartz: Did you ever ask him if he had anything to drink before the incident?

Reinhold: Sir, the questions that I asked are in the statement, and there are alot of things maybe I didn't ask him. But he did tell me he killed Jason Sweeney, I did ask him that.

Schwartz: But you never asked him if he had anything to drink before the incident?

Reinhold: I did not.

Schwartz: Detective, it is fair to say that not even generally did you ask him that question isn't that fair? Questions about any of that stuff?



DC - Domenic Coia  
PM - Det. Pat Mangold  
CW - Det. Carl Watkins

*Shows the*

PM Domenic, as you know I'm Det. Mangold and this is Det. Watkins. Alright, I have a form in front of me, today's date is June 3, 2003, and the time is 3:30 a.m.. OK. I have a form in front of me that you signed giving consent to me videotaping and audiotaping in reference to a statement you gave a few minutes ago to us. Is that correct?

DC Affirmative.

PM This statement here I'm showing you consists of two warning sheets and nine additional pages, OK. On each of these pages is your signature. Is that correct?

DC Yep, I recall.

PM In this statement you gave us does it it details the murder of Jason Sweeney.

DC Yes it does.

PM Does it include your part in it and others?

DC Yep.

PM Is it an accurate account of what you told us?

DC Yep, absolutely.

PM Just for the purpose of the audiotape and videotape tell us who was involved in the planning of the murder of Jason Sweeney.

DC Well there's Justina, Nicky, Eddie and myself.

PM And Nicky would be

DC My little brother

PM And Eddie's last name is

DC Batzig

PM And how about Justina

DC Morley. I'm sorry

PM And this took place where at

DC The Trails

PM What kind of weapons were used to kill Jason

DC Hammer, a hatchet, and nature.

PM What do you mean nature?

DC A <sup>Boulder?</sup> [redacted] rock.

PM OK. What weapon did you use?

DC A hammer.

PM OK, your brother, Nicky, did he use anything?

DC The rock.

PM OK, and how about Eddie?

DC A hatchet.

PM Did Jason say anything during the assault and murder of himself?

DC Yeah, little bits and pieces.

PM What did he say?

DC ~~Like what the hell, I'm bleeding, you set me up, you (?) and Tina.~~

PM Did he attempt to flee and get away?


DC Yeah, once.

PM And what happened when he tried to do that?

DC He was hit with a rock.

PM By who?

DC My brother.

- PM Can you stand up and show us just, obviously don't strike Detective Watkins, but just show the amount of force that was used by you, what did you use a hammer, just show what kind of motion you used, stand up and show him. Now was Jason at this time on his knees or standing?
- DC Standing. 
- PM OK. How close were you?
- DC Like just about this.
- PM And where did you hit him at, what part of his body?
- DC The temple.
- PM With the hammer
- DC Yes.
- PM OK, was he already struck with something else before you did that?
- DC Yeah, absolutely.
- PM And what was that with.
- DC A hatchet.
- PM And who did that?
- DC Eddie.
- PM And what part of the body did he hit Eddie
- DC Most likely the temple.
- PM I'M sorry, what part of the body did Eddie hit Jason.
- DC Most likely the temple.
- PM OK alright have a seat, what was the purpose for Jason's murder, why did you guys kill him?
- DC I guess for money.
- PM How much did you get?

DC Not much.

PM How much did you get from it?

DC \$125.00

PM How long had this been planned, this robbery?

DC As I stated earlier, I'm not sure.

PM How long have you known Jason?

DC 6 or 7 years.

PM Did you socialize with him?

DC Yeah.

PM Was he a friend of yours?

DC Yeah, for a while.

DC Was anyone else videotaped?

PM Anything else you can think of?

CW: What we spoke about earlier, earlier tonight you were in here with your father, we were actually - this is D Room up in Homicide, we were in A Room earlier, and that is where you gave your statement. Earlier tonight, I believe it was around 12 a.m., your dad was with you. At that time nothing was going to be said by you of your brothers. We went into the room and you told me that you wanted to tell me what happened, is that correct?

DC Yep.

CW Were you given the opportunity to call your father by me?

DC Yes I was.

CW And what did you tell me Domenic?

DC I said it's OK, let's talk about it.

CW OK

- PM When do you turn 18?
- DC 10 more days.
- PM What did your father tell you two weeks ago that you said in this statement?
- DC See if I can get a job or move out
- PM Move out when
- DC By the time I turn 18.
- PM And when will that be?
- DC 10 more days.
- PM And did you in fact move out of your father's house 4 days ago?
- DC Yeah, that's what I said before.
- PM And when did you move out, Wednesday or Thursday?
- DC I can't recall, probably Wednesday.
- PM And the murder was when
- DC Friday
- CW Jason, during the time, I'm sorry, Domenic during the time that this statement was taken by myself and Det. Mangold did we make any promises to you?
- DC No, none at all.
- CW Did we force you in any way to give this statement to us?
- DC None at all.
- CW That's basically all I have to say, you have anything you would like to say?
- DC I left out sarcasm.
- CW I would just like to you to know that this whole scenario was monitored by Lt. Morris
- DC I am already aware

CW He did make you aware of it, and he is in the other room. I would just like to make you aware of that.

DC That's cool

PM The time is 3:40 a.m.

CW Thank you.

Reinhold: No, Sir I did not. I asked him if he killed Jason Sweeney, and the method of killing Jason Sweeney and did he intend to kill Jason Sweeney.

Yeah, experienced rough and tough, no nonsense, Detective man all you care about is Murder ~~one~~, we get it. And Sobriety is not part of the agenda.

Our statements were challenged before trial, through a different Judge. My attorney advised me not to testify because of how shy I am and it would be misinterpreted. This suppression motion, I can't wait to get to a little later. Back to my unrecorded confession for now.

The Helter Skelter deal, look we were listening to the Beatles, not just the white album, but but they asked about what we were listening to. When I said the Beatles, I was asked what album, I said the White album. I knew what they wanted so I said we listened to "Helter Skelter" 42 times and Cry Baby Cry" twice. Cry Baby Cry didn't make the cut, kind of ruined the mood I suppose but at any rate. Paul McCartney, Ringo. I'm sorry.

When they asked what happened, they asked if I meant to kill him I said No, I tried to explain it just get set off and there was no going back. So they didn't write that question down its evident in the video, they called it the death, the assault, the robbery. They asked me how long the robbery was planned. I said. "As I told them earlier I'm not sure" on video. Off video they wrote down 2 days prior. On video they asked why we killed him I said I said "I guess for money" Off camera they wrote definitively money. I told them earlier I didn't think anything was going to happen, They told me well something did happen and they have to figure out why. I never said it was intentional, that's why they stopped asking. Nothing in my statement suggests it was, what do you think "Then we partied beyond redemption" is? Me bragging? It couldn't be a sign of remorse, there's no room for that in this investigation.

Oh, I'm not saying this next one is a big deal but they run this lie, saying I read each page of my statement and made two corrections. Eddie did. He initialed his. Mine are not. This is just to boast my comfort with cooperating I guess, so I'm not the one nitpicking here. But since their the ones that insisted on lying about it on the stand. Let's take a closer look.

On page 6, he said I reviewed and corrected Joshes name, despite Watkins signing his initials next to what he corrected. If you look closely Joshes name is in fact not misspelled, he tried to change the "W" he accidentally wrote into an "S". Am I guesstimating? Hardly. Notice on page 5 Watkins succeeded in changing the wrong letter in April's last name. Still don't want to believe me? Okay above the line where Watkins initialed his correction, he misspelled the street Eddie lives on. It is spelled Hewson, I would of pointed that out. And surely if I was a petty nit-picker I would have corrected the misspelling of xanax on page 5. I considered xanax a better friend than Josh at this point believe that. Watkins also initialed the other correction he attributed to me. I didn't correct it. He did. He signed his initials. On page 5 he asked me "Tina's full name" not only do I not correct "Tina" to Justina I am being misquoted, on the video you see I in fact call her Justina. Not Tina. I really don't get why they pursue such a stretch but hey Detective Watkins. At least I can admit my mistakes.

They asked me how I was treated during the statement. I said "great more civil than outside" That's all I said he added it feels good to talk about what happened he adds that later at another point. More civil than the outside? Can it be any more obvious I'm being sarcastic? I'm being made to cooperate and your asking how I'm being treated? I can't believe they left that line in. And if that isn't enough, years later an Author Myra, Bellin? Maybe? I don't know I threw the letter away, she used this line as an angle to approach me to help her write her book on this case she asked me if I even want to go home.

Do I want to go home? That is how far this madness has gone? How little is known of our life. Of who we are. That at a glance of that one line you can just get us. Thanks Detectives for saving me from this cruel fast world - Oh its all to much! I need somewhere to lay my head a spell - - Oh look a prison cell! Do you kinda "get" how I couldn't respond to you Myra? Don't act like you want to help you want what they all want. Do I want to go home? Uh yeah, As I will soon demonstrate.

I know people will say I am only sorry I got caught. I am sorry, but I am also mad I got caught up with to begin with. I do not consider this a Macabre master piece, it is a mess. This "confession" is not my victory speech, it is my bitter lament. And I haven't even gotten into the right they had to violate in order to get this much.

In order to use this admission against me, the burden of proof was on the prosecution to demonstrate my Fifth Amendment Constitutional right not to be compelled to be a witness against

myself was not violated. And were not the product of pressure from Police but was of my own FREE will. The case is analyzed by the "Totality of Circumstances" As if the Police do not create the circumstances and when they make you cooperate what do you do but cooperate? Even being sarcastic I knew I had to play along, just because I thought it might help Nicky didn't mean I had to like it. But lets play along shall we? Was my statement taken in violation of my rights against self incrimination or the product of good old fashioned Police work?

Our DA informed the jury in his closing argument why he had to make a deal with Justina:

Conroy: But I also know that argument is going to be made in this courtroom that the Detectives lied. They are concocting statements. Just think about it if the only thing I had was Joshua Staab or Jessica Wildonger who weren't there plus the Detectives. They say the detectives are lying and Joshua is an accomplice after the fact. I would have had nothing. I would have had the blood evidence. What does that tell you? Nothing. We had to do this. We had to broker a deal. I had to engage in this unholy alliance with the devil. Ladies and Gentleman it was an arranged marriage. 3/8/05 pg 247

Thanks for the disclaimer, He knew he had to buttress the Detectives testimony which is strange I mean what's the danger of the testimony of the Detectives against 3 junkie demons? The word of public servants versus Murder Defendant's? Especially the argument being played out in public as a crusade against evil. For the (record) I don't believe all cops are liars. I well respect they have a job to do, I mean we can't just go around killing people there must be order and I do recognize it takes brave individuals to take up that task but the job comes with a lot of pressure that brings police together into a culture all their own.

Before I quote the author I am about to, I want to make clear I am not an authority on anything, obviously. So I will be quoting quite liberally in the coming chapters not for lack of substance but to substantiate. And if I fail to dispel the inevitable charge of "ramblings of a mad man" I hope at least to be upgraded to the status of the cutting and pastings of a mad man. Let's just call it a would-be oral history where it would otherwise fall short.

The New York Times pondered the question: Are Police officers necessarily more trustworthy than criminals? I think not. Not just because Police have a special inclination toward confabulation, but because disturbingly they have an incentive to lie. In the era of mass incarceration, the police shouldn't be trusted anymore than any other witness, perhaps less so. That may sound harsh but numerous law enforcement officials have put the matter more bluntly:

Peter Keane, a former San Francisco Police Commissioner wrote an article in the San Francisco Chronicle decrying a police culture that treats lying as the norm. "One of the dirty no so secret, secrets of the criminal Justice System is undercover Narcotics officers intentionally lying under oath. It is a perversion of the American Justice system that strikes directly at the rule of law. Yet is the routine way of doing business in courtrooms everywhere in America."

Mr. Keane offered two major reasons why the Police lie so much. First, because they can. Police officers know in a swearing match between a drug defendant and a Police officer the Judge always rules in favor of the Officer, at worst the case will be dismissed, but the officer is free to continue business as usual. Second, criminal defendants are typically poor and uneducated, often belong to a racial minority, and often have a criminal record. "Police know that noone cares about these people."

All true but. . . there is more to the story than that. . . Law enforcement has increasingly become a numbers game, and as it has Police officers tendencies to regard procedural rules as optional and to lie and distort the facts has grown as well. . . . The pressure to boost arrest numbers is not



limited to drug enforcement. Even where the clear financial incentives exist, the "get tough" movement has warped Police culture to such a degree that Police chiefs and individual officers feel pressured to meet stop and frisk or arrest quotas to prove their productivity.

Exposing Police lying is difficult largely because it is rare for the Police to admit their own lies or acknowledge the lies of other officers. This reluctance derives partly from the code of silence that governs police practice and from the ways in which mass incarceration is structured to award dishonesty. But it is also because Police officers are human. . . . The natural tendency to lie makes quota systems and financial systems that reward Police for the sheer number of people stopped, frisked, or arrested especially dangerous. One lie can destroy a life resulting in the loss of employment, a prison term and relegation to permanent second class status. The fact that our legal system has become so tolerant of police lying indicates how corrupted our Criminal Justice System has become by declaration's of war, "get tough" mantras and a seemingly insatiable appetite for locking up and locking out the poorest and darkest among us.

Michelle Alexander mentions a "code of silence" above that Gabriel J. Chin and Scott C. Wells tell us more about in their study:<sup>(7)</sup>

The experience of danger and authority mat contribute to a Police code of silence. The combination of the two creates a volatile environment in which the Police may develop values at odds with those of the larger society. As these features of the Police role are incorporated into officers underlying values and ideals the end result may be a cultural matrix, which entails a banding together, a cover up, a conspiracy of silence. This facet of Police culture at least in the eyes of the cultures members provides protection, such a close - knit camaraderie becomes the foundation for personal security in a hazardous, and even life threatening day to day line of work, where officers rely upon their companions for protection. Even otherwise honest officers, in the face of anothers misconduct, may look the other way due to the enormous pressure to maintain silence, and may even commit perjury in an attempt to conceal the misconduct from courts, prosecutors and the public.

The nature of the work of the Police itself may also contribute to a code of silence. There exists strong pressures upon the Police from the public, media, and the courts to provide society with exceptional protection in often dangerous situations while at the same conducting themselves with the utmost honesty and trust worthiness. In addition, police often feel that the media is quick to criticize their behavior, and may even hinder their ability to perform their job. Thus "dilemma's" in producing satisfactory work owing to pressure for results, ambiguous legislation, vulnerability to legal sanctions, and precarious bargains with criminals, informants, and lawyers can lead to short-cut methods, lies, cover-ups, falsitication of evidence and intimidation of suspects.

It has long been established that Police "Try vigorously to procure confessions because they are powerfully persuasive to Jury<sup>(8)</sup>

I told you I am responsible for my part in what happened. What you know the Police knew, after they get a suspect they want evidence, so to meet that end they feel justified that the ends will justify the means and our guilt made us fair game. I am including the notes of testimony for my motion to suppress this statement in front of Judge Hughes, and the trial testimony of the Detectives where it was admitted as evidence against me. As indicated above in my P.C.R.A and the record reflects. The law is you are not allowed to question a Juvenile offender unless under the totality of circumstances analysis articulated in the P.C.R.A. brief above a voluntary waiver is found to of been made. So the Detectives constructed one to make the waiver look voluntary to an interrogation I should never of been subjected to. My Father told the Detectives not to speak to us. They have to lie because there is a big difference between what their supposed to do and what happened. I intend to use legal jargon

sparingly, I aim to make these arguments to the point, because I have more to argue than just my case but remember I am the example elect, I am not a volunteer.

The United States Supreme Court has established in the case of *Edwards vs. Arizona* that once a suspect invokes his right to counsel "a valid waiver of that right cannot be established by showing only that he responded to further Police-initiated questioning even if he has been advised of his rights. The court further held that once a suspect invokes the right there can be no further police-initiated interrogation "until counsel has been made available to him, unless the suspect himself initiates further communication." In the *Edwards* case, his interrogators violated his rights by questioning him the next day. The Detectives in my case could not wait two minutes until after my Dad left. (9)

The Due Process has been laid down in constitutional law, its purpose has been thus defined. The aim of the requirement of Due Process is not to exclude presumptively false evidence, but to prevent fundamental unfairness in the use of evidence whether true or false. (10) It is also held a confession cannot be used if it is involuntary. A confession is involuntary if there is (1) Police coercion or overreaching which (2) overbore the accused's will and (3) caused the confession. (11) And the cornerstone of *Miranda* rights itself from *Miranda vs. Arizona*. A valid waiver will not be presumed simply from the silence of the accused after the warnings are given or simply from the fact that a confession was eventually obtained.

If the Police do subsequently initiate an encounter in the absence of counsel. The suspect's statements are presumed to be involuntary and therefore inadmissible as substantive evidence at trial, even where the suspect executes a waiver and his statement and his statements would be considered voluntary under traditional standards. This is designed to prevent badgering a defendant into waiving his previously asserted *Miranda* rights. (12) *Miranda vs. Arizona* holds: "If the individual indicates in any manner, at any time prior to or during questioning, that he wishes to remain silent" The interrogation must cease. At this point he shows that he intends to exercise his fifth amendment privilege; any statement after the person invokes his privilege cannot be other than the product of compulsion subtle or otherwise. Without the right to cut off questioning, the setting of in custody interrogation operates on the individual to overcome free choice in providing a statement after the privilege has been once invoked. "My right to cut off questioning was not scrupulously honored." Keep in mind those are all standards for adults. The Supreme Court has ruled on juveniles, as well as what I cited in my P.C.R.A. brief. I could add. The Supreme Court ruling in *Yarborough vs. Alvarado*. "In light of clearly established law considering juvenile status, it was simply unreasonable to conclude that a reasonable 17 year old with no prior history of arrest or police interviews, would have felt that he was at liberty to terminate interrogation and leave."

Like me. I had zero experience. This is my first arrest. My Father represented me. He told the Detectives not to talk to my kids. They told him ok. We would be left alone. He went home. My fifth amendment privilege had been invoked. I told you Detective Watkins came after me. He testified under oath that he initiated the conversation by knocking on the door of the room I was locked up in. To talk to him about a job I did not have. A school I did not go to. They have to lie to say I initiated the conversation to use it against me and pretend they did not overreach in attaining my admission.

Where to start. Ok. My Dad said don't talk to me and Nicky. If they had every intention of honoring this why would they take Nicky out of the room? Then after getting what they wanted from me put Nicky and I in the same room with Eddie? As reflected in notes of testimony 3/7/05 pg 214 "Nicholas Coia was put in the room with others." Separating Co-defendants isn't the end of an

interrogation, it is the beginning of one. Once my Dad proved useless to the Police, they pressed on.

The Law above reflects that the Police are not allowed to continue questioning me at this point. Nowhere in my statements does it say anything about me initiating a conversation in fact on the video Detective Watkins states clearly:

Watkins: Your Dad was with you. At that time nothing was going to be said by you or your brother. We went into a room and you told me that you wanted to tell me what happened.

Watkins says himself "we came in" Him and Mangold. There is nothing about me initiating a conversation anywhere. None of that came until the statements admissibility against me was being challenged, Even then it is only through the Detectives testimony. (sse appendix N/T 3/19/04.) But apperently, felt that wasn't enough. So they testified My Father told the Detectives, that his concern was Nicky, and he didn't care what happened to me. If you read on Page 1 of my off camera statement, Watkins says clearly in his own handwriting that my Dad said not for me to talk. Detectives also record investigations in activity sheets (Which I include in the nextfigure.) My Father said not to talk to his sons. In their summary why would they exclude my Father's disinterest at any point? Because my Father never expressed any disinterest, they invented it when they had to defend what they did in court. Why else wouldn't they stick with the answers they invented the first time, that they documented? Because they needed a better story for court, they needed a better alibi for violating my rights.

(See Activity Sheet page 115.)

Their next leg to stand on to invalidate my Father's interest was to use me fighting with my Father, and where I was currently staying with Josh and Jessica as evidence of my living on my own, therefore my Father has no say over me, Ok.

Josh told Detective Burns and Detective Rossiter before they considered us interesting people:

Detectives: Where are you currently staying?

Josh: At my Grandfather's house at 1117 Crease St. He's down the shore for a month, and me and some friends are staying there.

Detectives: Who stays there with you now?

Josh: Domenic is going to be there full time because he just got thrown out of his house. Anybody else is welcome to stay there all month long, it's supposed to be a constant party while I have the house.

Detectives: Are you staying at your Grandfather's house with his permission?

Josh: Yes, He gave me the key to come and go as I please. He just doesn't know I have people over.

The owner of the house was on vaction. He was gone all month. Josh and I told His and Jessica's Mother's I got kicked out to smooth over sleeping over a lot while I record. I fought with my Dad a lot. I never moved out. I was home everyday until I got locked up. It's where I showered every day. It's where all my stuff was. My Dad always said he was going to kick me out, but never would. I didn't move out. I was hanging out. A

According to the Detectives I was living on my own, well to do responsible young adult. When my attorney asked Detective Watkins, if I lived with Josh why did I list my Dad's address? Detective Watkins responded it was my last known mailing address. My attorney should have asked why Josh didn't even list his Grandpop's house as his address (see next figure.) He lists his address as 1812 Tulip St. His Grandpop's is 1117 Crease St. So, as the Detectives explained I lived at Josh's Granpop's house, even though Josh doesn't even live there. (See Investigation Interview Record page 116.) Police had this information of me staying there and exploited it to act as if I was on my own. In Detective Watkins testimony saying I listed my address as my last known mailing address "he suggests what that if the Police wish to contact me,

## ACTIVITY SHEET

#2 Platoon  
M03-128DATE:6-3-03  
SUPV: Lt. MORRIN-----  
DECD:Jason SWEENEY

ASSGN:Det. BOOKER

On Tuesday, June 3<sup>rd</sup> 2003, Domenic Coia W/M 17yrs. res. 1414 Columbia ave. was warned of his rights and the results of the investigation in the presence of his Father Domenic Coia. The younger Coia stated he was involved and wanted to tell everything he knew. Mr. Coia was permitted to speak to his son and younger son-Nicholas Coia. As a result, Mr. Coia stated he wanted to talk to his brother before his son's gave statements. Mr. Coia asked to leave the building and was escorted from the PAB.

At aprox. 1:00 a.m., Domenic Coia Jr. stated to Det. Watkins and Det. Mangold that he wanted to tell about his involvement in Jason Sweeney's murder and stated he didn't want to listen to his father and wanted to give a statement anyway.

Domenic Coia was advised of the charges against him and also of his constitutional rights and admitted to planning to rob and kill Jason Sweeney, robbing Jason and killing him along with the other co-defendants. This defendant stated he struck Jason Sweeney in the face with a hammer while the co-defendant-Edward Batzig struck James Sweeney in the head with a hatchet. Coia stated his little brother Nicholas threw a small boulder on the decedent's head as Sweeney attempted to flee. The defendant stated he took the decedent's wallet and each of the defendant's received 125.00 dollars. The defendant stated he and the others disposed of the hatchet and hammer in sewers near the scene.

# INVESTIGATION INTERVIEW RECORD

PHILADELPHIA  
POLICE DEPARTMENT  
HOMICIDE DIVISION

CASE NUMBER  
M03-128

INTERVIEWER  
Burns - B056

NAME  
Joshua Staab

AGE  
18

RACE  
W/m

DOB  
10-16-84

ADDRESS  
1812 Tulip street

APARTMENT NUMBER

TELEPHONE NUMBER

NAME OF EMPLOYMENT/SCHOOL  
Unemployed

SOCIAL SECURITY NUMBER  
195-63-9372

ADDRESS OF EMPLOYMENT/SCHOOL

DEPARTMENT

TELEPHONE NUMBER

DATES OF PLANNED VACATIONS

DATES OF PLANNED BUSINESS TRIPS

NAME OF CLOSE RELATIVE  
William Willougee (Grandfather) Josh

ADDRESS  
1117 Cressie street

TELEPHONE NUMBER

PLACE OF INTERVIEW  
Homicide Division Room 104 PAB Josh

DATE  
6-2-03

TIME  
9:20 AM

BROUGHT IN BY  
DET. Burns + DET. K-Rossiter

DATE

TIME  
AM  
PM

WE ARE QUESTIONING YOU CONCERNING  
Any information you may have concerning the death of Jason Sweeney

WARNINGS GIVEN BY

DATE

TIME  
AM  
PM

ANSWERS (1) (2) (3) (4) (5) (6) (7)

Q. Are you known by any other names or nicknames?  
A. Just Josh. Josh

Q. Do you read + write English?  
A. Yes I do.

Q. Where are you currently staying?  
A. At my Grandfather's House at 1117 Cressie street. He's down the shore for a month and me and some of my friends are staying there. Josh

Q. Who stays there with you now?  
A. Dorence is going to be there with me full time because he just got thrown out of his house. Anybody else is welcome to stay there. All month long is supposed to be a concert party while I have the house.

RECORD  
 Yes  No

CHECKED BY  
Josh Staab 6/2/03

REVIEWED BY

contact me through my Father, or He can handle my mail if the Detectives want to mail me something. He can be responsible for that, but when he told the Detectives not to question me. The Detectives decide I can take care of myself.

Then of course they capitalized on my 18th Birthday being nigh. When the Detectives picked me up on June 2nd. I had eleven days until turned 18. Factor in we got charged at midnight, the countdown to 18 is down to 10 now that it was June 3rd. So they said I am almost an adult anyway. In my P.C.R.A. brief above I cited the Law against selling tobacco to minors, and the popular use (last time I was in the world anyway.) of "Born on date " calendars. Posted visibly at cash registers everywhere displaying todays date, for example June Third, and ordering if you were not born before this day in 1985, Do not even ask to purchase tobacco. No Id. No Tobacco. I suppose there must be a higher threshold for Surgeon Generals warnings than Miranda Warnings.

Nevermind the concept of Parental Liability, concepts prosecute otherwise, for example in "Faith healing" cases where Parents are charged with Murder for not taking a child to the hospital and instead praying they get better. A popular defense for such defendant's is called "The mature minor doctrine." Where they claim their teenager was mature enough to basically make their own medical decisions to avoid criminal liability.

And Pennsylvania Constitutional law holds: The mature minor doctrine will not be employed in the Commonwealth as an affirmative Criminal Defense discharging parents from their to provide care to a minor in their custody (13) Furthermore, Pennsylvania statute regarding the welfare of a child states Offense defined- A Parent, guardian or other person supervising the welfare of a child under 18 years of age commits an offense if he knowingly endangers the welfare of the child by violating a duty of care, protection or support (14)

So by law my Father can be held liable for my welfare until I am 18 but the Detective can override his interest if he doesn't meet theirs?

Nevermind on June 17th 2003 two weeks later, the Sweeney family filed a lawsuit pending for our conviction. How do you sue a juvenile you may ask? By and through the Parent. My Father was held as responsible for me in a Court of Law in the Commonwealth of Pennsylvania. For the same event, for the same moment in time. But while his evoking my Fifth Amendment rights is rejected by the Prosecution and the Detectives and Judge Lerner. I can be sued "by and through him" just fine.

I told you about the night I got into the argument with my Dad about having April over, when he called her a Pedophile in his underwear. He did have a point. We are not only tried as adults as juveniles, we're subject to the whole process but if I was sleeping with an adult, I would be considered a Juvenile and my lover would be subject to prosecution. Like for example if I was in school and I slept with my smoking science teacher. She would go to jail. So I delved into some pedophile case law and made an interesting find on the point I am presently debating. What happens when a pedophile argues the child was almost of age?

The sex offender "sexual encounter occurred one day before her 16th Birthday." He relied on a common law rule stating that a person reached a given age on the day before her birthdate to argue that insufficient evidence established the victim was under 16. The Court disagreed relying on arguments such as "It is revolting to have no better reason for a rule of law than that so it was laid down in the time of Henry IV. . . The Supreme Court reversed this court and found that within the meaning of the Juvenile act, a juvenile attains a given age on the anniversary of his birthday, Not on the day before as recognized at Common law. . . The Court determined that juvenile offenders are to be protected until the eighteenth anniversary of the date of birth, not just until the day before. . . It is essential that child victims of sexual assault receive the same protection as that provided to Juvenile offenders. .

Whether as victim or defendant without causing greater harm to child victim by assessing a superior right to the adult, criminal perpetrator As would the common rule of determining age. It goes on to point out a juvenile cannot purchase alcohol, a firearm or even vote a day before becoming of age.

That's the law. I am not 18 until I turn 18, not 11 days before. Not 10 days before. The Detectives don't even have the common decency of a Porn director. At least they wait to stalk the stroke of midnight to violate, the 17 year ~~on~~ girl on camera the second she is barely legal. I don't even get that much respect.

To further bolster their cover story that my Father dramatically pointed at Nicky and said Nicky was his only concern and permitted the police free reign over me since he was washing his hands of me. Not really. The Detectives are the ones seeking to wash their hands here. The Detectives used their lack of obtaining an incriminating statement against him as proof they honored our Father's wishes and they would never ever question a 16 year old without their parent present.

**Unless** your Eddie Batzig. Remember Detective Watkins confronted me with his statement? It was during a break Detective Reinhold decided to take so Eddie could contact his Mother. After he incriminated himself.

This another example of a point I have enunciated in my P.R.C.A. brief. The Detectives only use our parents if they support, their agenda. I cite cases of 17 year olds 2 weeks shy of turning 18 who Detectives throw in their arguments they had their parents permission, ~~mine~~ but when they don't have our Father's it doesn't make a difference? (See next figure pages 119-125)

So, what warranted Nicky being treated differently? What happened when Nicky and my Father were told we were being held for Murder? I had my own interrogation room thanks to my Doc Martens? My Father sheds light on this at the supression motion included as an appendix. 3/19/04 pg 82

Conroy: It was at that time that Detective Booker came up to you around midnight and said listen we need to speak to you and your son, we beleive they are involved in this incident, this death of Jason Sweeney correct?

My Dad: He said I want Nicholas to tell you what we just found out from this girl.

Conroy: What did Nicholas say?

My Dad: I don't know. I just looked at him and said You were there? And he just looked away and I asked to see my other son.

Conroy: Did the Detectives allow you to do that?

My Dad: After a couple of minutes. First they said, No stay with Nicky, it would be better. He was the least involved or something and I said I want to see both of them together or else I'm not giving no statements. Right there I was in shock.

It was the Detectives idea to minimize Nicky's role after the alibi fell through. Plan B kicked in. I told everyone to blame me and downplay Nicky. The Detectives weren't doing us any favors they were grooming him to testify against us later. Ed and I were the focus of the investigation, Nick never was placed in an interrogation room. Justina was still not a suspect and was not arrested until June Fourth. The only reason she got the deal is because Nicky refused to take it. Look at the way the evidence against us is cultivated, their not focusing on the arrest, their focused on getting the highest conviction they can. Every question is another nail in the coffin.

Do you think they honored Nicky's silence at trial? No. Nicky didn't play ball and take the deal. They didn't get what they want so what do they do? They make up something. These Detectives who honored my Father's wishes not to talk to "only Nicky". Couldn't be content with that story, so they squeezed whatelse they could, testifying that they honored his silence and accuse him of admitting to the killing at the same time. They said he was begging to be interviewed "C'mon why isn't anyone talking to me all I did was throw a rock."

Not a mention of this was even made until February 14th 2005, the date set

STATEMENT OF: Edward Batzig  
 DATE AND TIME: 6/2/03 11:55PM  
 PLACE: 8th + Race St. Rm D  
 CONCERNING: the murder of Jason Sweeney

IN PRESENCE OF: Det. Reinhold #692

INTERROGATED BY: Det. Reinhold #692

RECORDED BY: Det. Reinhold #692

I am Det Reinhold #692

We are questioning you concerning the murder of Jason Sweeney

Edward Batzig 6/3/03 12:05AM

We have a duty to explain to you and to warn you that you have the following legal rights:

- A. You have a right to remain silent and do not have to say anything at all.
- B. Anything you say can and will be used against you in Court.
- C. You have a right to talk to a lawyer of your own choice before we ask you any questions, and also to have a lawyer here with you while we ask questions.
- D. If you cannot afford to hire a lawyer, and you want one, we will see that you have a lawyer provided to you, free of charge, before we ask you any questions.
- E. If you are willing to give us a statement, you have a right to stop any time you wish.



1. Q. Do you understand that you have a right to keep quiet, and do not have to say anything at all?

A. Yes EB

2. Q. Do you understand that anything you say can and will be used against you?

A. Yes EB

3. Q. Do you want to remain silent?

A. No EB

4. Q. Do you understand that you have a right to talk with a lawyer before we ask you any questions?

A. Yes EB

5. Q. Do you understand that if you cannot afford to hire a lawyer, and you want one, we will not ask you any questions until a lawyer is appointed for you free of charge.

A. Yes EB

6. Q. Do you want to talk with a lawyer at this time, or to have a lawyer with you while we ask you questions?

A. No EB

7. Q. Are you willing to answer questions of your own free will, without force or fear, and without any threats or promises having been made to you?

A. Yes EB

Statement of: Edward [Signature]

Date: 6/3/03 12:10 AM

<b>INVESTIGATION INTERVIEW RECORD</b>		<b>PHILADELPHIA POLICE DEPARTMENT HOMICIDE DIVISION</b>		CASE NUMBER <b>MO 3-128</b>
NAME <b>Edward BATZIG</b>	AGE <b>16</b>	RACE <b>W</b>	INTERVIEWER <b>Det. Reinhold #69</b>	DOB <b>10-5-86</b>
ADDRESS <b>1614 Hewson St</b>		APARTMENT NUMBER		SOCIAL SECURITY NUMBER
NAME OF EMPLOYMENT/SCHOOL <b>Unemployed</b>		DEPARTMENT		TELEPHONE NUMBER
DATES OF PLANNED VACATIONS				
DATES OF PLANNED BUSINESS TRIPS				

NAME OF CLOSE RELATIVE  
**Jeanette BATZIG - mother**

ADDRESS  
**1614 Hewson St.**

PLACE OF INTERVIEW  
**PAB 104 Homicide Division**

BROUGHT IN BY  
**Det Reinhold / Booker**

WE ARE QUESTIONING YOU CONCERNING  
**The murder of Jason Sweeney**

WARNINGS GIVEN BY  
**Det Reinhold #692**

ANSWERS  
(1) Yes (2) Yes (3) No (4) Yes (5) Yes (6) No (7) Yes

Q. Edward, you have indicated to me that you were not truthful in your interview about the death of Jason Sweeney and you would now like to tell the truth. Is that correct?  
A. Yes.

Q. After you told me that you were involved in the murder of Jason Sweeney, I warned you of your rights and we had a brief conversation about your involvement, is that correct?  
A. Yes.

RECORD  
 Yes  No

CHECKED BY  
*Edward Batzig*

REVIEWED BY

TELEPHONE NUMBER <b>same</b>	DATE <b>6-2-03</b>	TIME <b>12:14 PM</b>
	DATE <b>6-2-03</b>	TIME <b>7 AM</b>
	DATE <b>6-2-03</b>	TIME <b>11:55 AM</b>

## INVESTIGATION INTERVIEW RECORD

CONTINUATION SHEET

CITY OF PHILADELPHIA

POLICE DEPARTMENT

NAME

Edward BAZZIG W/M 16

PAGE

2

CASE NO.

M03-128

Q. Did you understand the rights that I read to you?

A. Yes.

Q. Is this your signature at the bottom of these two pages describing your rights - 75-331 D and 75-331 E?

A. Yes.

Q. Do you now wish to voluntarily tell me about the murder of Jason Sweeney?

A. Yes.

Q. Who killed Jason Sweeney?

A. Me, Dominic and Nick. JUSTINA Assisted.

Q. Tell me what happened?

A. JUSTINA led JASON to Beach St. where we were waiting for them to arrive. Then when they got there we just walked up and started hitting ~~the~~ him. Soon after that, JASON started begging for his life

INVESTIGATION INTERVIEW RECORD  
CONTINUATION SHEET

CITY OF PHILADELPHIA  
POLICE DEPARTMENT

NAME Edward BATZIG WM 16 PAGE 3 CASE NO. M03-128

A. but we just kept hitting him. Then Jason tried to run. That's when Nick threw the rock at him. Then Dominic just hit Jason and the hammer went in his head. Then he stopped moving.

Q. Did you hit Jason Sweeney with anything?

A. Yes.

Q. With what?

A. With the hatchet.

Q. Who struck Jason Sweeney first?

A. I DID.

Q. What part of Jason Sweeney's 16 yr old body did you strike with the hatchet?

A. His head.

Q. How many times did you strike Jason Sweeney in the head with the hatchet?

INVESTIGATION INTERVIEW RECORD

CONTINUATION SHEET

CITY OF PHILADELPHIA

POLICE DEPARTMENT

NAME Edward BATZIG W/M 16 PAGE 4 CASE NO. M03-128

A. 4 or 5 times.

Q How hard did you hit Jason Sweeney with the hatchet?

A. As hard as I could.

Q Describe the hatchet?

A. It had a HAMMER on one side and a blade on the other with a brown wooden handle.

Q When you hit Jason Sweeney on the head with the hatchet, did you knock him down?

A. Yes.

Q So after Jason fell to the ground, you struck him 4 more times with the hatchet?

A. Correct.

Q Edward, I am going to stop now so you can talk to your mother on the phone. Please read the pages you have told me

INVESTIGATION INTERVIEW RECORD  
CONTINUATION SHEET

CITY OF PHILADELPHIA  
POLICE DEPARTMENT

NAME Edward BATZIG W/16 PAGE 5 CASE NO M03-128

Q About the murder so far and sign the bottom of each page. Do you understand?

A. Yes

Q It is now 12:40 AM and you have read and signed 5 pages, is that correct?

A. Yes

*Edward Batzig*

Q Edward, it is now 12:46 AM and you have just spoken to your mother on the phone. Did you tell her what happened?

A. No. She already knew.

Q Did your mother tell you to continue to cooperate and tell the truth?

A. Yes.

Q Edward where is the hatchet you used to murder Jason Sweeney?

for our trial to begin. Of course at this point it is a given to ~~our~~ <sup>The</sup> national psyche we are evil and blood thirsty thrill killers and thus subject to all the trappings inherent. So the Detectives, even the Homicide Lieutenant are convinced they can pull this one over and paint Nicky as the little spotlight seeking sociopath. Does it not stand to reason if my brother was all "C'mon talk to me," Aw man you Detectives are so cool, what do I got to do to get in this ultra exclusive self-incrimination club too? If he was really trying to get their interest, he would have told them he was the mastermind. Is that not what the evil genius does at the end of the movie give up all the details? Really he was looking for bragging rights? That's not what all this is about. The homicide investigators didn't know that because that would require an investigation or something but that is not how they operate, they make it up as they go along. So lets pretend we don't know about the abortion and allow me to show you legnth's they went to convict Nicky.

They didn't just testify that my Brother was volunteering all I did was throw a rock. "They manufactured an activity sheet for it. Detective Watkins claimed he made it in early June 2003, which never existed in our discovery or anywhere until our set trial date. Nicky's attorney asked why Detective Watkins waited until days later:

Server: Why didn't you write an activity sheet at the time of the event? In other words at the time that Nicky said all I did was throw a rock?

Watkins: Because I didn't. 3/7/05 pg 243.

They didn't wait days to write that Activity sheet. They never thought there would be a trial. They waited a year and a half later, they still put more evidence together on my brother. The District Attorney had a crime scene unit officer, pick up a rock at the crime scene, an open field mind you and present it to the jury as evidence.

Officer Williford: And I then mentioned to the District Attorney that there was a rock by Jason Sweeney's right hand. And during - - going over the case, there was the mention of the rock. So, myself, Police officer Flade and the Sergeant went out on - I believe it was February 8th, and went to the scene.

Conroy: That is this year?

Williford: 2005, I'm sorry.

Then the District Attorney masterfully spins the audacity of his grabbing a random rock from a natural area, almost 20 months after the offense and 4 days before trial was to begin to bolster the rocks credibility in his closing argument.

Conroy: . . . But they are even disputing the rocks! . . .

3/08/05 page 269

One thing I can't even appeal, but I did tell my Attorney about. The night I was arrested they confiscated my boots. My Attorney Mandell scoffed at me, when they turned around and claimed they had blood on them (Forensic DNA analyst tested them 1/30/05 weeks before the trial.) I told him they are lying. He told me there is no way to prove that. I had read up on enough law by then to see what they were going for. The conviction was the first part, but if they bury us with enough evidence Higher Courts could dismiss our appeals out right for "Overwhelming evidence of guilt."

You, Dear reader are aware I am not playing innocent, but the only DNA evidence they have is blood on my shoes. Blood on Eddie's shoes. They have the hatchet. It had No DNA on it. They had the shirt I wore, that the hatchet was wrapped up in. It had No DNA on it. But only the clothes they took off us at the Police station did?

There is a new phenomenon in Criminal Justice now known as the C.S.I. effect, where a jury need only hear DNA and on the strength of whatever crime drama they follow on television, they lend it a cinematic air of credibility. (Unbeknowst to us, C.S.I. did an episode of our case talk about a C.S.I. effect that we didn't even get to ask the jury if they saw.)

So the C.S.I. Phenomenon, coupled with as you recall, Detective Rossiter's foot fetish for my Doc Martens that landed me in an interrogation room alone all night. Really makes me wonder. They got my boots after they got Eddie's sneakers. They said I reviewed and corrected the statement after he did and initialed his but as I said my lawyer pointed out we couldn't prove it.

So the forensic DNA analyst was not cross examined in my defense not one question: Still Detective Watkins testified Detective Mangold saw blood on my boots. I suppose Mangold's first name must be Eagle eye because their own analyst said it was not visible, which makes sense they were black.

And despite my lawyer not arguing one question against the DNA, The DA still seeks to validate the testimony of his expert in his closing argument:

Conroy: The boots didn't appear to me to be splattered with blood. Why? Because they were cleaning up. This is some juvenile prank gone awry or was this a plan? . . .

Guilty Conscience much?

One more note on my "Combat Boots" as they dubbed them. If I intended to kill. Why would I wear knee high boots? I am not that n0mble. Even laced up a quarter of the way there is an excess of almost a foot of thick leather flapping around to trip over. Did I intend to kill? To quote Kirsty MacColl. "Not in my shoes."

When the admissibility of this statement was argued in front of Judge Lerner on 3/19/04, the burden of proof was supposed to be on the prosecution. But Judge Lerner who said he read the statement and reviewed the video found:

Judge Lerner: I believe the testimony of the Police officers and I utterly disbelieve the testimony of Domenic Coia's Father. (You can review for yourself the appendix but I will present the cliff notes here.)

The Detectives testified:

My Dad said not to talk to Nicky and said he was only concerend with me, Despite the record Judge Lerner said he reviewed said nothing of this, and in fact says the opposite, that he said not to speak with me either.

I was so cooperative I reviewed the statement and made corrections that bear Detective Watkins initials, not mine.

They said I initiated Police questioning after my Dad left, talking about a job I didn't have and a school I didn't go to. That the statement lists itself. If I was volunteering work, I could of pointed out I am in a band with Kurt Heasley, who had a couple page spread in the Philadelphia Weekly newspaper that week, but Detective Watkins didn't know that because that is not what we talked about. Nor did I ask for a cigarette out of the property he took away from me after taking Nicky out of the room.

They said they tried to contact my Father on the stand. On and off camera in my statement they prove they didn't. My Father testified the phone never rang. At trial Detective Mangold even says he sent a Police car! (3/08/05 pg 17.)

They offer not getting a statement from Nicky is proof they honored our Dad's sole concern for him.

What did Judge Lerner so utterly disbelieve about my Father testifying he told the Detectives not to question me?

Before we were suspects. Our Father was present when they questioned Nicky, and not when they questioned me before we were suspects. Judge Lerner jumped on my Dad about remembering being asked to be present during Nicky's alibi statement and when Judge Lerner asked if our Dad remembered being asked to be present during my alibi interview he responded:

Dad: If they asked me I don't remember. If they asked me I would have said yes.

Maybe that's why he remembers being asked about Nicky because he was present when Nicky got interviewed. Keep in mind Nicky was not the one locked in an interrogation room all night. The Detectives held me seperate. Who controls who occupies an interrogation room in a police station My Dad or the Detectives?



That is what blew my Dad's credibility for Judge Lerner against the Detectives. The testimony that corroborates the statement and videotape of the Detectives saying themselves- My Dad said not to talk to us. Nevermind Detective Watkins new story my Father pointed at Nicky and said he was only concerned with me contradicts their own records.

Then Judge Lerner further Justifys his decision:

Judge Lerner: I think what I saw here today is a Father who feels somewhat responsible for something he bears no responsibility for, because he took an action which he believed led his son to leave his house and possibly contribute to this. I understand but it does not make it believable in light of all the facts and circumstances. 3/19/04 pg 91.

My Father didn't make me leave the house. Joshes Grandpop going to the shore did. My Father loves me. He visited me before he even visited Nicky. He paid dues every week to win custody of us. He has driven 710 miles to see me behind glass at the hellhole I am stuck in now. My Dad loves me. He always did. Always will. Where do you think I get this fucking loyalty from? It's in my fucking Italian blood. It's a heritage. And the Detectives are getting away with this? They can just wipe it all away? So Judge Lerner ruled my Father's word was no good? Well big surprise there if his word was any good, the Police wouldn't of kept questioning me.

But, How good is your word Judge Lerner? After marking off your checklist, for the totality of circumstances analysis, You ruled:

Judge Lerner: Domenic Coia, who was just 10 days shy of his 18th birthday had the intellectual capacity, the ability and the willingness to make a free and voluntary decision on his own about whether or not he wanted to give a statement. 3/19/04 pg 94.

Oh, Judge Lerner, 10 days would not make a difference on my capability to make my "own decision" without my Dad? 10 days is that your final answer because I have one last question for the man who decided my right not to be a witness against myself has not been violated. If 10 days wouldn't make a difference. How come 8 days does?

Remember when I told you I tried to get rid of my lawyer? Judge Lerner denied my request and I summed it up as him of accusing me of not doing my homework? That was on 3/11/04. Eight days prior to the judgement above.

Judge Lerner ruled on my intellectual capacity to discern my legal interest in a criminal proceeding quite differently eight days earlier.

Judge Lerner: And what happens in my experience, a tremendous amount of misinformation and stupidity gets traded back and forth among people who are in custody awaiting trial, especially on serious offenses. And people who are most in danger of being taken in by that, are people like you. Who don't have prior to this case, a lot of experience in the criminal justice system. Do you understand me? 3/11/04 pg 18

Do I understand you? No. How does it make sense that I can be in more danger of being taken in "Nine months after I turned 18 to be taken in" by other prisoners and suffer from my inexperience in the criminal justice system, but you can find 8 days later I was in no "danger of being taken in" 10 days before I turned 18, to suffer from my inexperience in the criminal justice system to discern my legal interest in a criminal proceeding and to be "taken in" by the Detectives to incriminate myself? I could not be more "in danger" nine months after I was arrested that I was the instant of my arrest? If I could experience would not be a factor in the totality of circumstances analysis.

The Detectives must not have been only confident this would not go to trial. There had to be something more. I don't know what they were thinking but I am willing to hazard a guess. Case closed. Slam dunk. They were too busy high fiving eachother to worry about my rights. This case was in the bag. They didn't just expect us to plead out they took it for granted. They were on to bigger and better things. They were thinking of the spot light.

Remember I told you I read about the case the morning we got arrested? Well in the first front page story of our case, a lot of Detectives are quoted anonymously whispering things in the reporters ears and divulging the contents of the statements, obviously someone leaking it from the inside. About the very case earlier listed as another unsolved homicide in the same paper. Who ends up on the front page of the Philadelphia Daily News the day after we were?

Detective Carl Watkins:

Their professionals. This is what they do. Their allowed to lie because of what we are here for. Since they have to prove it the ends justify the means. I am not exaggerating, this is how it is. The Detectives were supposed to stop questioning me and they didn't. They exploit our ignorance while accusing us of sophistication. If I planned this I would know the law better than I do now, but I never would plan something like this. The detectives don't care their job is to secure my conviction not my rights. Judge Lerner serves penological objectives, not justice objectively.

The point of arrest is to disarm me. They fucking destroyed me. They checkmated me before I ever saw the chess board. An interrogation is not for my benefit. Experienced Detectives have been through this how many times? They put people away forever everyday. I only get put away forever once. This is fair?

And our case makes them heroes? Four kids stoned stupid. They push over a little girl to squeal. And the Detectives acted like they solved the crime of the century. They marketed us into "Philadelphia's most famous" and "most hated" teenagers and nobody wants ~~to believe it. Not to believe it.~~

How do we fight that? We couldn't. They know it. We knew it. I couldn't even testify that I was high when they violated my rights because, as my lawyers pointed out they will use the alibi to call me a liar. My alibi supports their alibi for their crime of violating my rights. There is so much Police tape wrapped around my fate my lawyer gave up. The only legal advice I got was get a haircut, cross my fingers, sit there like a sphinx mute and let everyone fill in the blanks. We had no defense. We're not supposed to fight back. We were supposed to plead guilty with our heads down with a red ribbon around our neck while the Detectives win prize pig at the town fair.

## CHAPTER 7

"When the individual feels, the community reels"

-Aldous Huxley

I should have known a jury of my peers would be false advertising too. Despite the United States Supreme Court ruling in Lockhart vs. Mccree clearly states "The exclusion from jury service of large groups of individuals not on the basis of their inability to service as jurors, but on the basis of some immutable characteristic such as race, gender or ethnic background individually gives rise to an "apperance of unfairness" I have a post conviction relief claim pending, arguing an equal protection violation excluding everyone near our age." The record is clear of reverse age discrimination. The DA struck everyone under 21.

It's bad enough we had to exclude everyone openminded enough to consider not outright executing me. In Grigsby vs. Mabry: The Supreme Court spoke concerning them "The evidence clearly establishes that a jurors attitude toward the death penalty is the most powerful known predictor of his overall predisposition in a capital criminal case." Those who favor the death penalty are more likely to trust prosecutors, distrust defense counsel, to believe the states witness, and to disapprove of certain of the accepted rights of criminal defendants. They are uncommonly predisposed to favor the prosecution- a jury organized to convict. Robert Bloom an attorney in California added on the subject in 2005 "Death qualified juries exclude the most compassionate citizens, those who are most likely to be skeptical about the states evidence and arguments, those whose minds are open to the possibility that Police officers lie. And in general jurors who are prepared to question authority. (16)

Being left exposed to such a jury at the exclusion of such potential jurors with a case like ours. You can see the question of fairness that arises, but I think the concept of a jury is being hollowed out. Is the precept of our constitution to argue our case before a jury of our peers? To appeal to them and not to have to have your fate decided by a judge alone? Today if we want to ask a jury to judge us, they are told how they should decide not to judge us. By law, not by their own accord. Now it's called jury nullification to call on the "oracle of the citizenry, conscience of the community which serves as the communities safeguard against morally unjust criminal convictions inflexible judges may impose."

And if potential venire man express their own opinion, I have saw first-hand how they are "rehabilitated." Which I seek to demonstrate some people may subjugate what they think altogether to meet this expectation of them. Throughout the Death qualification process I have saw jurors asked if they could set aside any personal feelings to "follow the law" What I am about to posit, may not be absolute but perhaps the average person may feel funny telling a judge in a court of law they could not follow the law. Let alone under public scrutiny, certain imposed obligations could very well prompt a uniform conformity. Don't get me wrong some people can and do resist, then again some can't and don't and become jurors. The first stage of individual voir dire is the court addressing the entire jury pool at once. The judge lets them know from the outset:

Judge Hughes: Ladies and Gentleman, it is my responsibility to decide all questions of law. You must accept and follow my rulings on matters of the law. But I am not the person who will decide the facts of this case. And that is a critical distinction of our roles. It is not for me to decide what the true facts are concerning the charges that have been brought against these citizens. You are the sole and only body that will hear all of the evidence in this case, weigh that evidence, determine the facts from that evidence, apply the rules of law to that evidence, and then to determine whether each

of all these sentences are fair and just

one or any of these citizens has been proved guilty beyond a reasonable doubt of the charges that have been brought against them.

Now as we go through this proceeding, it will very likely be necessary for me to give you instructions as we go along. From this moment forward, take all of my instructions as a continuum. Together they will constitute the law that you will use when you begin your deliberations. 2/28/05 pg 11

Let me show you a prime example of Juror rehabilitation.

Judge Hughes: If you go through the analysis, applying the law to the evidence, and the appropriate vote is for the death penalty, could you vote for that sanction?

Venireman: Did you say the death penalty?

Judge Hughes: Yes, sir.

Venireman: I don't know if I can vote for that.

Judge Hughes: Is there any circumstance at all in which you think the death penalty would be appropriate? . . . The death penalty is the law in Pennsylvania, and so the question becomes: Is there any type of a case that you could think of in which the death penalty would be an appropriate penalty?

Venireman: I don't know how to answer that.

Judge Hughes: Are you concerned that you couldn't follow the law?

Venireman: Oh, I could follow the law.

Judge Hughes: Ok, if you apply the law to the evidence and the result is that death penalty is the appropriate vote could you make that vote?

Venireman: Yeah, I could.

Judge Hughes: Are you comfortable sir, that you can commit to me that you will follow the law and the evidence and vote consistent with it no matter what?

Venireman: Yes.

Ladies and Gentleman- Juror #4. Then again:

Judge Hughes: Excellent, by the same token, if in going through your analysis of applying the law to the evidence, if you determine that the appropriate sanction is for the death penalty could you vote for that sanction?

Venireman: That would be tough. It would be tough for me.

Judge Hughes: I'm glad to know it would be tough it should not be easy. Does that mean that you could not do it?

Venireman: More than likely not.

Judge Hughes: Do you think- the legislature has set- and that is their responsibility, to set the sanctions for every crime. They have determined that the sanctions for murder in the first degree are life in prison without the possibility of parole or the death penalty. And the question becomes for you not so much how you, personally feel about the death penalty, but whether you can set aside your feelings on the death penalty and follow the law. You would only vote for the death penalty if the law and the analysis that you are required to go through cause you to conclude personally that is the appropriate sanction under the law. So the real question is whether you can set aside your personal feelings and follow the law and the evidence and commit that even if it called for a vote of death that you would vote that way?

Venireman: Yes, Because I would be following the law and not my personal opinion.

Judge Hughes: Exactly. You would set aside your personal opinion and follow the law.

Venireman: Yes.

Judge Hughes: So, do you now feel that if you go through the analysis, following the law and the evidence and reach the conclusion that the law says this type of case on these facts death is the appropriate sanction, that you could vote consistent with the analysis?

Venireman: Yes, Because it would be following the law.

Judge Hughes: Yes. Exactly. Exactly it would not be about what you Mrs. Figueroa think.

Venireman: Right.

Judge Hughes: Excellent, Excellent. . . 2/22/05 pg 15

And Voila

~~And Voila~~ Juror #9: Juror rehabilitation can also prove treacherous and force you to burn your limited peremptory strikes. . .

Judge Hughes: And if we are called upon to look at the question of penalty, you must commit to be openminded and evenhanded. Sir, are you comfortable you can be absolutely openminded and evenhanded throughout this process?

Venireman: I'm not sure.

Judge Hughes: You are not sure?

Venireman: I'm not sure.

Judge Hughes: What aren't sure about?

Venireman: Well everytime I stop at a Hot dog place down on Delaware Avenue it is called Johnny's Hot sausage, and everytime I go there, I see that kid that got murdered. I see his picture there.

Judge Hughes: You see his picture?

Venireman: Yes.

Judge Hughes: They have his picture at the hot dog joint?

Venireman: Yes.

Judge Hughes: Ok, How does that impact you? I mean obviously we know a young man died, but it begs the other question.

Venireman: I see the kid's face every time I go there.

Judge Hughes: I know. But you are still not telling me how that impacts you, because you previously told me it wouldn't have any effect on you.

Venireman: I don't know.

Judge Hughes: You don't know?

Venireman: I don't know.

Judge Hughes: Do you feel comfortable you have the capacity to follow the law?

Venireman: Oh, Yes.

Judge Hughes: Ok, So you feel comfortable that you could be openminded and determine whether any of these citizens on trial before you committed a crime?

Venireman: Just as long as I don't see that kid's picture in my head.

Judge Hughes: You are going to see the kid's picture in the courtroom at some time.

Venireman: I understand that.

Judge Hughes: So I'm not following I mean we know a young man died. We do know that. What we don't know is whether his death was a crime. And most importantly, we don't know if any of the young men who are on trial before you committed that crime.

Venireman: I understand that. I just know the kid died and he died a violent death. I see his picture all the time.

Judge Hughes: Right. You eat hot dogs everyday.

Venireman: Every couple weeks.

Judge Hughes: So, for the course of my trial, you could like maybe not eat a hot dog?

Venireman: True. 2/23/05 pgs 52-54

I don't mean to wax pedantic here but has anyone considered any correlation between this part of the legal process and Stanley Milgrams findings in his obedience to Authority research? In his work he put out an ad to hire someone to participate in an experiment. The volunteer not realizing he is the actual test subject, is told an actor appearing to be wired to a machine is the test subject. The volunteer is then ordered by an "authority figure:" (most often a lab coat sufficed). To administer an electric shock every time the pretend test subject gets a question wrong. When the volunteer presses the button nothing actually happened, but the pretend test subject would scream acting like he was in pain. The goal of the experiment was to see how far the volunteer would go

on to administer the shock at supposed increase levels of voltage. Milgram found overwhelmingly people from all walks of life, will follow the order to administer the shocks over the pretend test subjects protests, often to the maximum levels if ordered to do so.

Stanley Milgram asked: What keeps the person obeying the experimenter? First there is a set of binding factors that lock the subject into the situation. They include such factors as politeness on his part, his desire to uphold his initial promise of aid to the experimenter and the awkwardness of withdrawal. Second a number of adjustments in the subjects thinking occur to undermine his resolve to break with the authority. . . The most common adjustment of thought in the obedient subject is for him to see himself as not responsible for his own actions. He diverts himself of responsibility by attributing all initiative to the experimenter, a legitimate authority. They see themselves not as a person acting in a morally accountable way but as the agent of external authority. . . It is a fundamental mode of thinking for a great many people once they are locked into a subordinate position in a structure of authority. The disappearance of a sense of responsibility is the most far reaching consequence of submission to authority.

Although a person acting under authority performs actions seem to violate standards of conscience, it would not be true to say he loses his moral sense. Instead, it acquires a radically different focus. He does not respond with a moral sentiment to the actions he performs. Rather, his moral concern now shifts to a consideration of how well he is living up to the expectations that the authority has of him. In wartime, a soldier does not ask whether it is good or bad to bomb a hamlet, he does not experience shame or guilt in the destruction of a village: rather he feels pride or shame depending on how well he has performed the mission assigned him. . . In all likelihood our subjects would have experienced greater ease in shocking the victim had he been convincingly portrayed as a brutal criminal or a pervert.

. . . Social occasions, the very elements out of which society is built, are held together therefore by the operation of a certain situational etiquette, whereby each person respects the definition of the situation presented by another and in this way avoids conflict, embarrassment and awkward disruption of social exchange. The most basic etiquette does not concern the content of what transpires from one person to the next but rather the maintenance of the structural relations between them such relations can be those of equality or of hierarchy. When the occasion is defined as one of hierarchy, any attempt to alter the defined structure will be experienced as a moral transgression and will evoke anxiety, shame, embarrassment and diminished feelings of self-worth.

As Phillip Zimbardo points out; Thus as school children in virtually all traditional educational settings, the rules of the law that we learned and lived were; stay in your seat until permission is granted by the teacher to stand and leave it, do not talk unless given permission by the teacher to do so after raising your hand to seek that recognition and do not challenge the word of the teacher or complain. We are introduced to obey authority from birth.

Stanley Milgram applies his findings to society at large Hypothesizing: This may illustrate a dangerously typical situation in complex society. It is psychologically easy to ignore responsibility when one is only an intermediate link in a chain of evil action, but is it far from the final consequences of the action. . . The person who assumes full responsibility has evaporated. Perhaps this is the most common characteristic of socially organized evil in modern society. . . (And in sum) It is this ideological abrogation to the authority that constitutes the principal cognitive basis of obedience. If after all the world or the situation is as the authority defines it, a certain set of actions follows logically. The relationship between authority and subject therefore, can not be viewed as one in which a coercive figure forces action

from an unwilling subordinate. Because the subject accepts authority's definition of the situation, action follows willingly.

The risk inherent to this conforming to the judge is the crux of another issue, an error in Jury instructions defining First, Second, and Third Degree Murder after Judge Hughes made clear charging the Jury before they deliberated.

Judge Hughes: Now Ladies and Gentleman it is critical that you must only apply the law in which I instruct you. You must not apply any other law which any of you know or think you know. . . 3/08/05 pgs 58-59. It is my responsibility to decide all questions of law. You must accept and follow my ruling and instruction on matters of law. . . (page 59). . . You then apply the rules of law which I give to you, to those facts and decide whether each Defendant has or has not been proven guilty of any of the charges beyond a reasonable doubt. (page 60)

After defining the Degrees of Murder, she offered another version to the jury she told them to only apply what she says.

Judge Hughes: . . . I have this short hand way, that helps you remember the distinction between First, Second, and Third degree Murder. . . To remember think of it in this way. Murder requires malice. First degree Murder requires specific intent to kill. Second is a felony and Third degree is any other Murder. So First is specific intent, Second is a felony and Third is any other.

When I heard this I voiced my concern to Lee Mandell, he wasn't receptive. So when we had to sit in the back I told Eddie and his lawyer raised the issue, only then did my attorney join in. Third degree Murder was being passed off? It was bad enough all the defenses, we were denied I thought that Judge Hughes was going way out of bounds only to discover it is actually the recommended Jury instruction procedure.

One minor aside, I am also appealing that I should have been granted severance and tried separately. There is the Bruton law that is supposed to be a panacea for non testifying co-defendants statements, when read into the record to avoid being hearsay instead of me, Nicky and Eddie, it reads me another person and another person. The jury is advised not to consider this for anyone but me, as if a juror will not upon the site there realize who is sitting next to me (Gasp! It's another person and another person!) Oh and also included in my P.R.C.A. brief above Ed's lawyer stole my idea to claim everything could be done with the hatchet, except he said I did it. Despite Eddie's statement completely contradicting it.

Thanks for sticking with me. Someone has to argue this stuff as if it isn't bad enough Lee Mandell abandoned all my issues. He blasted my appeals, ignored my trying to have them rectified. Confused me with my brother and misrepresented me as a repeat offender to a higher court while trying to argue Juveniles should not be sentenced to life. Hey, He did warn me he wouldn't represent me if I didn't plead guilty. He abandoned me in all but deed. I didn't have an attorney-at-law. I had an attorney-at-large.

"Undoubtedly they seemed very depraved, very corrupt, very vile, very hateful even, but people rarely fall without becoming degraded. Besides there is a point when the unfortunate and the infamous are associated and confused in a word, a mortal word, Les Miserables; Whose fault is it? And then when the fall is furthest is that not when charity should be granted? Greatest?  
-Victor Hugo.

We were convicted on March 9th 2005 on all counts. First degree Murder, Robbery, Conspiracy and possession of the instrument of the crime. Life without parole. A few decades were in dispute at our sentencing to determine whether we serve them while we are sentenced to die in jail or if they will run consecutive to our death in prison. Like we knew all along, we had nothing coming.

Nicky and Eddie were planning to <sup>go</sup> out with a bang. They wanted to make speeches at our sentencing. I strongly insisted this would accomplish nothing. They countered, we had nothing to lose, and you know the theme by now I had to outdo them, to deflect negative attention off them and onto me. By the time we arrived they changed their minds and I breathed a sigh of relief.

Since we were convicted, we were bound in shackles. When Paul Sweeney, Jason's Father gave his testimony, he demanded that all of us look at him. Eddie's lawyers told him to look down, they literally flagged his head down. I did what he asked of me. This is the first time I did have to face him. I couldn't before we got arrested, when they asked us to come around and Nicky and Eddie gave them the list of contacts for the alibi. I remember thinking at our sentencing feeling like shit, that this is the only thing I can do for them, so mad at myself at Nicky and Eddie, how the hell could I be known? Then Paul Sweeney said "And you Domenic I know you think you have evil eyes, well your going to see mine every night before you go to sleep." Then sat down.

Where the hell did that come from? Absolutely I played my part in him losing his son and tearing his world apart but he wants to single me out? What trial was he at? I'm not trying to shift my responsibility and what I did next, was anything but. He singled me out, out of Eddie and Nicky. I was thinking. This is what he has been telling himself that I am evil and I want nothing but to hurt him and his family? Next Melissa Sweeney read a letter.

Then the judge told me to rise and asked if I wanted to be heard. I said I did. I addressed the court: I never thought I had evil eyes but other than that I'm cool. Judge Hughes asked me to repeat myself because I talk too fast. After doing so Judge Hughes responded "ok I'm cool too then."

It's not like I don't have remorse it's more like I'm not allowed to. What do you say? How can you show respect and deference to someone you stole their loved one from? I never imagined putting anyone in that position. Justina was sentenced before us and the family and the press ate her apology alive. The article began "Oh how she wept..." Paul Sweeney vowed to wait by the gate when they release her. (17) The Daily News said while I spoke in court I shrugged my shoulders and smiled when I received my fate. (18) I mean wow really? Isn't what we did messed up enough? Does it really need spicing up?

After I spoke. Paul Sweeney. Freaked, threatened to kill me and was escorted out. I did not disavow anything he said to us. They made clear they did not want an apology so I did not insult them with one. I just said I don't think I have evil eyes. In other words I am not enjoying myself here, I am not getting off on this. I wish they didn't think that and I didn't want to leave that up in the air, or worse apologize, and they think it's only for sympathy in court.

Judge Hughes knew what I meant when I said I was cool. It's evident in her response that she was cool too then. Plus the detectives got it on video, that's how I talk. Just because of the media attention everyone was on the edge of their seat expecting a show but this is not a performance for me. It's not act one, it's my curtain call. My failure to act right. We've had Directors Authors and Reporters invitation to be in the spotlight. How much media have we done? Zero.



How cartoonish is our case? We are legally advised to sit still and shut up while everyone fills in the blanks. Even silence is projected against us (It's always the quiet ones) you can not do or say anything. Talk about damned if you do damned if you don't. What can I really hope for the family to think? How can anyone rationalize the loss they suffered. Let alone one of the people that caused them too? I understand, they don't give a fuck and want vengeance. And they have justice, but what did my side get?

But, Are we not entitled to a better justice system? It's like we are not even allowed to defend ourselves. Not our actions but ourselves. Victims ask not to be forgotten and have not been. Not by me and not by the justice system, they have not been ignored in the least. On the other hand we have been buried alive 10 years, Does anyone remember us? Lady Justice holds scales in her hand. Scales, plural meaning balance, equalmeasure. Our sins justify this while our repentance warrants nothing? The prosecution gets to pile pounds on the scales. We can't even lift an ounce on our side? Obviously I can't appeal to the family but where is the impartial body to provide a vessel for blind lady justice to hear me? There should already be a better system in place so I don't have to do this but there isn't, so I have to say something. I'll be the asshole. The monster for pointing out a system everyone knows is broken. Like my horoscope said. The squeaky wheel gets the oil.

I do not want to hurt the Sweeney's anymore than I have. But what else can I possibly do? I was willing to walk to my death. I tried. Life is too much, acting like we are not worth the light of day. The family doesn't want to hear excuses but that doesn't alter the fact I was fucked up and this is not something I intended.

How can I make my case when they are calling us the devil? It is 2013 for crying out loud. They are clouded by pain and an insatiable thirst for vengeance that noone can dispel. Is this justice? Has this notion we evil brought them any morsel of comfort? It is no explanation. What responsible society answers their need for closure with a witch hunt? Pretending everything is ok as long as everyone can get a sound bite in the spectacle? We deserved it but our incarceration is by no means the product of great Police work. This is a disaster. We were served upon a silver platter. A political pig out. They don't want us to take responsibility. They want to take everything. There was no investigation, all that mattered was we killed him. Not what happened, just the bottom line. And-poof! Just like that it's like we never existed before the crime and we just hatched from some evil egg and we just came out of nowhere and we are single cell organisms whose sole stimuli is to kill.

Forget any semblance of us ever leading a normal life like we are people or something. Unless of course it serves as a prologue to us being dormant sleeper agents who had something evil lurking within them all along.

I can't even watch Law and Order. Lawyers. Police. Detectives. Investigators. Not in our case they grab the first script they could get a hold of, push it far enough to convict and leave you no choice to plead guilty. I'm not saying we were not bad. They want this to be the end of the story. All they wanted was First degree Murder, premeditation, intent to kill. That's not the end of the book. You don't get the whole story from the last page of the book. You know the maxim "It's the journey not the destination." That's like judging a book by it's cover. My crime is not my argument. We deserve further examination if we should all continue to be invested in at the ongoing burden to tax payers, while my legal motions have sat for over two years as of this writing.

I had a lawyer I did not want, put on a defense that was not mine, who botched my appeals in all likelihood as retaliation for taking the case to trial. A trial mind you of hired guns on both sides. Someone lies to help you. Someone lies to kill you. Someone dresses you up real nice. Someone warns whats underneath. Someone will tell you to have an open mind. Someone will remind you,

you have seen it all before. Somehow this contest rules who I am. Everything I have ever been through. Everything I am becoming. It represents theories of me dissecting who I am. I am calculated. I am appropriated. I am exasperated. I don't know if it is a court of law or a rerun of "whose line is it anyway." Trading one madness for another. Nowhere near the truth of the matter asserted and we are damned all the same because that's the end game. The theatrics do not compound the reality. The song ends. The curtain goes down and the book closes. And I am still right here.

Anyone. Anywhere at any given time can be considered a sociopath if you end up caught up in something like this. All it takes is a Mr. Movie phone voice over and a camera zooming in on your mugshot in slow motion. I've seen it done in many cases some channels even cue up dramatic accompaniment music. Now all of your characteristics fall prey to the lens of arm chair psychologists diagnosing every word of the truth gets you undid. Because of what we did, Nobody wants not to believe it. They always call you evil and beckon the onlookers to look into your eyes. Faith piggybacking their hate. One desperate moment negates all integrity and forfeits your humanity.

I have respect for the justice system and I believe in taking responsibility for my transgression but when it goes beyond justice and begins posturing, becoming a spectacle to serve no end, than the justice system mocks itself. The Sweeney's and the DA hosted a call in show on the Comcast network right before we were sentenced, A woman called in to take part and share a story about how terrible a human being I am. And I was very rude to her on the phone all because she woke me up one morning and I am a monster for cursing her out and I should never be released from prison.

She was a telemarketer, I give up your all right I am evil. How does someone just get written off like that? It's not just my crime. It's not just me. (19) Research suggests: That most people, especially people in the individualistic cultures of the U.S., Canada, Australia, New Zealand and most of Western Europe tend to show a "dispositionist bias" That is members of these cultures typically overestimate the impact and predictive power of preserved or assumed individual differences in traits such as charitableness, aggressiveness and presumably criminality as well. As a result they are apt to rely heavily on overly broad and simplistic notions of good or bad "character" both in their attempts to understand past behaviors and in their efforts to predict future behavior.

Loyalty. Family. Fidelity. Friendships have all been downgraded by progress. Modern progress, people drift further and further into themselves. Words that unite fade when you want to be left alone, you still can't resist being likable so a bad word still stings, even if your alone with it. You still feel the stigma of a label. The shame of it. I can understand casting labels on each other, everyone puts so much pressure on themselves as is, external pressure gets overwhelming.

Alot of people end up alone because they are afraid to reach out. The first step has manifold pitfalls, fearing coming on to strong. Most people never arrive. What if you try and it's obvious your trying to hard? You think everyone will know, so you think it's safer not to try. If you do make contact, if you keep trying, could be considered clingy or that your smothering somebody. Then you have to keep whatever works up, on top of whatever other lifes challenges today brings. It's enough to render one self-conscious. The only safe bet can seem to be introverting into your shell until someone else makes the first move. You'd rather hope someone comes than be rejected even at the cost of being alone.

Words are saturated in anxiety. Charged with hope but left unspoken for fear of rejection. All the words we hear now tears us apart. It's so easy to think bad of others when all we think is bad. Crimes don't rob perpetrators of their

humanity. Persecutors do,unconsciousable acts beget disassociation and we are offered as sacrifice to this fallout.

They cry evil and invoke the trenchcoat mafia. They cry evil and invoke Charles Manson. (Well ok I gave them that one.) They cry evil because the world that cannot return the loss it's people suffer, can't give them an answer why and can't make a stand for someone who offends society who they can't take a gamble on not to let them down again.

Blacks out number every race in prison. Juvenile lifers. Adults, it decimates their family trees, their neighborhoods. For a sickeningly long time white kids would get less time for the same offense Black kids would commit. In other words as my Good Buddy Bo Watts puts it: "When white people get a cold, we get pneumonia." But I'm not a candidate to argue the despair of Racial disparity in the criminal justice system you could go to "Prisonfoundation.org" and read Ricardo Nobles story "Erie, PA's betrayal of a child."

Instead of responding to this by giving black children equal sentences they answer the call for balance with classism. And offer up a Caucasian scapegoat, a defensive act of reverse racism, so long as were poor. The Philly Daily News even reported on this class distinction weeks after our arrest in 2003. Pointing out the similarities in our offense to the Eddie Polec case, who was beaten to death by teenagers wielding baseball bats. I wish I remember the reporters name that asked if the reason why I was facing the death penalty and they were facing 20 years is because we were from Fishtown and they were from "leafy Abington." I think the public outcry in the black community was for equal treatment not equal mistreatment.

Our government has quite a history of making ends meet in securing it's own interests, often it doesn't involve degradeing someone, sometimes it can be achieved elevating races: "Take a look at the Irish for example, the earliest of the Western conquests, It was described in the same terms as the conquest of Africa. The Irish were a different race. They weren't human. They weren't like us. We had to crush and destroy them." (20) They didn't even rank with the colonists when they settled in America, even after the revolution. Their potential was realized not as a people but an untapped voter demographic According to: "How the Irish became white" (I can't recall the authors name.) So a politician will build up a people to get into office, and tear down another to advance mass incarceration. Champion horrendous prison terms offering a few demonized white kids every now and then for the hundreds of darker skinned ones. Evil is the new black. You picked the right white kid.

Every convicted killer is not evil. We cannot all be Hannibal Lecter. I know some will scoff,try telling that to the victims family. I can't I'm trying to tell you. They don't care. Why would they? I knew it at my sentencing. I know it now. They are going to try to argue with God to keep me out of heaven after the price I have already paid on Earth. God knows I just cared about my brother. No one else did.

My life has been spared from the death penalty by the Supreme Court of the United States, but do they dare call this mercy? Not to have a release date? Not to be considered for anything above this groundhog's day purgatory? Praying to the powers that be for release that treat wanting to be granted our freedom is ingratitude for their gift of living longer without it. "Most death row inmates surveyed prefer death to life in prison." (21) It has an end in sight.

I can think of one Saint who did not have the patience for a life sentence when she was 19 either. George Bernard Shaw, whose 1923 play about her "Saint Joan" is widely credited with winning him the Nobel Prize said in it's celebrated preface: "Her death was deliberately chosen as an alternative to life without liberty." I will end this chapter with a passage from his play "Saint Joan."

The Inquisitor: . . . We, for the good of thy soul, and for a penence that may wipe out thy sins and bring thee finally unspotted to the throne of grace, do condemn thee to eat the bread of sorrow and drink the water of affliction

to the end of thy earthly days in perpetual imprisonment.

Joan: [Rising in consternation and terrible anger] Perpetual imprisonment! Am I not then to be set free?

Ladvenu: [Mildly shocked] Set free, child, after such wickedness as yours! What are you dreaming of?

Joan: Give me that writing. (She rushes to the table; snatches up the prepared confession they had her sign and tears it into fragments) Light your fire: Do you think I dread it as much as the life of a rat in a hole? My voices were right.

Ladvenu: Joan! Joan!

Joan: Yes: they told me you were fools (the word gives great offense) and that I was not to listen to your fine words nor trust your charity. You promised me my life, but you lied [indignant exclamation]. You think that life is nothing but not being stone dead. It is not the bread and the water that I fear: I can live on bread: When have I asked for more? It is no hardship to drink water if the water be clean. Bread has no sorrow, and water no affliction. But to shut me from the light of the sky and the sight of the fields and flowers; to chain my feet so I can never again ride with the soldiers nor climb the hills, to make breathe foul damp darkness and keep me from everything that brings me back to the love of God when your wickedness and foolishness tempt me to hate Him: all this is worse than the furnace in the Bible that was heated seven times. I could do without my warhorse. I could drag about in a skirt; I could let the banners and trumpets and the knights and the soldiers pass me and leave me behind as they laeve the other women. If only I could still hear the wind in the trees, the larks in the sunshine, the young lambs crying through the healthy frost, and the blessed church bells that send my (Angel) voices floating to me on the wind. But without these things I cannot live, and by your wanting to take them away from me, or from any human creature, I know that your counsel is of the devil, and mine is of God.

"I've named them [the stars] all the same name and there's terrible confusion."  
 -Juliet Landau playing Drusilla (Joss Weedon  
 penned)

When the Supreme Court spared me my life to live on forever without freedom. They ruled my life should "not be extinguished" So I may gain a mature understanding of my humanity. "Let me tell you, without resorting to the stories I could tell you about life in prison. Allow me to just tell you what I have come to suffer as the norm.

A bus drops you off and leaves you in a war zone. Granted prison is not what it used to be, it can easily regress, but the daily order is rarely disrupted in the face of severe consequences. What can they do to someone in my position you may ask?

Well I am held at S.C.I. Greene, they have 480 cells, plenty of space to get lost in. Someone doing life can be buried in a hole that large. (On Administrative Custody in the restricted housing unit.) My incentive to stay out of trouble you ask? The privileges of general population. Yards. TV. Radio. You can earn some of the appliances in that hole also but I can't get my guitar back there (as if I even practice) The rest of the walking privileges while the threat of indefinite solitary confinement hangs over your head like the sword of Damocles while you crawl on your belly across eggshells to avoid it. Behavior modification and it is very effective.

Oddly the reining in of prisons has coincided with a rise in harsher punishment. In other words they have tighter control but instead of doing anything to rehabilitate us. A lifer is an abandoned demographic, before the recent advance of rehabilitating Juvenile offenders we sat at the bottom of every waiting list for education and treatment services. Our Adult counterparts still are. When your not considered a priority all that is on the table is avoiding the hole.

The majority of us do and this should prove we are receptive to the incentive based infrastructure. But although the D.O.C. treats us they don't make the laws. So besides holding hole time over us. There is no carrot to dangle in front of us as a result we get pushed further into this endless madness. Do you think we just starve to death? No. We eat each other alive. I have to combat the contagious pathogen of insanity amongst an ever changing cast battling the same malady, Too many are not inoculated against.

There is already a structure in place here. There is a shock to being locked up. You are broken down. You lose your home. Your family. Your friends. Your name brand logos. Your gizmos. Your toys. Your world. One can all too easily translate losing any of these things they subscribe their identity to as losing themselves. You've been wiped out. You don't know what to do. Your sobered up to this reality trapped between how did I get here and how do I get home.

Your a clean slate but your drawing a blank. Your empty but you don't know what to instill in yourself. Get yourself some coffee. Get yourself a cigarette. Get to the commissary. Get on your feet. Chasing whatever the next thing to get you there brings you.

All the while you are being scrutinized filtered through a screening process to make sure you're "awright". Not a rat. Not a sex offender. Not a homosexual. Than your accepted by the other awright folk. Who will explain to you what you don't want to be. It's easily identifiable in terms of Freuds, basic psychological precept of the Id, ego and superego. The Id being the base lower instincts of us. Subsisting on little more than the primal urges, hunger sex drive. Not too much rationality, only impulse, wanting what they want and doing whatever to acquire it. That would be the convict who underneath their veneer of being a stand up guy, he is often hustling, scrounging up whatever he can get a buzz on and simply doing pointless shit for the satisfaction of

of getting away with it and if they get in trouble for whatever they bring upon themselves, they pretend their a target for some elaborate reason they try to define themselves as and they condemn whoever else isn't being chased by guards all day.

On the other end of the spectrum is the Superego, are as convicts would denounce someone in here as, an inmate, An inmate is someone who thinks he is above all this and better than everyone in here and not content to simply stay out of trouble, he will tell on others to get them in trouble for their wrong doing as if a cage will not shut on them at the end of the day for their own sins.

The ego, The regulator, I call the prisoner and is the balance I strive to keep as a mediating regulator between both poles. I stay out of trouble. I try to treat people human. I'm not "in the way." But walking the tight rope in between both sides of the spectrum, is a task with many challenges. Prison is a primitive society right now and superstition runs rampant and people want you in a box so they can be paranoid about something else. I live under the radar and peace is possible .

But for the person just getting here brimming with fear and anxiety that energy can all too easily be transmitted to enmity born from the alienation from the walks of life you encounter here. Diaper snipers. Old lady killers. Baby killers. Old lady rapers. Sometimes someone "awright" taps into your dormant anger like it's a fossil fuel, whispering about everyone he is a - he is a-. Knowing what your not, you have to come to terms to know how to deal with these other people.

And knowing what your not does not exactly entail knowing what you are and you can become a vessel for one of the ideologies hovering above them like a disembodied entity waiting to take possession and they never find themselves.

Doing the right thing, staying out of trouble is not very popular in here. It isn't violent but it is still a cycle of passive aggressive psychological warfare. Mutal respect is only sugar coating the enemy affinity of misery loves company. Thus we lead a life of espionage in here. Only instead of gathering intelligence we gather stupidity, misery loves company indeed and gossip is the currency of the lonely. Then there are the people who completely lose themselves in here. They invent this idea they mythologize into themselves then work to make other's believe it. Like as if enough people believe it, it will all come true and the horse and carriage won't turn back into a pumpkin at midnight.

You can not lie to yourself in here. You are all you got. Incarceration natures your independence. It breaks you out of the pack mentality, there's an expression in here "if you don't use your brain someone else will." You don't have to go down for someone else's bullshit. If that's all they want out of you, they don't care about you. Don't care about them. If they say your scared to get in trouble and you try to prove them wrong you only prove you are scared of them. I don't care what anyone thinks of me. I dont't respect them enough to let them insult me. You came here alone. If you go to the hole you face the consequences alone. No one is going to take care of you but you. What really matters to you? What really counts? You. Give yourself a chance.

Ever since I have been locked up I have gotten a grip on what is going on. The same elders in here full of sage advice have been here. They have been in the shoes I am in and they have been here since. It's the bums in the park all over again. This is not where I want to be. Everybody in here has to wear the same uniform and we bland together in a camouflaged collage, but out of the fog a pattern emerges, the uniforms and serves as a grid that magnifies negative attributes. Every where around me is the consequence of one character flaw or bad judgement call, on parade for all to see. As if the universe vomited them to portent the consequences and their guide posts to get yourself together now to avoid the possible outcome. Anybody in any prison anywhere sees someone there that they refuse to become.

I don't want a life of crime, addiction, disease or despair. I do not want

to be a junkie. I don't want to be a monster or is it too late for me? Am I just a baby faced by word? God knows everyday someone new swears I either just came to jail or I am about to go home. After 10 years I don't know if it is a compliment or curse.

Prison is a 24 hour a day 7 days a week job. No vacation all overtime. Cellies. God I could write a Horror series more prolific than the Goosebumps series by R.L. Stine. I have had everything from "Single White Female" to a pedophile that was allergic to the sun. The only problem any cellie has ever had with me is they Don't want me to move. I always move. I'm no prize it's just I am quiet and easy to get along with. But I have learned that my silence creates a space and in my experience a lot of people try to fill this void for example. I will read a book, one second everything will be fine, when I go to turn the page only to find my cellie performing a full blown opera, in viking regalia trying to steer their ship to shore. Some don't shower. Some don't sleep. Some just want to smoke themselves to death and take you down with second hand smoke living in their ashtray with them. Some never leave the cell to give you a moments respite. And some of them it's not even them, I just don't like living with another dude. No matter the scenario you have to take a care of them to take care of yourself, kinda like a Giga pet but with lamer graphics and fewer rewards. But you have to take a cellie, a necessary evil to avoid the hole.

Oh and I must say before I get into the next part, I am not particularly drawn to making prison more comfortable so long as it is bearable. So many people discredit actual issues pursuing frivolous lawsuits, wasting time and legal resources chasing the D.O.C. to me its like the proverb of trying to solve problems hacking at the leaves and not the root. These plaintiffs lose their criminal cases, if they fought at all and push paper in a rage in here preaching oppression or whatever. I don't even care.

I have bigger problems. Nobody here did any of this to me. I want to get out of here. Not get over in here. And if I am stuck here, this is my base of operations to obtain release.

On the other hand, there are people out there who act like Prisons are like country clubs. Oh contraire, people act like we live in luxury when they hear we have ~~cable~~ cable. First of all it is basic cable. That half my check from my .29¢ an hour paying job as a janitor pays the \$16.50 bill every month for. So I have one more option than a rematch with the epic staring contest to the death between me and these four walls (Thanks for the thoughtful psychologically soothing paint job something far less bleak about beige and periwinkle too by the way.) It's not like we get to watch Game of Thrones or Girls we have six basic cable networks that trade the same 8 movies back and forth every other month besides the four DVD's rented for us courtesy of the jail, PG-13 of course. We can't have R movies because of the Pedophiles. Instead we get G rated cartoons they can glean pick up lines from to hone their craft with. No rated R movies, as if it is not R rated everyday we wake up in here and see whats for breakfast. No porn because of the sex offenders. Like rape doesn't begin in the imagination born of repression not over-stimulation. Oh and as for music we are at the mercy of mainstream radio. Every 90 days we are told they are going to sell MP3 players in 90 more days like all the cool kids who were transferred to Michigan and Virginia back in 2010, when PA outsourced its overpopulation to closed down prisons out there. No internet. No E-mail. No computer. No tablet. No cell phone. Only the printed word. Snail mail. I'll stop before I make the children cry.

In light of the Supreme Courts new ruling opening the doors for gay marriage. I hope to launch a future legal endeavor arguing an equal protection claim since it will be one less infringement on a homosexual's liberty since he could very well end up with his husband if both in custody (hardship claim possibly?) They already play house living together anyway in here.

It would only be fair if sexual predilections are honored also and all prisons should henceforth be co-ed. My working title is the Ding dong doctrine.

But in all seriousness I am not crying for more priveleges but there is a continually increasing strain of enduring this day in and day out 10 years closer to never. The more obedient we are the more that is taken away, and replaced with nothing. It's like they forget another day in here is the punishment. One more day lost, everything else is insult to injury. I don't care if they gave me conjugal visits and a pony. I don't want to be here.

Ten years in and I am socially dead. I am from a broken home to begin with. Most of my friends were in high school. How many movies revolve around this turning point in life? When everyone finishes High school and goes their seperate ways? Did they not have to break out in song at the end of the movie "Grease" to assure each other they would "Always be together" for this very reason? Your off to college, start your career, start a family. Growing up. Keep in mind I dropped out. I didn't exactly make prom. I was shy (not anti-social) but I realize now everyone was too busy stewing in their own anxiety to consider mine and wrote me off as a prick. Smoking weed only made me quieter and lent me the stigma of being a druggie. *Staying loyal*  
 to Josh, the little social pariah, who I was unable to abandon and live with myself. I finally came out of a shell only into a prison cell-pathetic!

Do I still have friends? Yes. Most are too busy doing heroin and having babies but some stood by me. But I pushed everyone away. What can I do for any of them? Offer them advice? Don't do drugs? Their better off than I am. Am I not a cautionary tale already? What a difference in the world crucifying us has made. Keep a women? Sure I may of been a stud puppy in another life but if I got to be alone. I have to do it alone. This is my punishment no one elses.

-Josh. I stuck by him. Chose him over everyone. I lost friends for him. Good friends. Friends I didn't deserve because I didn't give them the appreciation I owed them. I rejected them to make him feel accepted. I fed him. His Mom. His Dog. You know how many letters he sent me? Not one. I talked to him on the phone one time. Only because he was mad Brody wrote me. I didn't curse him out. We just talked like we always did. He told me Kurt's kids kept asking for me and he told me he told them I went away because of them! He promised he'd be there and would write soon, he said he had to make a new first impression. He did. A new first impression he tells me. I never judged him. I endured him when no one else would. He never made a demo, he just a quick buck off my guitar and recording equipment. Brodie left him. He is on heroin and lives in an "abondominimum" reportedly.

-April married the guy I was "protecting her from" they have a daughter by last I heard she was hoping for a son.

-Jessica has 3 kids with Joe. She had the first one before we even went to trial. Not even two years after the abortion.

-Petty got put to sleep. C-A-T ran away after we got locked up. To this day Nick suspects this is a lie and our Dad ate him.

-Mom wrote us too. I didn't bring up her telling my death penalty team she "divorced herself from that life." and got to say to her the only thing I wanted to. That this is not her fault. And spoiler alert she left, more dramatically this time.

-Nicky. We can't talk, last time we did he insisted we just worry about ourselves from here on out.

Nicky, Josh, Jessica, April. Love and honor are dead. They committed suicide by cop.

Then there are all the beautiful people in this wonderful world I can not begin to think of what to say to. I lost them all forever and this is all they will ever think of me? I planned this? Never would I dare dream of putting everyone through this. My Father. My Uncle. My Aunt who lights a candle at church for us every Sunday at mass. Justina's Mother the way she looked at me in court, you can not tell me I beat hte death penalty. Eddie's Mom yelling at me at the Police station for not taking care of everyone. Jessie told me about Josh going to see Peppermint after I got arrested and nothing could stop her tears. That Beautiful lady who



radiates with all the love she has for everything and I drug a (raincloud) all across the sunshine she gave me. I can not lift the weight of letting any of them down. I can't promise them anything. I'm not allowed to make anything better.

I did have one plan for when I got executed, my final wish for the death penalty I intended to expedite, was to send a song I wrote to my sister how can I do that now? I appreciate not being executed now I truly do. But how can I reach out to her? She never knew me. My own sister will think I'm some scum bag convict looking for a hand out. I just wanted her to know not everyone forgot her when I died. Now I have to live with it.

(verse 1) I was supposed to be your brother.  
 If not for that I'd be nothing.  
 The only thing I could salvage of family honor.  
 I felt I could not be there until I was something.  
 I thought I could protect all I had left.  
 Know I'm the kind of Brother.  
 You look up to without hearing "What you looking at?"  
 I'm looking right back.  
 We're family. I won't let nobody take that.  
 No matter where I'm at.  
 There is a difference.  
 Between how it looks and how it is.  
 No matter if it's my fault or someone elses.  
 It's my fault I let you down Sis.

(chorus) All the things I had planned.  
 Never lost presidence.  
 I could not forsee such circumstances.  
 To tie my empty hands.  
 To dream of being a better brother I'm damned.  
 Just as I began.  
 Everything I'll never get to say.  
 All the things I thought were in the way.  
 Didn't exist until yesterday.  
 Hear my apology.  
 But don't forgive me.  
 And know your brother is sorry.

(verse 2) Dear Sister, I'm giving you your due.  
 I love and miss you too.  
 I wanted to make something of myself.  
 Before I came around your house.  
 Now I wish I didn't leave.  
 After how much you needed me.  
 I'm sorry I left you out there.  
 Please don't think I never cared if you care.  
 To you I was unfair, it's so unfair.  
 Never come around,  
 Thought I was just a letdown.  
 Now I've left you down.  
 I'll never be strong enough to lift your frown.  
 I've let you down.  
 Like we've been by everyone.  
 Like I'm anyone.

(chorus x)

(verse 3) Remember where there's hope.  
 There's even more left to wonder.  
 Lose no time to ponder.  
 Listen to me love. I've been in pain longer.  
 The fire inside.  
 Makes the bright side shine.

Dont' look down.  
 Your heart will follow.  
 Life sucks.  
 The world swallows.  
 Be braver than me.  
 Withstand being lonely.  
 Don't give yourself to the world.  
 Like too many vulnerable girls.  
 In a world where love don't breathe enough.  
 Little sister don't give up.  
 Don't forget the words to the song in your heart.  
 Don't be afraid to be everything you are.

The public demands an explanation. I can say nothing. The criminal is always wrong. This is my only defeat. Therefore it trumps any possibility to prevail. No explanation can ever satisfy them. They forsake you to think about what you have done. They go home and tell themselves your being raped everyday and thank Jesus for it. And the people I hurt most of all, think I feel nothing. How I feel I wish I didn't feel anything but I feel it all. When the Supreme Court guaranteed me a mature understanding of my humanity they didn't mention any side effects.

After you do come to a better understanding of yourself and your sins against society. This new appreciation and sense of responsibility only serves to refine your conscience anew after everyone else has forgotten about you. You tend the fires to your own living hell and I am burning. My skin is crawling with shame and disgust. Watching everyone in here running in circles chasing over priced generic by products like Zombies. I feel like I am in the Walking dead with no ammo and none of the zombies have any teeth, and they keep gnawing on me for eterninty and there is no ending it. And I keep telling myself I am not one of them and if by some slight possibility that might be true it would only make me worse because I know better. I know it's not just me. Maybe they just don't believe they can do better. Maybe they just give up. Maybe the whole system did.

I am not gaining a mature understanding of my humanity. I am gaining a mature understanding of what I am losing. I will never outlive that moment from when I was 17. All that survives is my guilt. Even after all that I have lived and loved and almost died for was nothing. Yet, I live on without them. I gave them everything and can't get nothing back. The state has hollowed me out and will instill nothing in me. Took it all and nothing I do can restore it? What am I left but myself? What should I do? Reach out to the world? We are left in the dust of instant gratification. Snail mail is too slow. Who wants to wait 3 days to communicate through snail mail, when they can E-mail someone in 3 seconds. I can't keep up I feel like an old man yelling at kids to get off my lawn.

I know I should just talk to someone in here, make friends in here? I can not replace in here what I lost out there. After Josh, April, Jessica, my own brother. Even if I could find someone trustworthy I don't trust them.

You don't think I'm a wallflower in here too do you? Not at all. I am 28 and I am built like a flamingo. I have to speak up before someone tries to speak for me.

Friendship in here ultimately comes down to what someone wants to use you for and to what extent you are willing to be taken advantage of. And your only as good as the last favor you did for anybody. My choice companions are "shorttimers" who latch onto me in a symbiotic bond to use me for entertainment until they go home. Like I am an extension of the institution. A quirky lifer tour guide if you will, not unlike the Virgil to their Dante in his tour of hell. I get a laugh whenever I read as an argument a lifer should be released, is other inmates look up to us. They are going home, we are not, they <sup>think</sup> we're suckers! They always promise to write, send pictures, magazines, books, guitar tabs, pictures of Julie Mcniven. I just tell them to shut up but they keep promising. And never live up to it and God forbid they come back who is the first person they ask for? The first person they forget when they walk out the door. They laugh and smile and hug you and tell you they didn't miss prison but they missed you and even though you don't believe them

you wipe that tear away climb back on stage and get back up on that stripper pole as long as they tell you they love you-Yeah I mean you RON!

You have to do it. What else can you do? I am so afraid I can't have anything. Nothing good or bad. I don't want to want anything. It means I'll have something to lose. People in here have no idea, they think I am happy go lucky fucking care free. They have no idea how hollow I am. No matter how much good I try to do I can't fill the void ping ponging between the dichotomy of I want to die and I can't live like this. I can do better. I'm not allowed to, Dream it is all over. Wake up to it begin all over again. Until I die. Guilt and dread in between.

It is a sad fact of my existence that some of the best advice I have recieved in here was when a neighbor asked me what I was watching tonight. I told him I might try to find a movie. He named a couple TV shows but I told him I didn't follow any shows, he went on to explain to me how you get into some shows. It gives you a routine, something to look forward to and keep you out of trouble, just find something you like and get into it.

And wouldn't you know it, that Bi-sexual<sup>serial</sup> rapist was right. I'm hooked now. Have been for years. In fact I actually want to be a couch potato now, go home and veg out on all the shows I missed in here. You think your reading my lifes work? No. There's just nothing on TV. My only friends are TV and books to keep me steady. Thus I court delusion to take me away from a more malignant madness, lulling me into a beige torpid nothing. (Stacy loved that word Torpid.) ~~oh~~.

*on the humanity.*

## CHAPTER 10

~~On the humanity.~~

"We often seek answers to our questions, but one has to be very careful with answers, because they relate to the past." "Now I have the final answer, so I can store it in a box as knowledge." But this knowledge could be dead. We have to look for answers with life in them, answers that allow new questions to emerge because to ask questions is a process that is creative and leads to the future.

-Erwin Berney

On June 25th 2012. After nine years of standing vigil of what a friend made a point for me to remember "Hope dies last." Even in the face of our lives being over every morning before we wake up. The United States Supreme Court forbidded any mandatory sentence of an offender who was a juvenile at the time of the offense. While a life without parole is still allowed it was ruled it would be rare and not before a hearing is held for each offender before being sentenced to LWOP. In Pennsylvania motive is not necessary to convict. Would this decision in Miller vs. Alabama make a difference between who we are and what happened? Pennsylvania leads the world in sentencing Juvenile offenders to LWOP, most of them come from Philadelphia. Though various networking efforts to keep us updated by Fight for Lifers and Juvenile law center. A lot of us juvenile offenders have become well acquainted with one another and this community was abuzz and brimming with the possibilities. Speculation quickly evolved into rumor propelled by false hope, and professed as fact within weeks. My peers began anticipating a sitdown with a prosecutor eager to avoid a costly re-sentencing hearing and offer the deal we have all been praying for. One close friend went out of his way to pull me aside and advise I get a "homeplan" kit prepared for parole review. Others were still more skeptical anticipating Life in numbers because "Pennsylvania don't let no one go." At any rate everyone immediatly filed new P.C.R.A. claims. Under the authority of Miller which sadly I believe were boiler plate motions to be released. With the exception of Nate Reilley, whose resources he shared with me.

Everyone else's only legal advice was why haven't you filed yet? "What's taking you so long?" We had sixty days to file and there was too much I did not wish to leave in question like how much time is appropriate? What about my consecutive sentences? Won't they add up to a life sentence if left? How can this be remedied? Next is my second legal brief, it's readable any legalese is bearable. And I will break it all down Here is what took me so long. (See pages 148-156)

Court of Common Pleas  
Philadelphia, Pennsylvania  
First Judicial District

F  
AUG  
Clerk

Commonwealth of Pennsylvania: CP#03-06-1389 4/4

vs. June Term 2003

Domenic Coia Docket# 1710 E.D.A. 2005

Petitioner's First Addendum to P.C.R.A. Petition raising new claim under the authority of Miller vs. Alabama.

To the Honorable Judge of the said Court:

Petitioner Domenic Coia, Pro Se, Under the Authority of The United States Supreme Court June 25 2012 decision in Miller vs Alabama 567 U.S. — No. 10-9646 and 10-9647, hereby files his first addendum to his previously filed P.C.R.A. Petition with the below listed claims.

1. On June 9<sup>th</sup> 2011, The instant P.C.R.A. Petition was recieved, time stamped and entered on the Criminal docket.

2. On June 25<sup>th</sup> 2012, The United States Supreme Court issued its decision in Miller vs Alabama. In Miller The Court held 'The eight amendment forbids a sentencing scheme that mandates Life in Prison without the possibility of parole for Juvenile homicide offenders. (A) The Eighth amendment prohibition of Cruel and Unusual punishment' guarantees individuals the right not to be subjected to excessive sanctions Roper vs Simmons 543 U.S. 551 (2005) That right flows from the basic precept of justice that punishment for crime should be graduated and proportioned Weems vs United States 217 U.S. 349,367 (1910) Roper and Graham establish that Children are Constitutionally different from adults for purposes of sentencing. Because Juveniles have diminished culpability and greater prospects for reform, we explained they are less deserving of the most severe punishments. Graham vs. Florida 130 S.Ct 176 (2010)

3. In accordance with the recent decision in Miller, the Court is now required to look at the petitioners state of mind and factors surrounding the events leading up to

this tragic Murder. At the time of the offense, Petitioner was 17. It must be noted "Youth is more than a chronological fact. It is a time and condition of life when a person may be most susceptible to influence and psychological damage." Eddings Supra 102 S.Ct 869. "Developments in psychology and brain science continue to show fundamental differences between juvenile and adult minds, for example parts of the brain involved in behavior control continue to mature through adolescence. (\*The National Institute of Health has demonstrated The brain undergoes massive reorganization until age 25)" Juveniles are more capable of change than adults and their actions are less likely to be evidence of irretrievably depraved character" Than are the actions of adults (Roper) It remains true that from a moral standpoint it would be misguided to equate the feelings of a minor with those of an adult for a greater possibility exists that a minor's character deficiencies will be reformed. Ibid.

4. In petitioner's pretrial detention he was evaluated by a Mitigation specialist's Phyllis Partrat and Dr. Edward Dougherty, both appointed to assess petitioner's state of mind at the time of the offense. Upon petitioner's conviction of First degree Murder they were prepared to present evidence at the penalty phase. However before the petitioner was convicted Roper vs. Simmons was decided and absent the threat of The Death Penalty said witnesses were not called. If called they would have presented evidence petitioner's capacity was significantly diminished with the history he had, the possibility of Mental defects, psychiatric problems, drug and alcohol abuse, his capacity was impaired. The Petitioner's ability to commit a first degree murder from a legal perspective was not there, had said evidence been made available at the time of trial there is a strong probability, no jury would have found him guilty of First degree murder. The Pennsylvania Supreme Court has consistently held that expert psychiatric testimony is admissible to negate the specific intent to kill which is essential in First degree Murder Comvs. Terry 521 A.20 398 (1987) 107 S.Ct. 3198 (1987) Comvs. Garcia 479 A.20 473 (1984) Comvs. Walzacki 360 A.20 914 (1976)

5. In addition, Petitioner wishes to present of many debilitating activities he was then given

to he, was a known substance abuser, insomniac and malnourished, which posits the question how nourishing are these elements to the developing mind of an already troubled adolescent? Also in the passing 7 years since The Defendants trial, There has been little to no media attention and without such a spotlight the petitioner is willing to call more witnesses, which although their testimony would be public record, they would not otherwise be immediately associated with petitioners notoriety. Petitioner would also present evidence of trauma to his brother and himself that were the catalyst to his increased delinquency and ultimate disregard. Petitioner doesn't claim it excuses his crime but the impact is evident. And only asked that his life be considered in all fairness and not merely to <sup>Advance</sup> ~~advance~~ The prosecu- objectives, for example. The petitioner was told by his Father he was being kicked out when he turns 18, they argued, he stayed at a friends house, a day before the crime. The Prosecution actually used this as evidence of Defendants exercising adult responsibility as if it weren't on The eve of the homicide! Police were quoted in Daily News 6/16/83 about defendant asking when <sup>he can</sup> go home (failure to appreciate

sequences.)

6. In addition to seeking remand of his life imprisonment, Petitioner also prays the Courts Consideration of remand of Consecutive sentences imposed from the same criminal episode Including 10-20 years for Robbery, 10-20 years for Conspiracy and 2 1/2 - 5 years for Possession of the instrument of the crime. Therefore, if the sentence stands, if the petitioner survives his life sentence, he only begins his next one. These sanctions are excessive and unconstitutional under Roper and Miller. "The defendant or the Commonwealth may appeal as of right the legality

of his sentence Com vs. Shifflet 879 A.2d 185 (2004) Challenges to the legality of the Criminal sentence present a pure question of law clearly reviewable by the supreme court of Pennsylvania 42 P.A.C.S. 9781

7. As of this writing there has been no Answer to Miller from Pennsylvania. Be it, legislative or judicial, due to time constraints, the petitioner is compelled to expound on present data and seeks to, pursuant to 1 P.A.C.S. 1921(C) When the words of a statute are not explicit, the intention of the general assembly may be ascertained by considering among other matters... (3) The mischief to be remedied (5) The former law, if any including other

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other statutes upon the same or similar subjects. 1 P.A.C.S. 1928 (B) Any ambiguity in a Penal statute should be interpreted in favor of the defendant. Life plus 22 1/2-45 years for a juvenile is an excessive sanction, though sentenced within then relevant guidelines. After Miller it must be re-evaluated.

Although none of the individual sentences is excessive, the cumulative sentence is. A sentence must be imposed based on the minimum amount of confinement that is consistent with the gravity of the offense, the need of the public for protection and the rehabilitative needs of the defendant. *Com v Simpson* 510 A.2D 760 (1986) In *Com v. Martin* 351 A.2D 650 (1976) Although we agree with the trial court that the offenses are serious in nature, we do not think the protection of the public and the rehabilitative needs of the appellant mandates such a sentence... our specific objection to the sentence is based on the court's imposition of six [in this case nine] consecutive sentences. The same consideration that were involved in imposing a single sentence should also be the basis for determining the appropriateness of consecutive terms of imprisonment rather than concurrent. *Martin Supra* This would apply equally when sentencing convictions of multiple crimes arising from the same or separate incidents when tried at the same time. It is clear that the court focused on the nature of the crime rather than the totality of the requirements mandated by *Riggins* 377 A.2D 140 (1977) And the sentencing code 42 P.A.C.S.A. 9722-9725 At 9725: "Total Confinement, the court shall impose a sentence of total confinement if having regard to the nature and circumstances of the crime and the history, character and condition of the defendant it is the opinion that the total confinement of the defendant is necessary because: (1) there is risk that during a period of probation or partial confinement the defendant will commit another crime. (2) The defendant is in need of correctional treatment by his commitment to an institution (3) A lesser sentence will depreciate the seriousness of the crime of the defendant.

The petitioner is a first time offender and poses no such risk. If his actions are not good enough to speak for themselves. The Petitioner would volunteer to be injected with a G.P.S. monitoring chip. (which would pay for itself after no longer housing defendant) Staff has offered support here to bear witness to defendant's rehabilitation, (S.C.I. - Greene staff) The defendant has served nine years so far, which hardly depreciates the seriousness of the offense but serves to enforce it, further remaining under G.P.S. surveillance would be an extension of the sentence. Like house arrest, which



if could be considered, for the record petitioner is prepared to submit a home plan for consideration if given opportunity

8. Petitioner next seeks to explore the three strikes law to inform his claim of excessive sentence. In *Shifflet*: 979 A.2D 194 (2004) The generally recognized purpose of such graduated sentencing laws is to punish offenses more severely when the defendant has exhibited an unwillingness to reform his miscreant ways and to conform his life according to the law. And on page 196... Habitual offender's statutes are intended to warn the potential career criminal of the consequences of persistent criminal activity, and to give the offender an opportunity to reform through exposure to the restraining influences of conviction and punishment before the most severe punishment of an habitual offender is imposed. The offender is deemed incorrigible not so much because he or she has sinned more than once, but because the offender has demonstrated through persistent criminal behavior, that he or she is not susceptible to the reforming influence of the conviction process.

Obviously the Petitioner has not been given one chance, despite *Roper vs Simmons* establishing that "Juvettes have lessened culpability, they are less deserving of the most severe punishment" 125 S.Ct 1183 (2005) One final note on the 3 strikes law "Persons who continue to commit violent crimes are incapacitated by a prison sentence of at least 25 years. Noting that the enhancement is considerable The Superior Court reasoned that mandating enhanced sentencing for each individual crime of violence in a given criminal episode or encounter could possibly result in Draconian sentences for a single criminal transaction. *Com vs McClintic* 909 A.2D 124 (2006) *Graham vs. Florida* 125 130 S.Ct 176 has forbidden Juvenile offenders to serve a life sentence for a non-homicide offense. Today, *Miller vs Alabama*, Forbids mandatory life without parole for a juvenile homicide offense.

For the above Petitioner requests remand of sentence for demonstrated excessiveness Next the petitioner seeks what sanction the court may consider Appropriate.

9. *Com vs. Divinzeno* 523 A.2 758 also explores excessive sentencing, while this and other cases are non-Homicide, the language should be considered. *Divinzeno* was sentenced to 81-168 years. and was granted relief citing "to impose a minimum sentence of 81 years on appellant is in effect, an imposition of a life sentence with no conceivable possibility of parole. Eighty one years of incarceration precludes the possibility of (precludes)"

rehabilitation and effectively removes appellant from society for the remainder of his natural life. It is also necessary to weigh the effect of a cumulative sentence of 81 years, which would take a relatively young man (Divincenzo was 33) through the prime of his life for a term six times as long as the average life sentence.

A life sentence is thus being described as 25 years as it has been considered elsewhere. (In *Com vs. Brown* (1999) 741 A.2D 726, citing Brown's 25-50 year sentence as "Two consecutive life sentences.") Verily, this shows The Petitioner is serving Five years short of a Triple Life sentence, as a juvenile offender he shouldn't even be serving one. "Accordingly Juvenile offenders cannot be classified among the worst offenders." In this instance career criminals. (quoting *Roper* 125 S.Ct 1183. A Juvenile is not absolved of responsibility for his actions but his transgression is not as morally reprehensible as that of an adult. *Thompson Super* 108 S.Ct 2687 Finally, *Roper* and *Graham* establish that children are constitutionally different from adults for purposes of sentencing. Because Juveniles have diminished culpability and greater prospects for reform, we explained they are less deserving of the most severe punishments. (*Graham*)

A life sentence is the most severe punishment, as demonstrated given to those who throw away chances the petitioner was never given. A life sentence as shown, is 25 years. And Juveniles are <sup>less</sup> not deserving of the most severe punishments. "Any void remaining during pending legislation in the Commonwealth of Pennsylvania in The Advent of *Miller vs Alabama* should not be ambiguous. HB# 1994 is currently being legislated in The PA house of representatives sponsored by Robert Matzie, the content being, Juvenile lifers, after 10 years of service would become subject to the parole board.

All facts considered, No Juvenile should be sentenced in excess of 10-20 years. Anything ~~an~~ more is excessive and unconstitutionally unbalanced.

10. The trial Court violated the principles of individualized justice and sentenced petitioner due to severity of offense alone to excessive sentences, now petitioner seeks remand not only under *Miller*, but The laws of the Commonwealth as well. In *Com vs. Divincenzo* 78 523 A.2D 758... sentencing

guidelines, while approved and followed by this Court in 90% of its sentence do have a serious flaw. It is this, no statistical analysis can ever fully take into account the flesh and blood defendant who is standing before the Court for sentencing. Some defendants look worse "on paper" than they really are. Some look better than they really are. The Court found Divincenzo's sentence "appears to be directed at retribution and punishment rather than the needs of society." They cited matters. The Court went beyond the principles of individualized justice when opting for a harsh sentence. Deterrence to anyone contemplating similar crime. The A.D.A. on petitioner's case has been quoted in the press "I think Judge Hughes sent a strong message today..." 2) The Court's intention that the defendant spend the rest of his life in prison. In Notes of testimony CN/T 5/6/05 page 45 The court stated "An oath to protect the community warrants that you not have the possibility of rejoining any community." 3) The court's finding rehabilitation is impossible "N/T 5/6/05 page 45 The court ruled: "I did not know Mr. Bridge would file a motion on your behalf. I know I had thought about what the implications of The United States Supreme Court ruling in Roper vs. Simmons was and how it would alter the way we would handle our youth. The more I thought poured through Roper vs. Simmons the more I thought this ~~was~~ was not a case I would take up that fight, and there are cases in which I will fight that battle but not for this one. 4) The court's determination that the guidelines are seriously flawed and are therefore not to be followed. The court sentenced petitioner within then existing guidelines stating: N/T 5/6/05 page 45. The sentencing guidelines in no way begin to justify or contemplate the heinousness of the situation that is before me." In Com vs. Ritchey 779 A.20 1183 The trial court stated "it had considered the guidelines, but that it could not have envisioned the factual circumstances of the present case." In Ruffo 520 A.20 43 (1997) "Both in the statute and the guidelines the legislature probably didn't contemplate this type of situation would occur." The language in these cases are identical in the caselaw concerning petitioner's contention that the trial court abused its discretion citing Com vs. Ritchey "The Sentencing court abused its discretion when imposing the above sentence, although the trial court began its ~~begin~~ statement that it had considered the tri-fold purposes of sentencing, rehabilitation of the defendant, punishment and deterrence... The remainder of the court's comment focused ~~severely~~ exclusively on the seriousness of the crime." In Com vs. Messmer (2004) 863 A.20 567 "Not appropriate to just pay token lip service to tri-fold purpose of sentencing" Com vs. Mikke

"The sentencing Court may not base its sentence upon the seriousness of the crime alone." Even if the trial court could prevail on a claim that somehow in its 3 total "pages" (N/T pg 43-45) it fully evaluated petitioners character, the evaluation of a juvenile offender has no part in his arrest, but his development. "As compared to Adults Juveniles have a lack of maturity and an underdeveloped sense of responsibility, they are more vulnerable and susceptible to negative influences and outside pressures including peer pressure and their characters are not as well formed" (Roper) 125 S.Ct 1193 "Those salient characteristics mean that is difficult even for expert psychologists to differentiate between the juvenile offender whose crime reflects irreparable corruption." (Roper) As shown The trial court read Roper, but flying in the face of ~~the~~ the principles of individual justice, sentenced petitioner to just shy of 3 consecutive life sentences, for one criminal episode, his first offense, to ensure if Juvenile lifers ever were eligible for parole, petitioner wouldn't be, because "This isn't the case" N/T 5/10/05 page 44. Effectively checkmating the petitioners future. The trial court overreached by curtailing petitioners potential parole eligibility for what the legislation changes, as it is anticipated in the advent of Miller "The trial courts sole responsibility was to set the date the appellant ~~would be eligible~~ becomes eligible for parole, not to engage in a guessing game which tracks the aftertimes changing policies." Of course, their discussing the parole board but the similarity of this existing law is clear on this similar subject 1 P.A.C.S. 1921(C)(5)

Comus Camps  
772 A.2D 70  
(2001)

11. For the reasons stated above the judgement of the sentencing court though, within then existing guidelines, After Miller and Graham has become manifestly unwarranted and sheds light on its abuse of discretion of "The 'case trial court stated "was not a case it wanted. I never asked for any case and I really did not want this case" N/T 5/10/05 pg 43. Still, the Court is "accorded great weight as it is in the best to view defendants character" Comus Smith 673 A.2D 893 Including "Defendants character, displays of remorse, defiance or indifference." "Sitting mute while ineffective counsel fills in the blanks is hardly proof of petitioners character. He has been in nothing short of humble in court and never defied it in any way. The defendants fate, and that of his brother/codefendant was at stake. He was by no means indifferent. As for shows of remorse, The petitioner was advised against any apology at allocution and was referred to pres [9]

*[Handwritten mark]*

Coverage of Co-defendant turned states evidence sentencing titled "Justina receives her jail term" which began "oh, how she wept..." And made clear the press, nor the victims family wanted an apology. So he followed his Attorney advice. Petitioner only spoke at sentencing after being put on the spot, he was nervous to begin with but was suprised that despite evidence presented at trial he was singled out in victims impact testimony and responded "I never thought I had evil eyes but Tim Cool. His nervousness is evident in being asked to repeat himself, NIT 6/6/05 page 22. He meant "Tim cool as in I have nothing to say, the Court understood this as evidence in its response "I am too" (page 22 still.) He never sought to minimize or discount their loss. He has been ashamed of his involvement, this shame has been very public being typecasted as a stereotypical, Gothic thrill killer which never was who he was at all, but Noone wanted to believe anything different and was never given a chance to dispal gross misrepresentation. It was never his ambition to be a Murderer as sad as it is, for some murderers it is. Defendant knew this upon his arrest and is evident in his self deprecating statement. Sadly in this attention seeking, media driven times, Petitioner must make an offer of proof he's never embraced his notoriety, never granting one interview despite numerous ~~interview~~ invitations From not only Philadelphia Publications, but national press, for example, "A current affair", varying to some weirdo Phil Chalmers, who signs his letters with pictures of him and Celebrity Jessica Simpson as if to inspire confidence. This is not the height of petitioner's aspiration, it is ~~is~~ <sup>(society)</sup> rock bottom. The court cited defendant sobriety at time of his offense; He was with raising hands =

Wherefore, Petitioner Domenic Coia in pro per, seeks to Join this addendum to his 7<sup>th</sup> ground for relief on initial P.C.R. A. petition still pending, seeking relief for counsels misrepresenting the petitioner on the issues of sentencing anyone to life imprisonment for crimes Committed under the age of 18 (see Brief) now under the Authority of Miller to present mitigating evidence to reassess his degree of guilt, and remand excessive unconstitutional sentence to a term of no more than 10-20 years for his lessened culpability at the time of his arrest and his rehabilitation in the grasp of the inherent shock and awe of his incarceration. Petitioner prays a hearing for this and all other pending claim for the Courts Consideration.

Dated 8-13-2012 Respectfully Submitted: Domenic Coia

## CHAPTER 11

"The young are heated by nature as drunken men by wine. . . If only there was no age between ten and three and twenty or that youth would sleep out the rest; For there is nothing on the between but getting wenches with child wronging the ancients, stealing, fighting."

-William Shakespeare

(22) National Geographic has reported a natural institute of health project that studied over a 100 young people as they grew up during the 1990's- showed that our brains undergo a massive reorganization between our 12th and 25th years. (Prior to the studies it was commonly held to be fully formed by age 14-Oprah magazine) Capacities relevant to criminal development are still developing when your 16 or 17. The brains frontal lobe which exercise restraint over impulsive behavior, doesn't begin to mature until 17 years of age. The very part of the brain that is judged by the legal process comes on board late(23) part of the brain that is helping organization, planning and strategizing is not done being built yet. . . it's sort of unfair to expect [adolescents] to have adult levels of organization before the brain is finished being built. (24)

When this development proceeds normally, we get better at balancing impulse, desire, goals, self interest, rules, ethics, and even altruism generating behavior that is more complex and sometimes at least, more sensible. But at times and especially at first, the brain does this work clumsily. It's hard to get all those cogs to mesh. Also peaking during adolescence (and perhaps aggrivating the ancients the most.) is risk taking. We court risk more avidly as teens then at any other time . . . and it shows in real life, where the period from roughly 15 to 25 brings peak in allsorts of risky ventures and ugly outcomes. This age group dies of accidents of almost every sort (other than work accidents) most long term drug or alcohol starts during adolescence, and even people who later drink responsibly often drink too much as teens. Especially in cultures where teenage drinking is common, this takes a gory toll. In the U.S. one in three teen deaths, is from car crashes many involving alcohol. (Nat Geo)

Teens are really bad at the kind of thinking that requires looking into the future to see the results of actions, a characteristic that feeds increased risk taking (crime culpability and the adolescent brain). One of the things that teenagers seem to do more strongly with gut response than with evaluating the consequences of what they're doing. (Juvenile Justice Center)

Beatriz Luna, a University of Pittsburgh professor of psychiatry who uses neuroimaging to study the teen brain used a sample test that illustrated the learning curve. Luna scanned the brains of children, teens and twenty somethings while they played antisaccade task a sort of eyes only video game where you have to stop yourself from looking at a suddenly appearing light. You view a screen on which the red cross hairs at the center occasionally disappear just as a light flickers elsewhere on the screen. You're instructions are to not look at the light and instead look in the opposite direction. A sensor detects eye movement . It's a tough assignment since flickering lights naturally draw our attention. To succeed you must override both a normal impulse to attend to new information and curiosity about something forbidden. Brain geeks call this response inhibition. . . What Luna found interesting however was not those scores. It was the brain scans she took while people took the test while compared with adults, teens tended to make less use of brain regions that monitor performance, spot errors, plan and stay focused-areas the adults seemed to bring online automatically. This let the adults use a variety of brain resources and better resist temptation. While the teens used these areas less often and more often gave into the impulse to look at the flickering light-Just as they're more likely to look away from the road to read a text message.

It offered an extra reward however teens showed they could push those executive regions to work harder, improving their scores and by age 20, their brains respond

to this task much as adults do (Nat Geo) In scientific terms, teenagers can be a pain in the ass. But they are quite possibly, the most fully crucially adaptive human beings around.

These discoveries support the assertion that adolescents are less morally culpable for their actions than competent adults and more capable of change and rehabilitation. The ultimate punishment for minors is contrary to the idea in our justice system which accords the greatest punishment to the most blameworthy, this fresh understanding of adolescence, does not excuse juvenile offenders from punishment for violent crime, but it clearly lessens their culpability. The concept is not new, it is why we refer to those who are under 18 as "minors and juveniles"-because in so many respects they are less than adults. (Juvenile Justice Center)

Luna also points out: that the tumultuous nature of adolescent brains is normal: This transition in adolescence is not a disease or an impairment. It is extremely adaptive. It's an extremely adaptive way to make an adult, she speculates that risk taking, and lowered inhibitions. Provide experiences to prune their brains. With all the pruning, myelination and reorganization, an adolescents brain is unstable, but performing well on tests can make teens look more mature than they are. "Yes adolescents can look like adults but out stressors into a system thats already fragile, and it can easily revert to a less mature state." Luna says.

The Amicus curiae brief endorsed by the APA and others also describes the fragility of adolescence-how teens are sensitive to peer pressure and can be compromised by a less than pristine childhood environment. Abuse can affect how normally brains develop not suprisingly every (Juvenile offender on death row) has been abused or neglected as a kid.

In addition to the profound physical changes of the brain, adolescents also undergo dramatic hormonal and emotional changes. One of the hormones which has the most dramatic effect on the body is testosterone. Testosterone which is closely associated with aggression, increases tenfold in adolescent boys not to mention "The nexus between poverty, childhood abuse and neglect, socila and emotional dysfunction, alcohol and drug abuse and crime is so tight in the lives of so many capital defendants as to form a kind of social historical profile. . . The most comprehensive study of the lives of Juvenile offenders before they were no longer subject to capital punishment showed: 74% experienced family dysfunction. 60% were victims of abuse and or neglect. 43% had a diagnosed psychiatric disorder. 38% suffered from substance addictions. 38% lived in poverty. (some of these arguements predate the abolishment of anyone under 18 at the time of the offense but Ropper vs. Simmons held juveniles are not subject to the most severe and excessive sanctions.)

The Supreme Court of the United States has also held that "Youth is more than a chronological fact." Which neurology has confirmed this fact. Everyone under 18 was spared the death penalty because we were underdeveloped. Not old enough to serve on a jury we were allowed to be sent away by anyone.

But what about the youth under 21? The citizens not even allowed to be trusted with the responsibility of imbibing alcohol until they come of age? In fact in New York Mayor Bloomberg has <sup>proposed</sup> recently raising the age to purchase tobacco to 21. What of the fact our brain is not fully developed until we are 25? How many still languish on Death Row, how many more are suffering Life Without Parole? Christa Pike sitting on death row doing death plus 25. Natasha Cornett among five Co-defendants who all serve Triple LWOP plus 25 years. Both for homicides committed when they were 18. People have been arguing such equal protection claims best exemplified in the case of Commonwealth vs. Thomas Simone. Nelson Birdwell also argues this and Kurt Danysh better be. . .

Science itself does not draw the line at 18 but at 25. The revelation is consistent with earlier findings of "Person based variables" being 15 to 30 years of age is related to higher than average rates of violent behavior among various situational factors and not personal characteristics are critical in provoking murder. (19)

But our United States Supreme Court is slow to act against this grossly out of proportion punishment with limited exception of Capital and Juvenile offenders citing each as "Death is different" then pronouncing "kids are different" But they are only <sup>^w</sup>atrocities that heralded and the laws reluctance to change at all can make a person facing death see LWOP as victory and a juvenile facing LWOP see 25 years as victories but are only concessions to enabling injustice. You can not accept this is getting better. Why was this ever ok in the first place? I know what we are up against, but Humanity has come up against this before and the Constitution is prepared for us to defend ourselves. Which I can and will do. Citing the Courts ruling in Joint vs. McGrath: The disparity between [The government and the solitary defendant] is of such magnitude that without safeguards injustice is almost inevitable in many situations, since inequality begets injustice. Accordingly it has been widely accepted steadfast adherence to strict procedure is our main assurance there will be equal justice under the law. While it is sometimes tempting for Judges and other members of our society to look past these guarantees. . . Courts must remember that the bill of rights and particularly the Fifth amendment works to protect individuals from oppressive government conduct and not merely to provide criminals with loopholes to help them avoid criminal convictions or in this case Enhanced sentences.

Yeah, Try telling that to the lawmakers. They would ace Dr. Luna's response inhibition test—they never see the light. Criminal Justice wasn't always like this. I know we screwed up but how exactly did the whole system get so screwed up?

(25) It has been observed: Within the past 15 years a sea change has occurred in juvenile justice philosophy; Children once widely viewed as malleable, largely victims of familial instability and capable of being rehabilitated, instead widely being viewed as "super predators." Beginning in the 1980's and 1990's thanks to the hysteria whipped up by fear mongers such as Princeton Professor John Dilulio (who infamously forecasted in the 1990's that 270,000 juvenile super predators would be out on the streets by 2010.) A prediction based neither on reason or fact. A hundred years of juvenile justice was turned on it's head. Over eager legislators jumped on the new super predator band wagon and an epidemic of new legislation spread across the states. State prosecutors chomped at the bit for legislation that would facilitate prosecuting children as adults and legislators in nearly every state obliged.

But predicted crime wave never came. In fact by 1997 juvenile crime began a steady decline that hasn't deviated much since. At present, adolescent crime rates have fallen by 50 percent a 30 year low. But the laws set in motion across the country nevertheless created a whole new class of child criminal. The Pittsburgh Post Gazette puts the numbers in more perspective: (26) The human rights watch/Amnesty International study showed that the number of juveniles convicted of murder actually declined between 1990 and 2000 from 2,234 to 1,006—nearly 55 percent. Still the percentage of juveniles receiving Life without Parole sentences increased by 216 percent to 9 percent of the total.

Dilulio along with Bennet and Walters defined this new class of criminal they contrived as: Based on all that we have witnessed, researched and heard from people who are close to the action here is what we believe: America is now home to thickening ranks of juvenile "super predators"—radically impulsive, brutally remorseless youngsters including evermore preteenage boys who murder, assault, rape, rob, burglarize, deal deadly drugs, join gun toting gangs and create serious communal disorder? They do not fear the stigma of arrest, the pains of conscience. They perceive hardly any relationship between doing right (or wrong) now and rewarded (punished) for it later.

To these mean street youngsters. The words right or wrong have no fixed moral meaning. (Of course when neuroscience confirms half these charges as demonstration of under development, Prosecutors insist we know exactly what we are doing and were not impulsive.)



Descriptions of current and future super predators flooding the streets were very influential to public policy. From 1992 to 1995, 47 states and the district of Columbia passed laws that sought to address the youth violence problems, and the basic theme of those legislative efforts was getting through. (27 throughout)

This epidemic of youth violence according to Mark Moor and Michael Tonry "noting that crime rates are age sensitive... most types of crimes peak during adolescence and young adulthood and steadily declines thereafter." A fact which partially explains the increase in mid 60's to mid 70's "Post World war 2 baby boomers" reached their crime prone years, an echo boom occurred from 1985 and 1995. There were more juvenile offenders because there were more juveniles. (27)

Steven Levitt has hypothesized the predicted wave of super predators never arrived because the Supreme Court decision in Roe vs. Wade legalizing abortion marginalized those who wanted to be parents from those who would not, who in terminating their pregnancy under his theory spared the world another super predator roaming the streets because Mommy didn't love them. Since we were too young for the state to abort us retroactively can then nothing be done with us? How did the government give up on us as hopeless? (27)

In the aftermath of baby boomer delinquency in general and the social unrest of Vietnam. The president initiated a commission on crime and how law enforcement in the 1960's and responded to youth crime not with a "crackdown" but proposed: The juvenile justice system should be reformed in such a way that minimized labeling and stigmatization of offenders and also used more community based interventions. 7 years later the commission published "The challenge of crime in a free society" its findings informed the juvenile justice and delinquency act of 1974 that was passed by congress. As stated by Alexander Pisciotta "By the mid 1970's, many politicians, practitioners, academics and child welfare advocates were confident that they had finally discovered the elixir for delinquency and youthful behavior-benevolent reform was at long last, at hand." To the surprise of many it was short lived. (27)

"In the mid 1970's, increasing crime rates, a shift to a conservative ideology and reviews of research that strongly questioned the effectiveness of rehabilitation programs resulted in the rise of the get tough movement in criminal justice. The recommendation of the president's commission and the resulting juvenile act of 1974 came under attack by the late 1970's, optimism about reforms instituted just a few years earlier was replaced by calls for increased waivers to adult court, longer sentences from juvenile court and the use of the death penalty for juveniles.

By the early to mid 1980's efforts to provide more punitive sanctions for juvenile delinquents became as popular as doing the same for adults and calls were even made to do away with the juvenile court entirely. Similar to previous changes in the adult criminal system. Juvenile codes across the country were revised for the purpose of enhancing public protection through determinate and mandatory sentencing. . . reforms that were embraced 10 years earlier were replaced by a system stressing accountability, punishment and incapacitation. (27)

By 1995 at the height of the super predator panic it appeared to many the only thing that could save society was the further punishment and incarceration of morally depraved youths who were violently taking over the nation's streets. Unfortunately what was not being discussed openly were the research findings being produced regarding the causes and treatment of serious, violent and chronic juvenile delinquency . . . Essentially Juvenile Justice was being revived in a way that emphasized doing things differently from the crackdown and get tough approaches. Overall during the past decade those in the field of Juvenile Justice and delinquency prevention have stressed the use of scientific research reducing risk factors and enhancing protective factors in families, schools, communities and within children and youths; providing treatment and rehabilitation programs that focus on risk and needs assessment; matching high risk youths and offenders with structural services to improve behavioral and social skills and supplying well designed community based programs, smaller and

and more treatment oriented correctional facilities and enriched aftercare services. Much scientific evidence exists to support these practices, and at the same time that these approaches have been taken delinquency and youth violence have declined to levels representative of the early 1980's (That is the start of the get tough movement in juvenile justice.) (27)

Similar to the rest of the nation, Pennsylvania experienced a sharp decline in youth violence since the mid 1990's. Rather than the onslaught of Juvenile super predators that was expected, fewer violent youths entered the system. . . The D.O.C. has never received more than 97 inmates under the age of 18 any given year, from 1999 to 2002 fewer than 50 Juvenile offenders were committed each year to the State adult correctional system; these numbers are virtually identical to those of the mid to early 1990's. (27)

The provo experiment ran community based intensive treatment program comparing random groups on probation vs. those institutionalized in a training school found both community programs and institutionalization as an effective deterrent to offending. Arrests were reduced by 25% for those institutionalized and by 70% for those who remained free in the community. (27)

Murray and Cox examined Chronic delinquents in Illinois concluding "While it appears that doing something is better than doing nothing." for eliminating recidivism, the studies suggests that differences in "something" may also yield difference in recidivism rates. Specifically two years of court supervision with community treatment is superior to any other sentence examined in this study for eliminating and prolonging recidivism. On the other hand sentences involving detention should be carefully considered in relation to the types of delinquents they may be effective on. Failure to make such consideration could serve to inflate aggregate recidivism rates. While such sentencing may be inconsequential for specific deterrence in some cases, it can actually be damaging in others. (27)

You don't say? A study in Massachusetts that: Since the early 1990's Mark Lispey has been conducting and reporting on large scale meta-analyses of juvenile treatment programs, which allows for the systemat and statistical summarization of program evaluation results. His initial findings based on nearly 400 studies revealed that juveniles in treatment programs exhibited recidivism rates about 100% lower than those of untreated youths and the most effective programs produced up to a 37% reduction in recidivism. . . In his more recent work he focused on the treatment of serious and violent youth. Where on the basis of 200 studies, he found an average recidivism reduction by 12%. More effective programs, however, were found capable of reducing recidivism by as much as 40%. Lispey results also indicated that treatment effects for serious and violent youthful offenders were similar for both those institutional and non-institutional programs. Furthermore intervention typically is more effective for more serious offenders than for less serious offenders and program characteristics, emerged as the strongest predictor of treatment effectiveness for the institutionalized youths. Overall institutional programs that were found to produce the largest treatment effects were focused on building interpersonal skills and providing cognitive behavioral training, and those offered in smaller community based residential settings and supplying multiple services, these findings are supported by other studies done during the same time period that suggest that rehabilitation can work if programs to get higher risk offenders as well as crime producing factors and needs that can be changed (27) were employed.

All of the research I cite from David L. Myers predates even Roper vs. Simmons. Myers made these arguments while we still faced execution. In eight years since "Boys among Men" the success of juvenile offender treatment has only improved.

(28) In 2013, The Times Tribune reported the results of a benchmark study to "measure of the states juvenile justice enhancement strategy." Pennsylvania started implementing evidence based practices and other elements of the strategy in 2010. The deputy District Attorney Frank Castellano (who handles Juvenile Cases) said: "That is showing that three quarters of the young people who come through the Juvenile justice system are taking advantage of . . . the care,

treatment, rehabilitation and programs that the juvenile court has to offer." Lackawanna County's 25% recidivism rate was second to Wyoming County at 28% according to the Pennsylvania Juvenile Court Judges Commission.

So what is my point here? Juveniles that are serious offenders are not only as responsive to rehabilitative treatment, as less serious offenders, they demonstrably benefit more from the intervention. But youths are treated as fully formed adults, prosecuted to the fullest extent allowable by law based on the seriousness of the offense and denied the treatment they are proven most receptive to. Our rehabilitation is sacrificed to the concept of Deterrence to justify retribution over rehabilitation.

David L. Myers also detailed this: It is commonly assumed by policy makers and the public at large that treating juveniles as adults will reduce overall juvenile crime. (That is have a general deterrent effect.) This expectation of greater deterrence is based on the perception that juvenile courts are too lenient and that Criminal Court can provide increased accountability and stronger punishment, which will reduce youthful offending. Unfortunately the anticipated deterrent effects of Juvenile transfer after have not been uncovered by research. (27)

Simon Singer and David McDonald evaluated the effect of the legislative waiver laws comparing data between Philadelphia and New York from 1974 to 1984. The results showed little measurable effect on juvenile crime and this did not produce the deterrent effect expected by policy makers.

Eric Jensen and Linda Metzger made similar findings studying Idaho's waiver law using Montana and Wyoming found that crime increased significantly in Idaho following the enactment of the law but decreased in the comparison states suggesting the new deterrent law had no deterrent effect.

Edwin Risler, Tim Sweatman and Larry Nackerud assessed Georgia from 1992-1995 that there were no significant reduction to arrest rates for the specified waiver offenses suggesting the law did not reduce serious Juvenile crimes.

Steven B. Levitt argued a decline in crime rates with transition to Juvenile court by almost 25%. David L. Myers added these suggest a moderate general deterrent effect but these effects may be small or non-existent. And in fact David L. Myers concluded in his own investigation. Youths transferred to adult court displayed greater, more serious and faster recidivism than did offenders retained in Juvenile courts and he finds no evidence of a specific deterrent effect from Juvenile transfer to adult court. (27)

So the adult system does not fix the juvenile system yet as Myers points out this practice of transferring older juveniles even if they lack a violent offense or substantial offending history is unquestionably influenced by a perceived need for longer sentences, than are available in the juvenile system, and previous arguments have been made that waiver should occur only when an appropriate term of confinement greatly exceed the period available in juvenile court. Many may feel though, that even very young violent offenders should be transferred because of the finite ability of juvenile courts to maintain custody and supervision. (23)

However other options exist and should be further explored and studied. Although there are exceptions, most states use 18 as the age at which Criminal courts receive jurisdiction over young offenders. However, almost all states also define a maximum age greater than 18 for which the juvenile court retain custody and supervision beyond the original age of jurisdiction. Juvenile courts in most states can retain control to age 21 but in a few (California, Montana, Oregon and Wisconsin) The Juvenile court can retain jurisdiction for certain offenses to age 25. (27)

. . . Rather than waiving increased numbers of juveniles, both young and old, to adult court, an alternative in most states would be to raise the maximum age at which the Juvenile court can retain jurisdiction (that is to age 24 or 25.) This option would allow for lengthier confinement and supervision when needed and would avoid many of the adverse consequences and negative outcomes associated with sending youths to Adult court. Furthermore, raising the maximum at which juvenile courts can maintain jurisdiction would be in accordance with the fact that crime,

including violent offending, peaks by late adolescence and declines thereafter. It only seems logical then that Juvenile court should be able to keep control of known offenders into young adulthood rather than cutting them loose at a time when they are most likely to break the law. To fully implement this approach however would require a greater investment in youths and the Juvenile justice system and likely a shift in some funding and resources devoted to dealing with young adult offenders in the Criminal justice system (27)

So the stricter sentences serve no deterrent effect value yet only remain because Juvenile courts, jurisdiction is until the age of 21 so they forget all of youths potential for rehabilitation altogether? Why does this generation gap have to remain a bottomless pit? Is it really so inconceivable that this divide can be bridged? There is a universal behavior modification theme throughout the state system under the predicate of positive reinforcement. If we go along with the program and behave we have the opportunity to work, go to school, go to the yard more, TV, Radio, Cigarettes, Coffee and if we step out of line we are punished we are sent to the hole and deprived of all but the bare necessities and must work our way back up all over again. The more of a problem you pose, if you don't learn your lesson you are placed under a much stricter program and must remain locked down until you are segregated a few years from the general population.

The structure in place works. Especially on lifers who may think they have nothing left to lose until the state demonstrates otherwise. After they give up any hope of release, they start hoping for the little they can have here as an alternative to nothing in isolation. You can earn permanent solitary confinement if after many chances you refuse to go along with the program or lash out severely. Think of Guantanamo Bay and what happens if you are labeled a terrorist. This is the State Correctional rendition.

There is currently a nationwide movement to stop solitary confinement in the name of cruel and unusual punishment, insisting it has debilitating mental effects. Which is considerable I am aware of the suicides, and <sup>accal</sup> our vents being welded shut in an effort to suicide proof them so we couldn't hang ourselves no more and more counselors made visits to check up on us than usual.

I don't think solitary confinement is cruel and unusual punishment and it should not be abolished. As long as the prisoner has a realistic chance of release to population. Solitary confinement is an integral part of the foundations of Penology and as it is called a penitentiary after all it is meant to inspire penitence in solitary reflection. In other words to think of what you have done. Our Forefathers elected the penitentiary to answer the public outcry for justice instead of putting us to the stocks or being scourged in public.

Alexis D. Tocqueville said on the subject: Thrown in solitude [The convict reflects] placed alone, in view of his crime he learns to hate it and if his soul not yet be surfeited with crime and thus have lost all taste for anything better, it is in solitude remorse will come to assail him.

Studies have shown mental deterioration begins after 3 months in solitary. Call me crazy, I have done 13 times that straight and 17 times that altogether. (The early years I have not had any misconduct reports in 7 years.) I didn't lose my mind. I gained the opportunity to be alone with my thoughts for the first time, even before I was arrested to really get my head together I lived and relived my life over and over again.

Alone. Not with what they say I am. Not with who I am trying to be. With who I am. No mask. Just a mirror. I faced myself. What went wrong? How did I get here? Sure I haven't done anything violent, but I am still making mistakes. I may not be hurting others but I am still hurting myself. That's not because of my brother. Josh. Jessica. Mom. It's because of me.

They told me when I got put on Administrated Custody that I demonstrated behavior that demanded more structure in my correctional plan. I was reviewed every 90 days by the Program Review Committee (P.R.C.) and my request to be in population was met with a new opportunity for reconsideration in another 90 days. And so it went every

90 days the next couple years. I had a neighbor that had been in the hole since I was 12. Many have been there far longer.

I did not want to be there so I examined how I ended up there to avoid coming back to the hole again and again. Just as the benefit of reflection illuminated how we got in trouble, I could trace back all the snowballs I let turn into avalanches in my life. In prison I still made the same mistakes I did outside, inside here. Caring about people without a care for myself. Putting myself in harms way for the wrong people over and over again. Then bemoaning their lack of loyalty and integrity, virtues I deny myself and foolishly expect others to respect someone who does not respect himself.

While I was still trying to fight my case I indulged destructive habits that betrayed wanting to do better. I am losing too much time being incarcerated to be smoking the rest of my life away. I had to quit. I was throwing my life away still. I was still uncontrollably timid and my reticence subjected me to all manner of speculation here. Still so over eager to please everyone I still overburdened myself getting taken advantage of like it was a sacrament.

Beside myself trying to get a grip on myself and finally break this self destructive cycle. I was chewing my nails to the quick. Yet chewed more out of impulse. I remember someone advising me to quit because people read it as a sign of weakness. I thought worrying about what other people thought was weak and kept chewing. Then I considered how its a fact under your finger nails is the dirtiest part of your body. They say quitting cigarettes is harder then quitting drugs and quitting chewing your nails is harder still. Cigarettes weren't allowed in solitary but my lack of will was ever present. I drew a correlation between the bacteria under my nails to the poison I inhaled into my lungs. Both willingly despite knowing the threat to my health. From there I recognized chewing my nails as the only vice I had access to and identified it as addiction and therefore my enemy. I spent days literally staring down my hands in between whatever else I was doing, catching myself sometimes, other times I didn't, but always made progress until I finally mastered myself. These first steps led me to outrunning cigarettes, drugs, hooch, Anything I wanted not to want.

I accomplished all that in my first few months of solitary, and have been putting it into practice for years. I'll spare you the part where I plug yoga and meditation or any spiritual ideals lest I be accused of playing the God card, you know seperation of church and state and all that. But no matter what your beliefs. You have to look within yourself at some point and take stock and inventory. You can't sigh about being bored forever. Eventually you get bored of being bored. I know the detrimental effects of solitary and do not seek to discount anyones deterioration. I am advocating the strength to overcome it. It is sensory deprivation but delirium is navigatable. I was delirious when Peppermint used to hang out with me in solitary playing the Tinkerbelle to my Peter Pan in this never-never land. I haven't seen her since 2003, it wasn't real, no more than a dream perhaps but where a dream can lift you up you can awake from the nightmare as well.

It's your choice to go crazy as much as it is to be bored. This could happen only if you give yourself over to <sup>external</sup> eternal forces. You can't look to someone else, or something else to distract you forever. Life goes on everything else is a temporary fix that creates a permanent dependency. Eventually fun gets boring, and feeling better becomes just feeling something and you blame your frustration on the failure of one of these factors when really your frustrated with yourself. Your not going to find what you are looking for outside of yourself, it comes from within. And you owe it to yourself and the world because after all if you can't even deal with yourself how can you reasonably argue anybody in society should have to?

Once you resolve the problems within yourself, you can easier resolve misunderstandings with other people. Many of us have a sense of entitlement but the truth is the world does not owe us anything. If you really want anything it is not going to just come to you. You have to go get it. If you don't give yourself a

chance no one else will. Do not seek validation from outside of yourself instead let your actions speak for themselves and time will tell the tale for you. Just because no one cares is not an excuse not to take care of yourself. It gives you all the more reason to. The better you take care of yourself, the better you can take care of others. So as for the argument you lose your mind in solitary confinement I respectfully dissent. I have never been in more possession of it.

There is a structure in place already. And it does work. Why not allow the D.O.C. to expand on it's success of incentive based programming? What greater incentive is there or greater prize than to regain our freedom? A lot of people call prison a school to make us better criminals, but alot of criminals don't know how to make themselves better and being given up on is hardly an incentive, we should be engaged and stimulated not abandoned and irritated. Even with no one willing to rehabilitate us, we rehabilitate ourselves. When will the system be rehabilitated?

Myers: There is proof that incarcerating large numbers and many types of offenders prevents them from committing crimes and leads to some overall crime reduction. Studies however suggest that this approach in the United States the past 20 or 30 years has reduced crime by only about 10% to 20%. While costing billions of dollars. (27)

But that not even a quarter percent is adhered to against the 75% success rate of rehabilitating Juvenile offenders, not to mention the almost Nil recivism rate for convicted killers of any age bracket. These laws are a backlash from a prediction that never came to pass. Historically Empirical data even of the highest order and precisest accuracy trying to predict future events have and often do fail.

Just ask Scientist Lawrence E. Joesph?-"Ancient Mayan Astronomy is anything but oojie-Boojie. It is a staggering intellectual achievement. Equievalent in magnitude to ancient egyptain geometry or Greek philosophy. Without telescopes or any other apparatus Mayan astronomers calculated the length of the lunar month to be 29.53020 days, within 34 seconds of what we now know to be it's actual length of 29.53054 days. Overall the two thousand year old Mayan calendar is believed by many to be more accurate than the five hundred year old Gregorian calendar we use today."

They also documented the Black hole in the center of our Milky Way galaxy and could overall forecast quite the mean horoscope. The point of tallying up these points was their prophecy the world was going to end on December 21st 2012 at 11:11 Greenwich mean time. Eh, we're still here just like us Juvenile lifers are still in here after our government footed the bill for the doomsday bunkers we still inhabit thanks to their prophets of Doom, despite their prophecy of super predators that never materialized. If you let us go it's not going to be the end of the world.

Why was the response to this super predator panic to arrest them once they hurt somebody. Wouldn't reasonable intervention include a prevention plan and not a clean up crew? Just because they wash their hands of troubled youth until they are under the States jurisdiction, is all the justification they **need not** to take responsibility for them when they are in custody? While such "Logic" rules our fate, our reasoning is outright unacceptable in court. We can be convicted on circumstantial evidence but we aren't able to introduce certain circumstances as evidence, and being tried as fully rational adults the threshold to argue situational factors difficult to introduce as an adult **degrades the** relevance of diminished capacity in responce to peer pressure for instance, which law discounts but psychology has been expounding upon.

Phillip Zimhardo has researched situational factors that lead to trouble **and** found: Peer pressure has been identified as one social force that makes people especially adolescents, do strange things -anything- to be accepted. However the quest for the inner ring is auctured from within. There is no peer pressure power without that push from self pressure for them to want you. It makes people

willing to suffer through painful, humiliation initiation rites in fraternities, cults, social clubs or the military. It justifies for many suffering a lifelong existence climbing the corporate ladder. This motivational force is doubly energized by what C.S. Lewis called "the terror of being left outside." This fear of rejection when one wants acceptance can cripple initiative and negate personal autonomy. . . The imagined threat of being cast into the out-group can lead some people to do virtually anything to avoid their terrifying rejection. (29)

Motives and needs that ordinarily serve us well can lead us astray when they are aroused, amplified, or manipulated by situational forces that we fail to recognize as potent. This is why evil is so pervasive. It's temptation is just a small turn away a slight detour, on the path of life, a blur in our sideview mirror leading to disaster. (29)

Zimbardo cited Ross and Shestowsky's work "Contemporary Psychologys Challenges to legal theory and practice" in which they challenge: . . . A logically coherent account of behavioral causation would compel us to treat transgressors with more compassion than they typically receive. More specifically we argue that such compassion is required once we acknowledge that our resort to punishment rather than education, therapeutic intervention and attempts to change the situational factors that attended the offenders transgressions is a reflection of our current lack of insight and resolve—insight about the way biological and situational factors interact to determine behavior, and resolve to find interventions that "work." (19)

An important truism of social psychology is that people respond not to some objective reality, but to their own subjective interpretations or definitions of that reality. . . variability and unpredictability in behavior, including the behavior of those who subject to our legal system and the response of those who are called upon to deal with transgressors. . . less exceptional cases simply involve wrongdoers whose misdeeds likely would not have occurred in the absence of immediate peer pressure and the particular (norms) endemic to their subculture or social situations. Again our point is not that the wrongdoers in these less exceptional cases did not have the capacity to act otherwise as indeed many actors in the same situation did. Rather it is the consideration of mitigation in determining appropriate punishment and treatment in such cases should be based on a full appreciation of the power of the relevant situational forces and constraints which convincing social psychology research suggests is in fact underestimated by most people in our society. (19)

(19). . . What implications would a more situationist view of human behavior have for criminal law? We have already mentioned the possibility of educating or debiasing the people who play a role in our justice system in a way that makes them more willing and able to consider the power of situational determinants in formulating policy preferences and rendering judgements in particular legal cases. The situationist perspective also has obvious implications for those who seek to reduce crime although the relevant reforms are easier to advocate than they would be to implement. Most importantly, an appreciation of social psychology's situationist message would lead society to do more to address the classic environmental factors implicated in crime such as child abuse and neglect, lack of education and job opportunities, absence of appropriate role models and malignant peer group influences. This message also implies that society should do more to strengthen the influence of family, church, school, community and other institutions that can serve to constrain potential transgressors.

As we all know no such intervention happens as is, so kids amble down the wrong paths with as much care for the world as the world has extended to the child. In gaining their grasp of the world, they trust only their interpretation against someone feigning concern which mostly comes off as someone passing judgement. So you only trust yourself and what you know and what do you know, youths put their trust in the wrong thing alot. But criminal justice these days shades truths as excuses and balks at them to ignore the responsibility to intervene sooner.

(19). . . Ross and Shestowsky ask us to "Consider, the likely success of an excuse that cited a particularly incendiary speech, even one to which the listener has been

exposed by accident rather by his or her choice. Or consider the taunt of a peer who questioned one's courage," Why does this sound familiar? Hmm. . . Could it be reminiscent of Eddie responding to Justina's accusation that he bitched up? The first time she took Jason there and he told her to get back up there and hit him first to avoid being emasculated by the girl he just lost his virginity to let alone, stand that humiliation around me who picked on him in high school and who he could expect to talk shit to him in to get some entertainment when we get high that night. These defenses have not been abandoned as Ross and Shestowsky show.

Legal scholars have made a valiant effort to explain and justify the basis for distinguishing legitimate and illegitimate excuses, giving emphasis to issues of exercise or lack of exercise of free choice, and capacity or lack of capacity to recognize and act upon moral norms as well the legitimacy of the norms themselves. . . A couple of examples may serve to clarify the relevant distinction. Most jurors, we believe are willing to give weight to evidence of spousal abuse, or even the immediate fear of such abuse, in the case of a criminal act committed against the abuser. . . Moreover, jurors would treat such evidence as mitigating despite the fact that only a small minority of individuals who have suffered such abuse go on to commit such offenses. By contrast we suspect that neither jurors nor legal scholars would treat evidence of strong and malignant peer group influence as mitigating. . . (19)

Conventional Psychological analysis proceeds from the truism that behavior is a product of both the PERSON and the SITUATION, or more precisely, that behavior is the product of the interaction between personality and situational characteristics. . . In general it appears that where one can stipulate the nature of the malignant causal agent or factor and postulate a direct link from that agent or factor to the transgressions in question, especially if the actor did or did not choose to expose himself or herself to it, the excuse is typically deemed to be a good one. By contrast if one cannot stipulate the typical causal processes and the link or the multi-link chain that led to a particular deed, even where the actor is similarly innocent of having chosen his or her exposure to the initial links in that chain that, we tend to attribute to free will and hold the individual accountable. (19)

Maybe I'm not a good man now, or I was just a bad kid but whatever I am. I am human. I did, not know what was brewing in the cauldron. If I had known, I would of had a different reaction. I wasn't paying attention to everything I had so much else going on. I know what I saw. I had to watch my Brother fall apart after his child was taken from him. I had to watch him embrace heroin, while the Mother of his unborn child tried to embrace me. I wasn't there for him when he needed me before. I didn't want to let him go to jail. I already had to watch him fall apart, I couldn't watch him disappear. This wasn't my plan. This was a reaction, that was part of a chain reaction set off not by evil. By ignorance. Where I could not see once, a blind eye gets cast on us forever? For us to be caught up in a madness we could not anticipate because we were so out of it. Not only is it unacceptable it makes us super predators?

Lawmakers maintain that peer pressure does not excuse wrong doing. Is it not true not only youths are subject to peer pressure but adults too? Not just adults who are supposed to be more responsible, but adults who are the leaders of the free world that take away our freedom? Do they not succumb to peer pressure when they don't want to appear "soft on crime." I mean granted the lawmakers aren't killing anybody. No instead they just bury us alive in these periwinkle sarcophuges. No that's not murder it's beurecratic genocide. Peer pressure is not an acceptable defense yet it determines public policy.

Is wanting to look "tough on crime" so you get the vote, really so stark a different motive then how far Eddie went to not look "soft" to Justina? Is it so far gone a conclusion that albeit they are different extremes on the spectrum they derive from the same impulse? Misguided definitely but it is the same undercurrent. It is not an isolated psychological phenomenon and left unchecked it can become palpable.



The politicians tell themselves they are doing justice but just because we did something wrong does not make this right. They tell themselves their doing it for the victims, while we are their victims. In fact many don't even believe in not only sentencing youth to prison for life, but life in prison or even mass incarceration and openly admit fearing to fight it, citing "Political suicide." They can't even take up the given plight of anyone under 18 at the time of the offense, a practice no where besides America/ Somalia accepts while condemned by the rest of the entire world. If you care nothing for our dignity what about the countries dignity?

If we are the "super predators" why does it feel like we are the prey? We are labeled while politicians avoid a bad name themself. As if in doing this may not get the politicians a good name but it would be worse to defend us and get a bad name. I don't have any such conflict none of you deserve credit for not standing up against something you don't believe in, your as wrong as the people who push for it. You violate our rights. You violate us. You pervert justice and tell yourself it's just politics to violate the children you are holding. You are Political Pedophiles. I know I'm defying social convention and resorting to Ad Hominem is no proper way to advance an arguement but somehow I doubt Ben Franklin got anywhere during the revolution praising the crown.

Ross and Shestowsky great work and plea to enlighten criminal justice and return rehabilitation from the dark implores that:

The present Authors would prefer to admit, that we as a society, are in the business of controlling human behavior that we deem dangerous or offensive to our individual or collective well-being. When we know how to end particular transgressions on the part of particular individuals through medical or psychiatric training, through counseling or education, or through other forms of rehabilitation, we should not hesitate to do so anymore than we would deny treatment to individuals whose anti-social behavior can be traced to purely medical maladies and misadventures. When we do not know how to achieve such control through more benign treatment of offenders, we must take it upon ourselves to impose, effective sanctions, to isolate the offenders from those whom they could endanger, or to otherwise limit their freedom in order to reduce the relevant risk. (19)

Even in the latter case, however, the justice of exacting retributive punishment on individuals whose dispositions and behavior we do not know how to change is at best questionable. A more just and appropriate course of action would be treat them as humanely as possible and as consistent with achieving the necessary measure of control, perhaps as we would treat someone who suffers a currently untreatable communicable disease that would pose a serious threat to those with whom the patient comes into contact. That is, we should consider depriving these individuals of the normal comforts of liberty only to the extent that is required for our own protection. (19)

Medical Science and pratice take advantage of new discoveries about what goes wrong with the mind and body, and while it seeks to educate the lay public, it does not wait for such education to take full effect before it adjusts it's modes of treatment. Surely legal practice and theory should do likewise. . . The laws resistance to creating more humane institutions and using more empirically validated interventions to deal with criminals are examples of how unreceptive the law is to science and reality (19). . . Accordingly this insight speaks both to the issue of how we should logically distinguish among degrees of personal responsibility or culpability for criminal acts, and the related issue of how we should deal with perpetrators. . . . (And) societys options in dealing with those who have committed crimes, especially those who we have reason to believe are at relatively high risk for committing crimes in the future. (19)

To some extent, the issue at hand is how to determine when society ought to apply the norms that characteristically govern the social contract existing among strangers and when it ought to apply the norms that generally govern our dealings members of ones family or circle of friends. The former involves treating people as

we feel they deserve to be treated, with even handedness and with heavy weight given to the relevant actor's ability to anticipate the consequences of their actions. The latter, by contrast involves treating people in accordance with their needs, and doing so in light of their personal strengths and weaknesses and of the exigencies of their particular situations. (19)

In practice the issue is not an either/or proposition as much as it is a matter of striking an appropriate balance between the two goals or standards. "Good" parents who find that one of their children seems to be thriving in the public school environment and demands little attention, while another is disruptive, unmotivated, and unable to master the third grade curriculum, are apt to adopt child-specific situational remedies. (19)

Ross and Shestowsky are calling for this change not in the juvenile system, but for the entire system, including adults arguing they can be rehabilitated but for the lack of will of the justice system they are not. The plight of over populated prisons and recidism that earns the prison system's being regarded as having a revolving door is not improving under the status quo.

Remember the research of David L. Myers comparing youths who undergo transfer to the Adult system, fail far more significantly in comparison to the rising success of rehabilitation treatment received in the juvenile system. Maybe the elusive answer to address offense against society is not to treat children as fully developed adults and maybe treat adult offenders like children and recognize the potential for personal growth, No matter what stage of biological development. Does it really offend the imagination to suggest? After all are we not in the States custody? Could the state not adopt "Parens Patriae" and correct the failure of the neglect and abuse that creates social misfits? And take care of it's citizens if they need help and not hold them as helpless because their abandoned.

We are already here. The structure is in place. The incentive based infrastructure need not be limited in here to if we act up we have to go to our room and aren't allowed to play with our toys no more. Why can't it not realistically be the first steps toward earning release?

The system as well as the prisoners will have to realistically rethink things. For all the prisoners that want to go home we have to understand our mistakes and how to benefit from the correction . Prison can be more than a setback it can be a step forward.

If we can follow the rules to stay out of trouble in here. We can follow the rules to stay out of trouble out there. Are the rewards not greater? This experience is something, if released I could not shrug it off so easily. We work for .19¢ an hour in here. You think we can't live off minimum wage? There are too many ways to make money legally than to resort to crime. Instant gratification of a quick score now has long term consequences you should know by now and if prison doesn't teach you patience then there is no saving you. Personally, I would rather work a nine to five than do a five to ten.

The results of the data presented are not news. The same people holding us here as they let the world fall apart deny the ones they detain the opportunity to pull them selves together. It's not even a matter of if we can. Many of us already have. If that is not taking accountability for our crime. What is? All that remains is retribution and incapacitation. That only you can improve upon because we are doing everything in our power. The rest is out of our hands none of this is hopeless. The intervention has already been made, our motivation is already primed to positive reinforcement through intense incentive based behavior modification. None of us. Nor this system is so broken as to be irretrievable. We have to come together for the common goal of you to help us. If our crimes are not cries for help we are asking now. If you do not wish to help we are not what is wrong with the social system. You are.

## CHAPTER ■ 12

"A boundary always has a lower dimension than the object it bounds."

-Lisa Randall

This past July the New York Times reported: The prison population in the United States dropped in 2012 for the third consecutive year, according to Federal Statistics. Criminal Justice experts say it is the biggest decline in the nations recent history. Signaling a shift away from an almost four decade policy of mass imprisonment. The number of inmates in State and Federal prisons decreased by 1.7 percent to an estimated 1,571,013 in 2012 from 1,598,783 in 2011, according to figures released by the buereau of justice statistics, an arm of the justice department. Although the percentage decrease seemed small the fact that it followed decreases in 2011 and 2010 offers persuasive evidence of what some experts say is a "sea change," in Americas approach to Criminal punishment. "This is the beginning of the end of mass incarceration" Said Natasha Frost. Associate dean of Northeastern school of Criminology and Criminal Justice. (30)

. . . In recent years tightened state budgets, plummeting crime rates, changes in sentencing laws and shifts in Public opinion have combined to reverse the trend. Experts said the continuing decline appears to be more than a random fluctuation. "A year or even two years is a blip and we shouldn't jump to conclusions but three years starts to look like a trend." Says Marc Mauer, Executive director of the sentencing project he continued, "The rates of inmates incarcerated in the United States continued to be "dramatically higher" than in other countries and the changes so far were relatively modest compared to the scale of the problem." (30)

. . . Most observers agree that the recession has played a role in shrinking prison populations. In 2011 and 2012, at least 17 states closed or considered closing prisons partly for budgetary reasons, representing a reduction of 28,525 according to the sentencing project. . . . Dropping rates over the last 20 years have reduced public fears and diminished the interest of politicians in running tough on crime campaigns and public poll consistently show that Americans are now more interested in spending money on education and health care than on building more prisons. Professor Frost adds "People don't care so much about crime and its less a political focus." (31)

. . . The result has been an unusual Bi-partisan effort to reduce the nations reliance on prisons with groups like "Right on crime" devoted to the "Conservative case for reform" pushing for lower cost and less punitive solutions than incarceration for non-violent offenders. Marc Levin senior advisor for Right on crime described the change in conservatives position on parole violators: It used to be "Trial'em, Nail'em, and Jail'em" he said but theres been a move to say "Yes theres a surveillance function but we also want them to succeed." (30)

Adam Gelb, director of the Pew charitable trusts, public safety performance project said. "They're not simply pinching pennies, policy makers are not holding their noses and saying we have to scale back prisons to save money." The states that are showing drops are states that are thinking about how they can apply research based alternatives that work better and costs less. (30)

Pennsylvania is no exception, When Governor Tom Corbett took office and apointed John Wetzel Secretary of Corrections together they have taken Pennsylvania from outsourcing the excess inmates to other states prisons they had closed down (Michigan and Virginia) to correcting rehabilitative services available to not only facilitate releasing people to control over population but to move more progressively towards succesful reintegration. Not leaving prison to be the last step in rehabilitation, but the first one.

The Times Tribune reported: The Corbett administration conducted a "stunning and brutally honest study" that found that prisoners who are released to half-

way houses are more likely to return to prison- a whopping 67 percent within three years of release. Then those who are directly released from prison, 60 percent in three years. Residence in a halfway house typically cost two thirds of what it cost to house prisoners in state prisons. But the eleven percent difference (seven percentage points) in recidivism rates more than wipes out those savings. (32)

of a The administration deserves great credit for the study because it flies ~~off~~ in the face of a major state initiative that is in keeping with Gov. Tom Corbetts philosophy of privatizing Government functions. Pennsylvania now has contracts with 38 privately operated centers for which it pays \$110 million dollars a year. As Corrections Secretary John Wetzel acknowledged in an interview with the New York Time. "The system has been an abject failure." Mr. Wetzel who has visited all of the public and private halfway houses statewide, has said the focus has been on filling beds rather than on programming to fullfill the half way house concept of helping inmates make a succesful transition back to society. In response to the study the administration plans to tie contracts to outcomes rather than to merely housing inmates. (32)

The New York Times reported the citing of Wetzel's groundbreaking study to inspire the same ambivalence towards New Jersey's failing halfway house system. (33)

The Times Tribune concludes: The comprehensive study and the administrations straight forward it finally holds the prospect of moving the recidivism percentages in the right direction. The Corbett administration has been a leader in using innovative methods to reduce inmate populations and their attendant costs. (32)

So it begs the question what other alternatives are available to explore to reduce the prison populations for the administration to consider:

The Times Tribune shined a light on another possible avenue in their editorial opinion "Its criminal not to expand health care." Multiple independent studies have detailed the favorable that expanding health care access under Medicaid would have in Pennsylvania if the state government agrees to the program. Medicaid expansion is one of the principle means by which the Federal affordable Health care act. Would increase coverage beginning in 2014. Under the law the state government picks up 100 percent of the increased costs at the outset and the state government would contribute just 10 percent after three years. Its a great deal at the state level. It would infuse nearly \$4 billion a year into the Pennsylvania economy, boost healthcare, employment and help struggling hospitals achieve solvency. (34)

Lackawanna Judge Michael Barrasse who was recently honored for the success of his Drug and Alcohol treatment court, (35) at: a rally hosted by the National Association of Drug Court Professionals, who criss crossed the country since April (2013) to recognize succesful treatment courts. Association spokesman Chris Duetsch told the crowd before awarding Judge Barrasse and his treatment court colleauges Judges Trish Corbett and Vito P. Geroulo. Deutsh said "These are the communities we must highlight because we believe that anyone who saw this here today and who see's what goes on in any of the courtroom's in this country would demand that they have one in their hometown. (35)

Judge Barrasse say's it's success is due to counselors, police, public defenders non-profits and the people who work the program to try to better their lives - not just him. "This award is really to each one of you that have taken it seriously, that have made the changes in your life. We thank you. Your family thanks you. And as we move forward please have the courage to keep using the tools." (35)

So, Judge Barrasse is well qualified to suggest the reasoning he offered to expand health care. Is the role it would play in reducing crime. Especially recidivism in former inmates he testified before the House Human services

committee that alcohol or drug addiction or both played a role in crimes committed by about 80 percent of inmates, and that about 45 percent of these offenders become recidivists. (34)

He appeared with Deb Beck, executive director of the drug and alcohol service providers association of Pennsylvania, who testified that "800,000 Pennsylvanians needed treatment addiction last year, but only about 67,000 received it," The implications are clear. Expanding Medicaid coverage would enable broader access to treatment services, thus reducing the role of addiction in driving criminal conduct. Not only is the Medicaid proposal a good deal for state government on its own merit, it has the potential to reduce incarceration costs and the economic and social costs that go along with imprisonment. (34)

George M. Leader, the 36th Governor of Pennsylvania and Matthew J. Broulliette, President and C.E.O. of the Commonwealth Foundation are members of a coalition pushing for "real correctional reform right now" for Pennsylvania to reduce the expense of mass incarceration on the Commonwealth of Pennsylvania. Their recommendations cite success stories from other states.

They use the Hope court (Hawaii's opportunity with enforcement = Hope) as an example. How entails a regimen where Drug offenders are ordered to treatment and must call everyday to see if they must report to court for a drug test. Failure can result in jail time. This model has reduced positive drug screens by more than 70 % and cut both revocations and new arrest in half, saving on overall costs.

I'm sober. They could give me an urinalysis everytime I had to go for all I care if it meant I don't have to live in a bathroom anymore. They go on to make more constructive recommendations in their article "Pennsylvania Prison Reform:" Taxpayers need a break, presenting their 2012 budget challenge.

They recommend a policy of graduated sanctions for probationers and parolees where each technical violation (not a new crime) is met with a swift and certain response - such as increased reporting, a curfew or even a "shock night" in jail - can reduce revocations. Alternative punishment for technical parole/probation violations such as missing appointments would be better utilize prisons.

Also recommended is Front end Actuarial risk assesment to integrate such assesments into the sentencing process in order to sort out high risk cases requiring prison vs. lower risk cases that may be better managed in alternative diversionary options outside of prison.

Other notable recommendations include. Good time, Earned time and also citing the success of drug courts as well as mental health courts, D.U.I. courts and Re-entry courts that should all be fully utilized. Their final recommendation was increasing the use of technology. This is where I will jumpoff to exploring this on my own, all their recommendations are for non-violent offenders and I do not seek to misrepresent but their data advances my argument.

The LA Times details: Under Jessica's Law, sex offenders in California are subject to G.P.S. monitoring for life. The monitor reports their position continuously to parole authorities; it also sounds on alarm at the parole office if a parolee strays too close to schools, parks or prohibited areas. According to a 2012 report by the National institute of justice, California Sex Offenders who are not subject to monitoring are almost twice as likely to be re-arrested and nearly two and a half times more likely to commit sex related parole violations. (36)

If you happened to read my P.C.R.A. Addendum then you know where I am going with this but I first am going to ask you to think about what we know about the surveillance state the public has already become, even before Edward Snowden watched the Dark Night one too many times and decided to play the Lucius Fox to the N.S.A.'s Batman and blow their cover on gathering Billions of telephone records daily and the internet through PRISM gaining access to E-mail, Audio, Video, Photos, Documents everything gathered and stored together in the

accumulation of meta data.

(37) The New York Times reported: Tracking who Americans are calling, for how long they speak and from where can reveal deeply personal information about an individual. Using such data. The government can discover intimate details about a person's lifestyle and beliefs, political leanings and associations, medical issues and sexual orientations, habits of religious worship and even marriage infidelities. (37)

Daniel Solovo a professor at George Washington University law school and a privacy expert, likens the program to a seurat painting. A single dot seems like no big deal, but dozens together create a nuanced portrait. (37)

Richard J. Alsrich, a professor of international security at Warwick University in Britian told the New York Times "It's no longer people in trench coats tapping our phones. It's about meta-data what the C.I.A. calls the electronic exhaust fumes of our lives and the algorithms that allow patterns to be found. They have a virtual you and me in a bottle kept in a warehouse in Utah and in 10 years time there will be even better stuff. (38)

In a Washington Post-Pew research center poll conducted after the N.S.A. revelations. 56 percent of those polled said it was acceptable. Republican and Democratic leaders in congress and leaders of the intelligence communities remain strongly supportive of the N.S.A. program. (39) As suggested elsewhere why would anyone care? If they don't remember 9/11 did Boston not just get bombed? The N.S.A. revelation is hardly suprising giving the surveillance measures we already live with generally regarded with a feeling it is a safety measure and if you got nothing to hide. You got nothing to worry about.

The New York Times detailed the N.S.A. data mining is part of something much larger. On many fronts we are adjusting to life in a surveillance state, relinquishing bits of privacy in exchange for other rewards. . . In Britian which is probably the democratic worlds leading practitioner of CCTV monitoring, the omnipresent polemounted cameras are being supplemented in some jurisdictions by wearable night vision cap-cams that police use to record every drunken driver, domestic violence call and restive crowd they encounter. New York last year joined with Microsoft to introduce the eerily named Domain Awareness system, which connects 3,000 C.C.T.V. Cameras (including liscense plate scanners, and radiation detectors) around the city and allows Police to cross-reference databases, of stolen cars wanted criminals and suspected terrorists. (40)

Congress has told the (F.A.A.) to set rules for the use of spy drones in America air space by 2015. It is easy to imagine this next frontier in surveillance: Monitoring Forest fires, chasing armed fugitives, search and rescue operations. Predator droned already Patrol our Southern border for illegal immigrants and drug smugglers. . . But where does it stop? Scientific American editorialized "Privacy advocates rightly worry that drones equipped with high resolution video cameras, infrared dectors and even facial recognition software will let snoops into realms that have long been considered private." Like your backyard, or with the kind of thermal imaging used to find the Boston bombing fugitive hiding under a boat tarp, your bedroom. (40)

If being released means the risk of my privacy so be it. I haven't had privacy in a decade but if anyone is going to observe my bedroom in infrared if I ever get out of here should probably wear some Ray-Bans. Fair warning.

The New York Times later added on the domain awareness system that the N.Y.P.D. said it could find a car associated with a possible crime or law breaker and analyze where that car has been seen over the last several weeks. (41)

Seattle bought a new software package known as Predpol, (short for predictive policing) and developed by academics at the University of

California, Los Angeles. It initially deployed the software in two precincts and in May announced its expansion statewide. . . . At the morning roll call at the Seattle Police department the morning roll call begins with Google maps and computer algorithms. A supervising Sergeant pulls up a map of a precinct that is dotted with Red boxes marking the area that the officer should focus on. The map is the product of software that crunches crime data and tries to predict where crimes are most likely to occur over the next few hours. In July they ran a new program to predict where gun violence is likely to occur. . . . The department even procured an unmanned drone with a video camera to take aerial shots. . . . (41)

Another New York Times told us of another new tool being added to the Polices utility belts: The N.Y.P.D. has distributed about 400 dedicated Android smart-phones to its officers, part of a pilot program that the police department began quietly last summer. The phone which can not make or receive calls, enables officers on foot patrol, for the first time look up a persons criminal history and verify their identification by quickly gaining access to computerized arrest files, police photographs and state department of motor vehicle databases. The technology offers extra ordinary levels of detail about a person, including whether the person has ever been a passenger in a motor vehicle accident, a victim of a crime or in one instance a drug suspect who has been known by police to hide Crack Cocaine in his left sock. (42)

According to Officer Tom Donaldson "I tell them I'm going to see your picture. They don't realize we have this technology, they can't tell me a lie because I know everything." The phone application is significantly different from the computers currently installed in roughly 2,500 patrol cars. With the laptops, the internet connection can be slow and spotty in some areas of the city and officers have to log into separate databases with multiple passwords to retrieve information, "With one entry point you can get to a lot of databases quickly" Said Police Commissioner Raymond W. Kelley. (42)

Recently the New York Times also announced: The first mass Amber Alert sent to cell phones in the city since a national wireless emergency system was established and the police later said it directly led to the child being located. . . . The wireless emergency alerts system can reach millions of people. . . . (43)

It will not be long once these are implemented nationwide every data base will be interconnected and cross-pollinating. Factor in Interpol a "Blue Alert" request will be a passport to making the world a whole lot smaller.

The associated press reports Americans are likely in sight of the 30 million estimated surveillance cameras in the U.S. Used to monitor streets, subways, and public spaces; and can take a person through facial recognition (software). He lists the paper trail left behind through the Internet, given access to financial data, travel history, and Political affiliations. (44)

On Drones, the article adds: More than 80 agencies already have approval from the FAA and as many as 30,000 domestic drones will be in the skies above the U.S. within 20 years to provide surveillance from the sky in high resolution. (44)

Believe me I am none too eager to sign up for this but if society could exchange its draconian sentencing policy for an orwellian observation one I am willing as the main character from Anthony Burgess "A Clock work Orange" to undergo any radical treatment if it would mean regaining some freedom. Fun Fact about "A Clock work Orange." The book, originally published in England, then later published in America. Despite being written in the same language, a lot got lost in translation. A lot as in, the last chapter. It was not included, leaving the American audience and judging by Stanley Kubricks film adaption to assume, The main character went on to raise hell after surviving radical rehabilitative treatment. The penultimate chapter ends with the main character Alex declaring "I was cured awright." Where in the actual end of

the tale upon returning home Alex eventually runs into an old member of his team of delinquents, finding they have settled down, got a job and a wife, is inspired to do the same.

I understand if I can't be released back into society without a safety net so I must suggest letting the surveillance Leviathan, letting it sink its teeth into us. Law enforcement is fast moving towards holding the world in the palm of every officers hand. So why not plug us in? In fact there may already be an app for that. Perhaps the new "Hyper intelligent app that alerts you to interesting people in your immediate vicinity" (45) We already know the Police are running a pilot program, how hard could it be to run this app through their data base? Afterall aren't people looking for persons of interest and a vicinity to locate them? What if they already knew where we were, since I suggested injecting a G.P.S. tracker in me. Something more accurate has been developed. Presence Technology.

Wired magazine describes this technology as putting a product on a network of smart objects coupled with the rise of the smart phone has given us a natural way to communicate with all of our smart objects. Nearly 700 million new smart phones shipped last year most of which can communicate with nearby sensors via multiple wireless languages. At the same time, the staggering scale of the smart phones market has spurred manufacturers to miniaturize and innovate driving the cost of all wireless chipsets (both sensors and recievers) down to a pittance. This has created a built-in market for these first stage products - formerly unnetworked items that now deliver simple information to your phone and from there to the cloud - At a relatively minimal manufacturing cost. (46)

Already scores of products have emerged to take advantage of Blue tooth smart, one low energy radio protocol that hit the market in October 2011. They include watches, heart rate monitors and even some Nike shoes. (Which use four built in pressure sensors to send workout data back to your phone.) One project called asthmapolis, uses a sensor that attaches to an asthma inhaler; it maps usage to generate insights into where attacks are likely to occur. (46)

Another rising technology is N.F.C. (short for near-field communications;) visa just announced that it plans to let samsung smart phone users make payments to merchants wirelessly over N.F.C. instead of swiping a card and some billboards are using the protocol to beam content to passerby who ask for it. In the Industrial realm theres a similar dynamic at work, but with even higher stakes. (46)

Massive U.S. Companies like IBM. (Through its smarter planet initiatives) Qualcomm and Cisco all see Ubiquitous Connectivity as a way to sell more products and services - particularly big data - style analysis - to their large scale corporate customers. Chinese manufacturers have much the idea and the Chinese Government is pumping millions of dollars every year into so called "internet-of-things" manufacturing. (46) . . . Global analysts look at all these developments and project that by 2025, there will be 1 trillion networked devices worldwide in the consumer and industrial sectors combined. (46)

Perhaps one of the clearest two sensor example is where one of the sensors is on us. Presence tags low energy radio-id's-that sit on our keychains on our belt loops and announce our location, verify our idenity are what let smart-things system text you wife or fire up your A/C. When you leave the office. It's also the principle behind square wallet and a number of other nascent payment systems including one from penpal and Google. (When you walk into a participating store today, square can let the cashier know your there; you pay simply by giving your name.) For the four legged set. Qualcomm has created a product called tagg, a tracking tool that monitors your pets movements while your gone, estimating its activity levels and alerting you if it strays too far from home. (46)

(Perhaps an assimilation between letting a pet out the kennel while still



keeping it on a leash might<sup>NOT</sup> be too far away?)

Wired continues to describe presence tags superiority to G.P.S. Technology: With G.P.S. we can reliably know our location within 100 feet, give our take, and that knowledge has transformed our lives immeasurably: turn by turn driving directions, local restaurant recommendations, location based dating apps and so on. But with presence technology, we have the potential to know our location absolutely, down to a foot or even a few inches. That means not merely which bar your friend is at but which couch she is sitting on if you walk through the door. It means receiving a coupon for grocery item the moment you walk by it. It means walking through an art museum and having your phone interpret the paintings as you pause in front of them. This simple link between a tag on us and a tag in the world - stands to become the culmination of the location revolution, delivering on all the promises it hasn't quite fulfilled yet. (46)

Dennis Crowley, CEO, of foursquare, the location based social app, thinks of location as a Giant X on Earth that grows smaller as our technology improves. "We want to get down to the point where the X is this big. X marks the spot, its pirates treasure. Already that X is shrinking: on Google maps, you can now navigate inside certain airports and stores, with wi-fi triangulation helping out your G.P.S. (The wi-fi is especially important to distinguish among levels of a multistory building, which G.P.S. is poorly equipped to handle.) But presence tags can simplify that Math, replacing it with a concrete assurance of where we are. (46)

Right now there are multiple efforts underway to standardize how connected objects talk to one another. Two different projects led by big companies - Alljoyn spearheaded by Qualcomm and MQTT pushed by Cisco and others are trying to create something like an HTTP for smart objects, giving them a shared language to coordinate their actions. (46)

Alex Hawkings strategy, by contrast is to make his hub a university translator, deciphering the different types of chatter over multiple wireless protocols and processing it all in the cloud. The smart things hub includes wi-fi bluetooth smart and two mesh technologies called Zigbee and Z-wave that allow each device to extend the network. He estimates more than a thousand compatible off-the-shelf-, but if some new wireless chipset is popular (or HTTP style protocol) comes along. "We'll just throw that in too." (46)

The true genius of smart things though, isn't in the sensors or in the hub but in the system that Hawkinson and his users are building on top of it. Open the smart mobile app and one finds its own array of apps inside a pleasingly designed grid of bubbles that shows the status of the people and places and things on your system and the various programs that connect them. (46)

Wow, much has changed in the last 10 years. My Battlestar Galactica toaster may actually be a clyon! More than just keeping offenders within grasp, this could sift out who would need to remain detained and who can earn a second chance back. Neither of which will be out of the grasp of the law. I suggest injecting it instead of prototyping smart handcuffs, being removed that would become an issue. I would be willing to undergo wearing not only a presence tag in a pacemaker, I would elect to be wired to a remote controlled kill chip.

I know it sounds like something out of a La Femme Nikita afterlife but with this organic fail-safe. On top of every other incentive to stay out of trouble this would shrink the prospect of crime for a parolee as an alternative when facing the crossroads, The path of easy money through dubious means appears less tempting and they would have to seek an alternative. When they begin to work a job and they feel the itch of instant gratification, instead of seeking to "come up" through crime, they may reevaluate and realize they can take a Vocational course to find better work while maintaining steady employment. Who says rehabilitation has to end with a certificate at the end of a treatment program in prison? You can always better yourself, reach out to your Probation Officer, what do you think they are there for? Or join an ex-con support group like the Fair Shake re-entry resource center.

At any rate with consequences of any misconduct a sure thing given the fact the Law will already know we are, they would know where we were with our presence tags recording our every move. Doing the right thing becomes that much more the right thing to do. Who knows this may be a large leap to eradicate recidivism. If we are linked to a presence tag, everyone could be alerted to us around them, as demonstrated Law enforcement will know. We wouldn't be walking free. We would have one big huge digital scarlet M on our chests.

There would be no way to go offline. If we try, a kill chip will implode and its the end of the line. There is no off the grid. We are the grid. Factor in cameras, drones, and lets face it even people are for all intents and purposes, are cameras, recording what we do to divulge later if prompted. Think of the movie The Matrix, at any given moment the person your talking to could turn into Agent Smith. So why not expand supervision of us to lifetime on parole or at least house arrest, with the exception of going to work and school at least we'll still be home with our families. I really don't need much, A good woman, a pet or three, a smart TV with Hulu and Netflix to watch whatever I want, I'm already a veritable couch potato—imagine if I actually had access to a couch! I would just be chained up to my own Binary encoded ball and chain.

And if all these security measures are still not enough, might I also suggest a task force to handle us on the grid? Because I think there is a thrifty solution. How many Army Vets have difficulty finding work despite their unique skill set, and overall have come up against a wall transitioning back to civilian life? Even the hero from seal team six who killed Osama Bin Laden has been having it rough since he came home. (He was not eligible for the \$25 million dollar reward on his head, because it was in service of our country) After Bin Laden, the shooter retired, but four years short of the twenty required to receive his pension. Which according to him would have been half his base pay, \$2,197 a month the equivalent of a member of the Navy choir. (47)

In an Esquire magazine article not only about the hunt for Osama Bin Laden but as the articles author Phil Bronstein seeks to question: What is much harder to understand is that a man with hundreds of successful war missions, one of the most decorated combat veterans of our age, who capped his career by terminating Bin Laden has no landing pad in Civilian life. . . It's a harrowing truth that those who have been most exposed to harrowing danger for the longest time during our recent unending wars now find themselves adrift in civilian life, trying desperately to adjust, often scrambling just to make ends meet. (47) As we can relate, Being away from home devastates families, wrecks their marriages, no pension, no health care and even with their skills they earn, they can't even find work! What can we hope to receive as villains if this is what our heroes face upon re-entry to society? Truly who would be better informed to monitor our own re-entry to society?

Not to mention: "These guys have millions of dollars worth of training in their heads" Said one former seal and mentor to the shooter. "All sorts of executive function skills that shouldn't go to waste. . ." But when he officially separates from the Navy three months later, where do his sixteen years of training and preparedness go on his resume? Who in the outside world understands the executive skills and keen psychological fortitude he and his first tier colleagues have absorbed into their DNA. Who is even allowed to know? (47)

Retired Marine Major General Mike Myatt said he is furious about the high unemployment rate among returning infantrymen as well as homelessness, P.T.S.D., and other plagues of new veterans. "The U.S. Military is the best in the world at transitioning from civilian to military life and the worst in the world at transitioning back. What's available to these superskilled returning public servants? Pretty much nothing. It's thank you for your service Good luck." (47)

The shooters friend also seeking a viable exit from the Navy commented: "My

wife doesn't want me to stay in one more minute than I have to. I agree that civilian life is scary. And I've got a family to take care of. Most of us have nothing to offer the public. We can track down the enemy really well but that's it." (47)

Sounds qualified to me. All that's missing now is the acronym. You know C.I.A., F.B.I., I.C.E., W.T.F., ETC. The Times Tribune just reported the state budget including 300 more state troopers. The technology is only getting cheaper, and at the rate of housing prisoners at an annual cost of \$37,500. The savings of alternatives to incarceration can easily fund a task forces salary.

It is evident we have the technological pralice so why not apply it? Why should updating justice be lost in the modernization of Law enforcement? Wisdom without application is ignorance. We know the adult system is not working. We see the innovation of the approach in <sup>Juvenile</sup>~~justice~~ treatment. We know violent offenders are as receptive to treatment as non violent offenders. In fact less than one percent of Homicide offenders reoffend. We are learning from our mistakes, when will the justice system learn from it's own? The lock them up and throw away the key approach is not a display of power it is a concession to it's powerlessness.

Inaction has solved nothing, only now is the <sup>prison</sup> population beginning to decrease but so much more can be done. How far can our society truly advance if our screen saver is still the Quaker oats guy?

## CHAPTER 13

". . . All Philadelphia Children deserve more."

The Philadelphia Federation of Teachers.

But I'm afraid the more you ask about prison reform, the more it seems not to be so much a question of a way, so much as it appears to be a question of will.

Kirsten D. Levingston: Powerful interests profit directly from keeping our jails and prisons full - As correctional systems grow so does the burden on taxpayers who fund them. Why, disgruntled taxpayers may ask are policy makers not finding less expensive and more effective ways to keep the public safe? Why taxpayers might wonder won't policy makers design alternatives to jails and prisons that solve the underlying problems contributing to involvement in the system instead of making them worse.

What's one interest of keeping prisons full? Keeping prisons full of customers. We are a captive audience Ladies and Gentleman and let me assure you where our basic human needs are met our basic human standards are not. Basic issue is rank and the rumors about the food, quite true. If we don't like it we have to go to the Commissary. Which a few companies attain a monopoly on all the items for sale and routinely gouge the prices of generic food to name brand prices with the all the ethical muster supply and demand can spare to the dregs of society.

\$16.50 a month for cable. \$5.00 to receive medical attention another \$5.00 for the universal panacea for all ills in prison. Tylenol. And whoever wins the endless bidding war on the contract to sell us MP3 is widely anticipated to charge us \$1.25 a song. Oh and after how many years of extorting our Phone calls \$5.60 for 15 minutes to call home, instate. ((See Phone justice.org))(Relief is finally in sight.) But I'm not hating the game, players. I'm just proposing changing the game up. This whole Westcoast, Eastcoast/Special interest, Human interest gang war is way played out. I make .29¢ an hour!

I respect your gangsta and all, but maybe theres a resolution to both the special interests, and the human interests involved, through my presence tag proposal. Go ahead and patent it's correctional application and tax our freedom for all I care. Another day in here costs more anyway. Why not instead of hoarding this human inventory, try rotating the stock alittle? Think about it, Fresher inmates, means a fresher economy. At the time we are at our rehabilitative best our family are at their most supportive, but the longer we are in here, the connection wanes and with it the profits.

As well as new commits coming. In the event someone on the grid reoffends, he has to get on his feet all over again. New overpriced TV, Radio, it's double the profit. Both sides benefit from the offenders maintaining a social life. And rehabilitation should not be ruled out as a punitive end. Rehab sucks. If the system was upgraded and the people incarcerated could be treated instead of left to fester. In all likelihood it could create a lot of success stories, surely more than the current success of criminal justice and this amalagam of special interests and human <sup>Liquidation</sup> rates may even make the world a little bit of a better place all without sacrificing your funding stream.

None of the D.O.C.'s 16,000 employees will lose their jobs, they are in the estimated to be 22.6% outside the department budget. And the beds are still going to get filled. Not just by the unfortunate recidivists but the next wave of criminals This is just a proposal to sift through who needs to remain here longer and who-ever is ready to go. This will insure a Broader populace can benefit from the treatment, and the people sitting here taking up space are out of the way. The same beds will be filled, the names will change and they can earn something out of their stay. Until the inevitable next generation of criminals come. There is always going to be a need for the Department of Corrections but just because crime may never change does not mean a criminal can not.

In 2012, The Commonwealth foundation for public policy alternatives detailed: Pennsylvanias spendings on Corrections and found an unprecedented prison

population growth at unsustainable costs. Pennsylvania's incarceration rate has increased by 500% since 1980, from 8,000 to more than 50,000 people in state prisons. Despite constructing 18 new prisons since 1980, the 2010 prison population was 13% over capacity. Three new prisons are scheduled for construction bonded at \$695 million. Over the last 30 years the Pennsylvania Department of Corrections budget grew 1700% and is now the third largest department in the general fund budget. The 22.6% outside the budget I mentioned earlier includes in addition to state employees salaries, their underfunded pensions and health care, inmate health care, capital cost, statewide administration costs and additional inmate education. Pennsylvania's prison price tag in 2010 was \$2.1 Billion.

Meanwhile, while prisons flourish, education flounders. RT. Com reports amid the headlines on 6/16/13: "Delinquent U.S. loans hit record high with over 100 Billion past due."

"Student debt, Job market creating generation of wage slavery."

"Americans flee to Canada for College education."

RT.Com reported: Philadelphia adopting, Doomsday school slashing plan despite \$400 million prison project which is said to be the second most expensive state project ever. Highlighted in. . .

The event reported by Philly Daily News: On May 25th (2013) members of Decarcerate PA, (a group working to end mass incarceration in PA) and ally organizations marched from Philadelphia to Harrisburg. . . Demanding that Gov. Corbett and the state legislature cancel the unnecessary \$400 million Prison construction in Montgomery County and invest those resources into fully funding public education maintaining much needed social services and helping people across the state access quality affordable health care. (49)

The necessity of such a drastic action was clear. As we marched the Philadelphia school reform commission passed it's "doomsday" budget for our public schools while the D.O.C. was moving forward with the second most expensive construction project in Pennsylvania history. The S.R.C. voted in a budget that would leave our cities children with a skeleton of a school district next year with 4,000 fewer staff, and an inability to meet students academic, social and emotional needs. And even as ground work was being laid and pink slips were going out to school staff. The D.O.C. was requesting an increase of more than \$60 million to its operating budget for next year. (49) They didn't get \$60 million they got \$75 million. (50)

As they marched they saw Philadelphia was not the only place in the Commonwealth suffering widespread damages due to the irresponsible choices of policy makers in Harrisburg. . . In Reading they weighed dim choices for next year, eliminate Pre-Kindergarten or get rid of music and the arts? Lay off assistant principals or eliminate more teacher positions. . . In Myerstown a town of about 3,000 people. . . budget cuts forced the areas two elementary schools to merge. A mother told us about the extra long bus ride for her young children must take arriving home after dark every night. . . Four elementary schools have closed in Harrisburg because of funding cuts while prekindergarten and high school vocational programs have been eliminated entirely. (49)

In every town we met men and women who were coming home from prison after years away from their families, who were finding little access to re-entry programs, food, housing or jobs. And everywhere were people shocked to hear about the funds being spent on new prisons. Reactions ranged from disbelief and outrage. When people learned the same state that can't find a dime to keep experienced teachers in their classrooms or maintain art classes and prekindergarten is spending \$400 million to build new prison beds even while the D.O.C.'s own projections predict that the prison population is decreasing. (The schools needed \$304 million) (49)

The pain experienced across Pennsylvania is not inevitable. It is the result of deliberate decisions by Gov. Corbett and the legislature to systematically defund public education while pouring millions into expanding the states prison system. It is the result of a Governor who cares more about generating money for prison contracting firms than making sure young people have the tools they need to succeed. It is the result of a legislature that would rather rubber stamp the Governor's

destructive budget choices than take a stand against prison expansion and invest in a better future for young people in their districts. . . (49)

From Philadelphia to Harrisburg and beyond the Pennsylvania we want is the Pennsylvania we need. It is a Pennsylvania that invests in a quality of education for all of our children instead of investing in more cages, shackles and steel doors that tear communities apart. If our elected official won't lead the way we must set the path for them. (49)

Unfortunately the path we end up walking looks all too familiar. We're still not out of the woods yet we just keep walking in circles as the Philadelphia Daily News did not hesitate letting get away unnoticed: If you don't fully get why Gov. Corbett and the legislature found only \$15 million in new funds for Philly's fiscally failing schools, allow me to explain. See the state has no more money for Philly schools. Oh, it has more money expected. Revenue reports released show it has \$57 million more than estimated. (50)

And it has more money for itself. Each of our three Government branches shows that money grows on trees. Executive offices under the Governor get \$16 million more. . . The Judicial branch got \$8 million more. . . The Legislative branch \$4 million more. . . (50)

The Governors base and much of the electorate is anti-Philly, anti-union and anti-spending policies and Philly voters won't support Corbett's policies. But none of the districts 200,000 students needed this problem. The state runs the district through the School Reform Commission, a commission controlled by appointees of the Governor. And the state is required by it's constitution to provide "through and efficient public education for all." Maybe the "rescue" (15 million in new money, 45 million in Federal forgiveness, borrowing \$50 million against future Philly revenues and questionable \$20 million from collecting local and federal taxes) help meet that requirement. (50)

Some have given bubbles about this like Lisa Ives reported in The Philly Daily News: A "rescue package" for Philadelphia schools was delivered by Gov. Corbett. After digging through all of the bubble wrap, unfortunately there wasn't much in there to get excited about. . . Who tied the ribbon around this cheesy gift? Chief negotiations included David L. Cohen, Executive vice president of Comcast; and Robert Wonderling, President and C.E.O. of the Philadelphia Chamber of Commerce had lobbied successfully in city council to kill passage of the proposed use and occupancy tax and increase, which would have raised an estimated \$30 million for Philly schools (And did not require permission from the state legislature. The Chamber also testified against increasing the liquor - by - the - drink - tax and against any reduction of the 10 year abatement. (51)

In addition to representing Philadelphia's largest Corporation, Cohen has become one of Corbett's major fundraisers. Cohen was not sent by students or parents to represent them in closed door dealings. His role was to provide the Governor with an opportunity to look good and help him be re-elected. How were representatives from the Corporate Community, neither elected by nor accountable to anyone but their own members and stock holders, allowed to take on the mantle of education advocates? (51)

Perhaps most shockingly the Philadelphia's school partnership Executive director Marc Gleason was actually lobbying the state **not** to fund schools. . . defending the efforts of the partnership to convince legislators to withhold money from the district until teachers and other union members agreed to major concessions including, elimination of long held collective bargaining rights. What good is a rescue package that doesn't save anyone? . . . Noted educator Diane Ravitch said "When the next election comes around the people of Pennsylvania should hold accountable those who inflicted harm on the states most vulnerable children. (51)

The \$133 million in concessions the legislators sought in the meantime while the **8%** sales tax (up 1% because of the recession) That was set to expire is being continued but not before the district has to borrow the aforementioned \$50 million against it until it can collect on the 8% tax in 2014. Council President David

Clark announced he wants almost half the projected money to make up deficits in employees pension funds.

Clarke had stated previously to the Philly Daily News: "I think the pension problem is as difficult and challenging as the school districts problem. The pension problem in years would be equally if not more challenging for the city of Philadelphia." In fiscal year 2014 the city projects it will dish out \$668 million, or 17.6 percent of it's 3.8 Billion budget for a pension fund, that is less than 50 percent funded. Maintaining the raised 8% tax is projected to contribute \$130 million to the pension fund in fiscal year 2014, but under Corbett's plan, the contribution would drop to \$8 million. (52)

Public Pension reforms even changing benefits for only new state employees and new teachers, crashed amid conflicting reports of it's long term costs and of course the general spine free conduct of the nations largest full time legislature. Corbett called pension costs "a tapeworm eating states resources ther's a 47 billion and growing liability. The increase in costs is 500 million this fiscal year." John Baer reported. (53)

They demand concessions from teachers as if teachers are not already making and have been making them for some time. The Philly Daily News asked:

Q. How is the teachers union going to respond? Will they make concessions?

A. "All of these things are happening in Harrisburg and no one is talking to us." Said Philadelphia Federation of Teachers President Jerry Jordan. "My members are very clear: They can not afford to take a pay cut. My members are spending thousands of dollars in paper, clothing and food." For district students. Jordan said district teachers spend \$300 to \$1,000 a year to fund educational activities. (54)

How can they tell teachers to make concessions when they are not only the only people doing anything for the children, their doing it at their own expense. At the rate of the belt tightening towards education, this will only increase also. Those who take the call to socialize the next generation of minds should be paid and paid well, not have to pay for it.

All this means to the lawmakers who obviously don't give a damn about the poor resources for all the schools their own children do not attend is, the education these policymakers children are receiving, will be used to swindle this deprived generation when they grow up and come to power. Presumptive? Perhaps but who wants to enter a battle of wits unarmed?

The New York Times gives us a background of the current plight: Philadelphia's schools whose chronic budget problems led to a state takeover in 2002, have not been this close to the abyss in memory. The troubles have many causes: Rising Pension Costs, high debt payments from past borrowing that peppered over budget gaps, a flight to Charter schools and a block grant formula for state aid that has fallen behind enrollments which have increased 5,000 a year between Charter and traditional schools. (55)

According to William R. Hite: State aid to Philadelphia schools declined by \$274 million in the past three years, according to the Pennsylvania State education association. "The state has never funded the city of Philadelphia and it's schools very well" Said Michael Casserly, executive director of the council of the great city schools. "For decades now it has been the subject of lawsuits and partisan politics and pushing and shoving and the Chickens are finally coming to roost." (55)

The Philly Daily News has implored the Governor: Remember that the Philadelphia School district is an instrument of state government. It was taken over by the state government 12 years ago. The majority of the S.R.C. are Corbett appointees. The commission does not govern an alien nation. The 200,000 children in Philadelphia district and Charter schools are wards of the state. Surely the Governor can do more than shrug and besilent about their fate.

Another question the Philly Daily News asked: Q: Is half a loaf enough to save school programs and thousands of education jobs in Philadelphia?

A: State lawmakers and Tom Corbett cobbled together a patchwork bailout for the

Philadelphia school district, that's less than half of it's \$304 million budget gap for the coming school year, which doesn't fully address it's long term problems. Here's what they did as darkness fell on top of Harrisburg.

Q: Was this a fair deal?

A: Do the math. Philadelphia recieved a 1.6% increase in education in aid. Compare that with Potter County, 33%, York - 12%, Allentown - 11%, Lower Merion - 3.3%, Upper Darby - 10%.

Q. What about thr future?

A. "The concern I have is having a sustainable funding stream for Philadelphia's Children so we're not in the same position every June." Said Jerry Jordan. "Yes without a longterm funding formula to providing an adequate education for children across the state then we're going to go through this over and over." Said Susan Gobreski. Executive director of Education voters of Pennsylvania. "First they came for Philadelphia and York but other school districts are right behind the districts in crisis." I want to be clear the State gave the district \$15.8 million more than last year. It produced a tenth of what the S.R.C. asked for. (54)

The state now pays 48 percent of the cost of Philly schools, that's the lowest percentage of state aid in five years. In 2008 it paid 56 percent. Conversely according to state department of education data. Philly's local share increased in the last five years to 35%. The rest comes from the Feds. And although the current state share might seem high many states across the district get higher shares. Williams Valley in Dauphin and Schuylkill Counties-67 percent, Harmony area in Indiana and Clearfield Counties-68 percent. Otto-Eldred in Mckean County-75 percent. And though Philadelphia has great needs in terms of poverty the total expenditure per student (\$13,167) is less than the State wide average (\$14,108). If all this makes your head hurt think of it this way: Percentage wise, Philly pays more for it's schools than it used to and the State contributes less. And Philly students get less than the States per pupil average. (57)

John Baer concludes this article not only calling lawmakers out on all this but knowing the only thing the legislature wouldn't fail - themselves. The legislature never fails to find money for it's own care, feeding and benefits. There's a mandate in the Constitution (Article 3, Section 14) The General Assembly shall provide for the maintenance and support of a thorough and efficient system of public education to serve the needs of the Commonwealth more. (57)

Senator Vincent Hughes puts the school crisis of PA into the context of a much larger problem: Governor Corbett playing out his part on the national attack on public education cut over 1 billion statewide in his first 3 years. These cuts caused a drop in test scores, over 20,000 jobs being eliminated, classrooms and extra curricular programs being reduced and over 70 percent of the school districts in Pennsylvania raising property taxes to make up for the loss in state funding. . . (58)

In three Pennsylvania budgets the Governor has walked away from new recurring state dollars for Philadelphia and other low income with over \$1 Billion in reductions in state funding. The sales tax option would never have been necessary if the Governor had prioritized basic education funding as opposed to more than \$1 billion in tax giveaways to Pennsylvania's wealthiest Corporation. (58)

Pennsylvania Distressed school districts are in many ways similar to the Philadelphia school districts. They reside in communities that are struggling and their local tax base is nearly depleted because of the effects of the great recession. Their circumstance is exacerbated because as with education funding ~~problems, there~~ is limited help coming from the Governor to support the revitalization of the communities. . . Our only real solution is to build the political will to enact a statewide fully funded and appropriate funding formula that invests in Pennsylvania's Children to the level they deserve.



If we ask them to do their best, surely we must do our best. (58)

Journalist Rhanika Khalek forewarned RT.Com: The racial disparities in the education system and the prison complex, where 60 percent of all people are of color have created a literal "school to prison pipeline." In Philadelphia Black students comprise 81 percent of those who will be impacted despite accounting for just 58 percent of the overall student population. In stark contrast just 4 percent of those affected are White kids who make up 14 percent of Philly students. And though they make 81 percent of Philadelphia students, 93 percent of kids affected by the closings are low income.

Speaking of Philadelphia's depleted taxbase. Spokesman for Mayor Nutter, Marc McDonald spoke of city hall's plans to ease the burden being leaned on taxing home owners and business owners by proposing a \$2 per pack cigarette tax increase he told the Philly Daily News. Calling it "a predictable source of revenue" yet it would generate \$87.3 million in 2015 its first full year according to the administration. By 2018 revenue is estimated to drop to \$76.9 million as the higher prices drive smokers to quit or buy packs elsewhere. That's about "\$10 million less for Philly schools than four years earlier."

So the first step towards "aggressive tax collecting" is shooting yourself in the foot? Helen Gym Co-founder of Parents United for Public Education told the Philly Daily News. "Nobody, who looks at schools or who is in schools would ever say that one sin tax on a very narrow body of Philadelphians is going to solve the problem. It is a mistake if politicians handle it from an ad hoc, piecemeal, slapdash, put things together approach."

It died. The obituary in the Philly Daily News read: The apparent death of the cigarette tax leaves a \$45 million dollar hole in what the city had planned to raise for the school district, which will now get \$28 million in promised tax collections as the city's only additional contribution. . . (59)

So if one sin tax won't do, how about two? Philly Daily News tracked the aggressive tax hunt to where City Hall went on the prowl: Philly began seeking \$1.6 million in back taxes from (Exotic dance clubs) Club Risque, Cheerleaders and Delilahs, despite the tax already in place for admission. (60)

The State Capitol Harrisburg is not without funding problems of its own the New York Times reported: "The Capitol of Pennsylvania said it had found a way to restructure debts without a costly and contentious trip to bankruptcy court. (61) (Avoiding the fates of PA counties such as Altoona, Reading, New Castle, Nanticoke, Plymouth Twp, Pittsburgh, West Hazleton and Greenvale have been cited as having a budget equal or greater to 1 percent during several years in their granted requests for distressed declarations under Act 47. Reading, New Castle, Nanticoke, Pittsburgh, West Hazleton and Greenville also cited having a deficit equal to 25 percent revenues into their request. (62)

Back to Harrisburg who is "very close" to refinance hundreds of millions of dollars of debt that the city can not pay. Most of the debt, \$345 million was issued in connection with a big trash to energy incinerator project that did not turn out as planned. . . Harrisburg's new debt restructuring agreement rests primarily on its sale of the incinerator. . . The incinerator would fetch about \$130 million, but that the exact amount would depend on market conditions when the deal is made final probably this fall. (61)

In addition the city is calling on its Police officers, Fire fighters, and other Municipal workers to forgo scheduled pay increases and pay part of their health insurance premiums. The Fraternal order of Police had agreed to these concessions but Firefighters and the American federation of state, county and municipal employees had yet to vote on the proposal. (61)

Mr. Miller said "Harrisburg has been spending more than it could afford for years." It's no different [than the bankruptcy in Detroit] in that it's decades in the making "I have not seen anything yet that shows how this plan is going to work. The numbers don't add up." (61)

Mayor Linda D. Thompson said once the incinerator debt is resolved, the city

would work to eliminate it's structural budget deficit. She said the budget "stabilized," through 2016. Thanks to new resources she did not identify.

So Pawning the incinerator to get our political junkies their next fix until the next score is always the pipe dream to success? But sigh, spotting state government pacing back and forth around Pawn shops, Strip clubs and Smoke dens, scratching their heads is very telling indeed.

Our state so needs to go to Rehab. Short term solutions to keep public funding afloat on one side of the see-saw while mass incarceration is sitting pretty on the other. Can no balance be achieved?

Our faithful advocate Julia Hall, P.H.D. and Chair for the Pennsylvania Coalition for fair sentencing of youth urges: Punishment is supposed to have goals of deterrence, rehabilitation, incapacitation, retribution and restoration. Forget deterrence because science and our experience shows that Juveniles act impulsively without thought of long term consequences. (63)

By now you see and if not let me argue a little more that our rehabilitative value has been exchanged for the deterrent value of holding us prisoner. But how much is this deterrent value truly worth?

William Dimascio Executive director of the Pennsylvania Prison Society told the Philly Daily News: "Pennsylvania has the most unenlightened laws in the Country and maybe even in the World." This concept of "life means life" and the insistence by politically minded officials that they need to adhere to that, is ridiculous given the growing body of evidence from Neurologists who have found that people at the age of 14, 15 and even as far as their early 20's, do not have fully functioning brains. How much good are we doing by putting all these people away? Are we ending homicides in the city of Philadelphia? Dimascio demanded? (1)

Dana Difilippo reported: Last years homicide rate (2005)-380-was the highest since 1997. That spike came despite a surge in the number of convicts the city sent to state prisons. Philadelphia committed 2,069 inmates to state jails (in 2005, including us) 5 percent more than in 1997, According to the D.O.C. (1)

"Tough sentencing has not deterred the level of violence or murder in Philadelphia" Said State Senator Anthony Williams. Who supports abolishing Juvenile Law without parole (JLWOPS) "We think locking people up and throwing away the key will solve our crime problems but that is not the answer." Dimascio agreed: "We're helping to destroy families, not fight crime when we lock away so many people so, thoughtlessly. (1)

Philly wasn't fareing much better in 2007, When the Associated press reported: The City of Brotherly Love is struggling to find a way to deal with a climbing murder rate. Eleven people were shot dead this weekend (4/23/07) in Philadelphia. Bringing this years number of Homicides to 127. Thats more than one a day and higher than the number of Murders in New York, Chicago and Los Angeles.

Joe Heckel the founder of the Juvenile lifers newsletter added to that article: In the enormity of the tragedy of this situation there is a brutal fact. There will be scores of men and women who will be convicted of murder and recieve the sentences of death or life without parole. Society applys the same old answers to the same old problems.

2007, This is two years after the DA Jude Conroy, in our case told the press "Judge Hughes has sent a message today." By sentencing Nicky, Eddie and myself to beyond Life without parole. Our conviction really showed them Huh? No one even remembers us. We are yesterdays news. It had zero deterrent value. There is good news, In 2013 the Philly Daily News reported Big-time crime has dropped in Philly. Thank Smart Policing. This major decrease in crime is led by a decrease in homicides. . . Homicides are down to the lowest number since 1969. . . Philadelphia is part of a national trend in crime in part caused by demographic changes, such as fewer young adults in the crime prone 18 to 29 age range. But there are homegrown reasons as well one of them is smarter policing

. . . Under the leadership of Commisioner Ramsey, policing in the city is more data driven, provacative and community-centered. It is more about prevention and less about arrests. . . Policing has benefited from the same advances in technology that have changed our world in the last twenty years. With advanced computing and mapping, police can target hot spots for extra manpower. The increasing presence of surveillance cameras can capture perpetrators in action. A new generation of police captians who grew up using this technology, is adept at using it. And eager to do so. . . Ramsey's leadership has led to smarter policing, and smarter policing is better policing. That is one story the numbers on crime tell us. (64)

So could the marriage of smart policing, plus plugging us into the surveilence leviathan through smart technology be a smarter solution to end mass incarceration? With no deterrent value, hoarding us is worthless. But back to Julia Hall:

JLWOP is not a rehabiliative sentence as we all know. Lifetime incapacitation is unnecessary as research informs us that most juveniles mature out of crime and even for adults, homicide is rarely a repeat offense except for so called hit men and serial killers which represent less than 1% of all homicides. JLWOP deprives the juvenile of an opprutunity to contribute in a positive way to their society and makes amends for their offense to their victims survivors so there is little restorative justice to be had in this sentence. We are left with retribution, revenge, just desserts. With 2.3 million people behind bars and budget deficits how can we afford the luxury of more revenge? Who is being punished when tax dollars are cut from schools and vital services to build and maintain prisons?

For the next two decades Philly has to pay \$22 million a year interest on the \$300 million they had to borrow to balance the budget before. (65) That adds up to \$1,440,000,000 for tax payers to pay off the next 20 years and that's not even improving the schools. I suck at math, but to quote Charlie Chaplin, I know enough not to get shortchanged.

It cost \$37,500 per inmate to be housed in state prison-per year. Elsewhere only \$14,100 per year is spent by the state per year (remember Philly gets less.) That is \$23,392 more the state invests in a prisoner than a student per year. Take for example my case.  $\$37,500 \times 4 = \$150,000$  a year. Since we have been held here a decade now we have cost taxpayers \$1,500,000. We have been rehabilitated for years now, yet you still insist on holding us. I am not trying to put a price on the life we took but there is a bounty on ours.

Think about how much money could be saved if the prison population was decreased. How much more productive would the Criminal justice system be if it actually treated people a few to five years, maxing out around seven years? Seperating who requires detainment, from who could benefit from treatment would rebuild communities instead of the current practice of hollowing them out. In addition to being rehabilitated here, one recieves an education. The people back home would see the difference in them since their absence. The Prisoner need not have fear of what his community may think of him and with the opprutunity to give back to society, he may truly become a force to revitalize it. Instead of being reduced to nothing and shunned of all prospect of having any part in it and remaining a pariah.

If you could for the sake of argument concede our humanity. Then as being human beings, are we not all a work in progress? Be it children of a higher power or the height of evolution whatever you believe. Humanity does not stop at it's achievements, even rising to our peak performance we strive for more.

Can you honestly tell yourselves, everyone in prison who once walked the same streets you do now. That breathed the same air you do. Dreamed under the same moon and awakes to the hope of the same bright dawn you do every morning. Some of us lived with you, laughed with you and cried with you. And we can just

be cast off as someone you never knew at all? One Misdeed and a reporter can tell you there was a monster lurking within us all along and you never truly knew who we REALLY are inside. The police can capitalize on these mistakes and erase who we are, to "Do their job" at the expense of our lives. Prosecutors can tell you none of us has any conviction until they convict us. And you let them tell you all about us and accept it. Who are you?

Could we not have been disillusioned? Misguided? Drug addled? I didn't even sleep. I remember an episode of "House" where Dr. House discussed talking about the deteriorating effects of not sleeping and the brain shutting down lobe by lobe by lobe. I mean, could none of us be worth a course correction? (That we are already undergoing) And not wholesale oblivion? To be warehoused our whole lives only to justify the cage ever being built.

Countless Lifers, not only the ones under 25 at the time of the offense are just taking up space. It is not our fault so many people get arrested and commit terrible crimes that have not stopped anymore than the state has not stopped hoarding us, that has not stopped the onslaught of crime one bit. It is not our fault some people reoffend. It's not our fault you want to play tough on crime instead of standing up against the prison industrial complex to get elected. We do everything in our power, everyday more we are inside here to do what is right and should not have to pay for others mistakes. All we can do is follow the rules we can not enforce them.

No one. Not one person knows any of us. You couldn't we didn't even know ourselves. You can not get in any of our heads. We were out of our minds. We should not be judged solely on the offense by it's nature it is offensive. We are offend-ers. Causers of offense. We are not the offense itself. If the idea of shock and awe as an implement to get in and rebuild an entire population had any potential how much of an impact can the shock and awe of incarceration have on the impact of the finessing of one single mind? I do not want to be in prison. I can do nothing to remedy it. I am one of the 59% of Juvenile lifers doing LWOP and we don't get a taste of just desserts we just get served our final meal?

It cost \$37,500 annually to incarcerate me annually. According to the 2011 C.I.A. World factbook my life expectancy is 78.24 years. Multiply \$37,500 x the 60 years I can live if I survive it will cost \$2,226,500 total. Times that by the number of 500 more Juvenile lifers, the ones still to come, Not to mention the total of 5,000 Lifers in Pennsylvania already together. The bill the taxpayer pays annually, the tab they keep picking up that only gets bigger and is devouring public education. I don't have to do the math for you. We are already living with the aftermath.

And since all this money is spent on us, why is nothing invested in us? ? or am I just being credited the difference to a government who assumes I can't be a productive member of society and get a job, or from their perspective. I will lead a life they can not tax. I won't be of any value to society, this way they can still collect off us all while saving us from ourselves. Don't call them hero's so quick, their more like friends with benefits.

One prisoner, cost almost three kids education for the year. The state of Pennsylvania is demonstrably more willing to teach a child offender a lesson than give a child an education. America has nearly 5 percent of the worlds population and 25 percent of the worlds incarcerated. Until the 1970's 100 per 100,000 people were in prison. Today 700 per 100,00 are. African Americans are 13 percent of the nations population but make up 37 percent of the incarcerated. One in three African Americans may spend time incarcerated. All this takes a staggering toll on shattered families and disordered communities. The Times Tribune reported (66) Rolling Stone reported: Nationwide education needs a \$542 billion upgrade. (67)

The current system can not sustain itself, not in the face of better options. Plugging us into the surveillance Leviathan takes the concept of supervised

parole to a whole new level. Are the risks really greater to release people the state actually has intervened with than abandoning the next generation to one of the major contributions that leads people to turn to crime-poor education? The jails will still get filled but not without a turnover and a rehabilitative curriculum. And a more balanced distribution in spending on Corrections with education. And the Corporations can still, as ever, benefit just not so much as vultures on carrion as a mosquito barely noticeable to daily activity. Or we could just you know stick with the typical political pedophile paradigm that is working out so well for all of us.

## CHAPTER 14

"How Beautiful! "Said Lydia." It's almost real."

"How Beautiful! "Said Kira looking at the landscape." It's almost artificial."

-Ayn Rand

(27) During the past century, American Juvenile courts, generally have asserted Children are developmentally different from adults, they are developing emotionally and cognitively, they are impressionable; and they have different levels of understanding than adults. "This underlying belief has been used to support that are central to Juvenile justice administration." First children and adolescents are assumed to have diminished capacities to fully appreciate or control their actions; this generally reduces their responses or culpability for illegal acts. Second because of their diminished capacity, it is assumed that sanctions provided to juvenile offenders should not only be in proportion to the offenses committed but these youths should also not receive the full level of punishment: provided to adult criminals. Third, the notion of room to reform has been used in an effort to [prevent] the permanent cost of adolescent mistakes and enable the transition to adulthood with life chances intact.

Life chances are not ~~the~~ only thing that does not survive our transition to adult court. Our diminished capacity doesn't make it either. As if the change of jurisdiction dispossesses our natural disposition as we are thrust forward, or better yet homicide is an act of maturity. Along with the raised disciplinary sanctions, we face the level of threshold adults do to prove a diminished capacity against the charge of formulating a specific intent to kill. The charges of homicide are all demonstrably interchangeable with another. First degree murder can become third degree murder or voluntary manslaughter all based on the same facts upon a determination of "Malice." vs Passion. (See pages 190-195)

A PA Supreme court Justice observed this in Commonwealth vs. Santos finding: A view of malice required where the state of mind is "nearly equivalent" to "intentional homicide" an issue of Third degree murder. Justice Nigro emphasized that the decision had been based upon a conception of malice that required a "conscious disregard" of the danger that is essentially the same as intending the result.

I am not seeking to compare our case to the Santos case it is just one example of the malleability of degrees of guilt at the crossroads of culpability. It is what pushes Detectives to argue vehemently that we were not whacked out of our minds on drugs but instead we were of sound mind, body and reason then mocking us in the press for asking when we would get to go home (5) but no juveniles have full appreciation of the consequences and this was all of our grand master plan. Diminished capacity and consideration of being a juvenile among other circumstance is discounted.

Not only is diminished capacity omitted. There are other degrees of homicide that are not murder, that a court decides if the jury can have the option to consider in your fate, nevermind the right to have your fate decided by a jury of your peers. Remember the judge tells them what and how to decide, not what they think to do is right. In our case we didn't get a voluntary manslaughter charge, nevermind the clear interchangeability between First degree murder and voluntary manslaughter. Where First degree murder is a life sentence, voluntary manslaughter is less than 10 years. Don't take my word for it, Read the jury instructions for voluntary manslaughter, you can find me guilty of voluntary manslaughter, if I had [the intent to kill], (under an unreasonable belief that the circumstances were such that the circumstances were such that if they existed, would have justified the killing) Under a sudden and intense

15.2502A (Crim)

FIRST-DEGREE MURDER

1. The defendant has been charged with the offense of first-degree murder. First-degree murder is a murder in which the perpetrator has the specific intent to kill. To find the defendant guilty of this offense, you must find that the following three elements have been proven beyond a reasonable doubt:

First, that [name of victim] is dead;

Second, that the defendant killed [him] [her]; and

Third, that the defendant did so with the specific intent to kill and with malice.

2. A person has the specific intent to kill if he or she has a fully formed intent to kill and is conscious of his or her own intention. As my earlier definition of malice indicates, a killing by a person who has the specific intent to kill is a killing with malice [provided that it is also without [circumstances reducing the killing to voluntary manslaughter] [or] [any lawful justification or excuse]].

[3. Stated differently, a killing is with specific intent to kill if it is [willful, deliberate, and premeditated] [by means of poison] [by lying in wait].]

[4. The specific intent to kill [including the premeditation] needed for first-degree murder does not require planning or previous thought or any particular length of time. It can occur quickly. All that is necessary is that there be time enough so that the defendant can and does fully form an intent to kill and is conscious of that intention.]

5. When deciding whether the defendant had the specific intent to kill, you should consider all the evidence regarding [his] [her] words and conduct and the attending circumstances that may show [his] [her] state of mind, including [evidence]. [If you believe that the defendant intentionally used a deadly weapon on a vital part of the victim's body, you may regard that as an item of circumstantial evidence from which you may, if you choose, infer that the defendant had the specific intent to kill.]

ADVISORY COMMITTEE NOTE

This instruction is appropriate when the defendant is charged with first-degree murder in violation of Crimes Code section 2502(a); subdivisions 1 and 2 are basic and generally apply. The court should use subdivision 3 if "willful, deliberate, premeditated" language has been used during the trial or arguments. Subdivision 4 may be used when the quickness of the killing creates an intent issue. Subdivision 5 may be used in many cases where an instruction is needed on how specific intent can be proven. See also Instruction 1.02B on proof of intent by circumstantial evidence. Additional instructions may be needed when

15.2502C (Crim) THIRD-DEGREE MURDER

1. Third-degree murder is any killing with malice [that is not first- or second-degree murder]. The defendant has been charged with third-degree murder. To find the defendant guilty of this offense, you must find that the following three elements have been proven beyond a reasonable doubt:

- First*, that [name of victim] is dead;
- Second*, that the defendant killed [him] [her]; and
- Third*, that the defendant did so with malice.

[2. The word "malice" as I am using it has a special legal meaning. It does not mean simply hatred, spite, or ill-will.

Malice is a shorthand way of referring to particular mental states that the law regards as being bad enough to make a killing murder.]

[First Alternative]

3. For murder of the third degree, a killing is with malice if the perpetrator's actions show his or her wanton and willful disregard of an unjustified and extremely high risk that his or her conduct would result in death or serious bodily injury to another. In this form of malice, the Commonwealth need not prove that the perpetrator specifically intended to kill another. The Commonwealth must prove, however, that the perpetrator took action while consciously, that is, knowingly, disregarding the most serious risk he or she was creating, and that, by his or her disregard of that risk, the perpetrator demonstrated his or her extreme indifference to the value of human life.

[Second Alternative]

3. For murder of the third degree, a killing is with malice if the perpetrator acts with [a wickedness of disposition, hardness of heart, cruelty, recklessness of consequences, and a mind regardless of social duty indicating an unjustified disregard for the probability of death or great bodily harm and an extreme indifference to the value of human life] [a conscious disregard of an unjustified and extremely high risk that his or her actions might cause death or serious bodily harm].

[On the other hand, a killing is without malice if the perpetrator acts [with a lawful justification or excuse] [or] [under circumstances that reduce the killing to voluntary manslaughter].]



**15.2502C**

4. When deciding whether the defendant acted with malice, you should consider all the evidence regarding [his] [her] words, conduct, and the attending circumstances that may show [his] [her] state of mind including *[state of mind]*. [If you believe that the defendant intentionally used a deadly weapon on a vital part of *[name of victim]*'s body, you may regard that as an item of circumstantial evidence from which you may, if you choose, infer that the defendant acted with malice.]

**ADVISORY COMMITTEE NOTE**

For discussion of these matters, see the note to Instructions 15.2501A and 15.2502A.

## 15.2503A (Crim)

## VOLUNTARY MANSLAUGHTER—MURDER IN ISSUE

1. As my earlier definition of malice indicates, there can be no malice when certain reducing circumstances are present. When these circumstances are present, a killing may be voluntary manslaughter, but never murder. This is true when a defendant kills [in heat of passion following serious provocation] [or] [kills under an unreasonable mistaken belief in justifying circumstances].

2. Accordingly, you can find malice and murder only if you are satisfied beyond a reasonable doubt that the defendant was *not* acting [under a sudden and intense passion resulting from serious provocation by [the victim] [another person whom the defendant was trying to kill when [he] [she] negligently or accidentally killed the victim]] [or] [under an unreasonable belief that the circumstances were such that, if they existed, would have justified the killing].

*[Heat of Passion: to be given only if the facts of record support]*

3. A defendant acts under an "intense passion" if he or she acts under an emotion such as anger, rage, sudden resentment, or terror that is so strong that it renders him or her incapable of cool reflection. A defendant acts under a "sudden" passion if the time between the provocation and the killing is not long enough for the passion of a reasonable person to cool. A defendant's passion results from "serious provocation" if it results from conduct or events that are sufficient to excite an intense passion in a reasonable person. Thus, the existence of "intense passion" turns on the actual mental and emotional state of the defendant, while the existence of "sudden passion" and "serious provocation" turn on how a reasonable person confronted by the same provocation would react. Remember, you can find malice and murder only if you are satisfied beyond a reasonable doubt that the defendant was *not* acting under a sudden and intense passion resulting from serious provocation [by the victim] [by another person whom the defendant was trying to kill when [he] [she] negligently or accidentally killed the victim].]

4. The law recognizes that the cumulative impact of a series of related events can lead to sudden passion and amount to serious provocation. The test is whether a reasonable person, confronted with the same series of events, would become so impassioned that he or she would be incapable of cool reflection.]

*[To be given if either Heat of Passion or Unreasonable Belief charge is given]*

6. If you do not find the defendant had malice and committed murder, you may find [him] [her] guilty of voluntary manslaughter as long as you are satisfied that the following three elements have been proven beyond a reasonable doubt:

*First, that [name of victim] is dead;*

*Second, that the defendant killed [him] [her]; and*

*Third, that the defendant had the intent to kill.]*

**ADVISORY COMMITTEE NOTE**

This instruction is appropriate whenever voluntary manslaughter in violation of Crimes Code section 2503 is a permissible verdict and murder is also at issue under the charges. Subdivisions 1, 2, and 5 comprise a basic instruction that generally applies. As indicated below, there is some case law indicating that the "intent" element in subdivision 5 might be stated so as to (1) include the alternative of "intent to inflict serious bodily injury," and (2) require a fully formed and conscious intent. Subdivisions 3 and 4, suitably tailored, may be used when further explanations of passion, provocation, or cooling time are needed. See *Commonwealth v. Cox*, 686 A.2d 1279 (Pa. 1996). If there is an issue of unreasonable mistaken belief in justifying circumstances, the court must at some point adequately define the elements of the pertinent justification.

This instruction treats passion-provocation and imperfect justification (unreasonable mistaken belief in justifying circumstances) as defensive matters. When they are raised, the Commonwealth must disprove them or it cannot win a conviction for murder. They are not elements that the prosecution must prove to convict of voluntary manslaughter. For voluntary manslaughter, all the Commonwealth need show is an intentional killing without justification or excuse, see *Commonwealth v. Fisher*, 403 A.2d 719 (Pa.Super. 1985). Subdivisions 2 and 5 of the instruction are derived from Crimes Code section 2503. They reflect the defensive nature of some of the statutorily defined elements of voluntary manslaughter.

The Supreme Court has said on at least one occasion that the intent required for voluntary manslaughter is either an intent to kill or to seriously injure, see *Commonwealth v. Mason*, 378 A.2d 807 (Pa. 1977). Such a definition does lead to a nice correlation between voluntary manslaughter (committed by intention) and involuntary manslaughter (committed recklessly or by gross negligence). However, in the great majority of their decisions, the appellate courts have indicated that an intention to kill is necessary, sometimes equating the requisite mental state to the specific intent to kill in first-degree murder, see, e.g., *Commonwealth v. Carter*, 465 A.2d 1328 (Pa. 1983); *Commonwealth v. Gay*, 413 A.2d 675 (Pa. 1980); *Commonwealth v. Pitts*, 404 A.2d 305 (Pa. 1979); *Commonwealth v. Fisher*, above. In the December 1980 version of this instruction, the intent element was described as a specific intent, i.e., a conscious and fully formed intent. The advisory committee now questions whether it is conceptually or linguistically desirable to instruct a jury that voluntary manslaughter, which may involve extreme passion, requires the same quality and level of intent as first-degree murder. Subdivision 5 now speaks simply of intent to kill, see *Commonwealth v. Fisher*, above (held, where manslaughter is charged alone, it is sufficient to instruct jury that voluntary manslaughter occurs where there is a killing intended by the defendant without justification; court also cites *Pitts* "specific intent to kill" definition of voluntary manslaughter). Note that the language of Crimes Code section 2503(b) suggests that the *mens rea* in voluntary manslaughter might be either an intentional or a knowing killing. The advisory committee has attempted to distinguish the definition of malice required for first-degree murder from the *mens rea* element of voluntary manslaughter.

The definition of "passion" in subdivision 3 is derived from *Commonwealth v. Harris*, 372 A.2d 757 (Pa. 1977). See also *Commonwealth v. Frederick*, 498 A.2d 1322 (Pa. 1985). The definition of "serious provocation" is taken from Crimes Code section 2301. See also *Commonwealth v. Galloway*, 485 A.2d 776 (Pa.Super. 1984). The "cooling time" doctrine in subdivision 3 has been expressed in various ways, see e.g., *Commonwealth v. Long*, 333 A.2d 865 (Pa. 1975) (before sufficient time has elapsed for the blood to

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5.01B

**5.01B (Crim) DIMINISHED CAPACITY DEFENSE TO FIRST-DEGREE MURDER**

1. The defendant claims the defense of diminished capacity to the charge of first-degree murder. The defendant claims that at the time of the killing [he] [she] was suffering from a mental disorder or abnormality and that as a result of that condition [he] [she] was incapable of forming the "specific intent to kill."

2. I have already told you that one of the elements of first-degree murder is that the defendant had the specific intent to kill—in other words, that [he] [she] had a fully formed intent to kill [name of victim] and was conscious of [his] [her] own intention. Obviously, a person cannot have a specific intent to kill unless his or her mind is capable of forming that intent. Thus, you cannot find the defendant guilty of first-degree murder unless you are satisfied beyond a reasonable doubt that [his] [her] claim of diminished capacity is wrong and that [he] [she] was mentally capable of forming the specific intent to kill.

3. Keep in mind that the defense of diminished capacity is aimed at one element that is unique to first-degree murder, the specific intent to kill. Diminished capacity can only be a defense to that crime: it cannot be a defense to a lesser degree of murder or to any other crime.]

4. A defendant's mental disorder or abnormality is a defense to [third-degree murder] [specific charge] only if it meets the test for legal insanity. Similarly, a defendant's mental condition can be the basis for a verdict of "guilty but mentally ill" only if it meets the specific definition of "mental illness."

5. Consider all the relevant evidence when you are determining whether the defendant was capable of having, and did in fact have, the specific intent to kill. This includes [the testimony of the witnesses about the acts, words, conversations, behavior, and appearance of the defendant at and close to the time of the killing] [the testimony of the expert witnesses concerning whether the defendant was suffering from a mental disorder or abnormality and their testimony about how that condition affected [his] [her] powers of thinking, planning, making decisions, and carrying out a plan or decision] [other specifics].]

**ADVISORY COMMITTEE NOTE**

This instruction is appropriate when the defense of diminished capacity is raised in a first-degree murder prosecution. The instruction should be tailored to the evidence and possible verdicts and should conform to the language that the court uses when defining the specific intent to kill or premeditation element of first-degree murder. See Instruction 15.2502A and its advisory committee note; *Commonwealth v. Logan*, 549 A.2d 531 (Pa. 1988) (specific intent to kill means that the killer plans and carries out the act

passion resulting from serious provocation by [the victim.]

So a crime of passion, like maybe the moment of panic in my paranoid, sleep deprived, drug addled, blue balled, adolescent mind to protect my little brother from going to jail because I misjudged my friend Eddie actually hitting his best friend Jason in the head with a hatchet. I was out of the loop on how hung up he was over Justina. I didn't know how he lost his virginity to her anymore than how he would react to her accusing him of "Bitching up", not to mention how much of a dick I was to him, that no doubt added to the pressure of being humiliated by Justina. Who was oblivious to my brothers rage pushing this as I was. Everything changed when Eddie hit him, I saw him bleeding running towards the cop we all knew was right there and he could get my brother taken away, who is already on probation for imitating something I only said I did. From a lie after he lost his baby because of me, I wasn't there for him before but I had to be there for him now. That's not a moment of passion? That's not peer pressure? Nope. That's just evil.

Remember the shorthand version of jury instructions, that described Third degree murder as "any other murder." That was the shorthand version omitting a manslaughter charge.

Pennsylvania's suggested Standard Criminal jury instructions including a manslaughter charge read:

15.2501 B: It may help you to remember if I include some highlights [Murder requires malice, manslaughter does not. First degree murder requires a specific intent to kill. Second degree murder is a felony murder, Third degree murder is any other murder. Voluntary Manslaughter is basically an intentional killing for which malice is not proven because of (passion and provocation) A unreasonable belief in justifying circumstances. Involuntary Manslaughter requires a reckless or grossly negligent killing.

Our Death qualified jury was instructed to follow the Law. Was only read the Law on Murder charges. The Manslaughter charges were omitted and to Quote the late great Brittany Murphy "All omission is betrayal."

The honorable Renee Cardwell Hughes, our trial judge, is no longer on the bench. She has since stepped down to head the Red Cross. I learned of this in the Law Library here where it was on display with the headline "Judge caught altering transcripts" on the bulletin board like it was her head on a stake. When people heard she was my trial judge they acted like they just found out my Daddy was Santa Claus and it was a golden ticket to an overturned conviction. But I refuse to make an issue of that. I'm trying to fight my case not make personal assaults.

Especially when in fact, out of all the judges I have stood before, She is the one I feel is truly the most honorable. Philadelphia and the higher courts of which no doubt she would of ascended to have truly suffered a loss. She had a passion for justice I am afraid most people in her position lack. Her passion was tempered by her cool rational objectivity which wasn't applicable in our case, we were fucked, but nonetheless I could appreciate.

Sadly this day and age an open mind is somewhere to pour the poison in. . .

In 2003 In the case of 12 year old murder defendant Miriam T. White, The prosecution after their victory keeping Miriam out of juvenile court, asked Judge Hughes to excuse herself from hearing the case because she granted Miriam's request to be tried by Judge Hughes instead of a jury. The Commonwealth then argued for their right to try Miriam by jury and accused Judge Hughes of Bias citing the Judge saying:

(That she would not be forced to treat this [case] like a regular case.) And believed the law (Placing Ms. White in Criminal Court instead of adult court was wrong.) The Prosecutors won their jury trial.

So in 2005 when Judge Hughes sentenced us to Life plus stating that "Candidly she did not want this case" and that she would take up the fight for Juvenile rehabilitation but "This was not the case." And it wasn't "the case." But in the

political free for all for burning us demon children at the stake became Judge Hughes could still advance the issue elsewhere with plausible deniability her view was not as onesided as Ghosts of prosecutors past did suggest.

The lines get blurred in the silly game of pressure politics that rules our fates. There is a difference between doing justice and doing your job. I can't say for certain that is the case here, when we were tried before her little was disclosed. If I had my choice I did hope to go in front of Judge Hughes again. It is a shame that all her integrity and sheer force of personality will be absent from the seat of judgement forever. It's Philly's loss. But all is not lost after all where do you think I got the title from?

Judge Hughes: Because the problem is that in the guilt phase. Age is not a factor that is permissible to consider. They are adults in my courtroom. And the jury can consider all kinds of things, but not in the same manner that they do a statutory mitigator, when we get to - if we ever get to a penalty phase.

2/18/05 pages 69-70

Mr.Schwartz: This is not a person that I wanted to sit on a jury involving my client who was in fact a juvenile. I know that age is not - is not specifically a consideration, but - -

Judge Hughes: It is of no moment in the guilt phase.

Mr. Schwartz: I understand but this man is a juvenile.

Judge Hughes: I understand what he is biologically. But you know what we have to deal with legally. It is of no moment.

2/24/05 pages 19-20

(Judge Hughes questioning a potential juror during voir dire)

Judge Hughes: Do you hold the perspective, because they are teenagers they couldn't possibly have committed a murder.

The Venireman: May I ask a question please?

Judge Hughes: Sure.

The Venireman: Are these people being tried as juveniles?

Judge Hughes: No, Sir.

The Venireman: Okay.

Judge Hughes: This is adult court.

The Venireman: Would you ask your question again please?

Judge Hughes: Sure. Would the fact that biologically at the time of the incident everyone involved in the case was 15, 16, or 17, including the citizens on trial. Would that fact alone impact your ability to be fair and impartial?

The Venireman: I don't believe the fact in and of itself would influence me.

2/22/05 pages 144-145

(And a small matter to address in constructing the questionnaire presented to the hundreds of our potential jurors.)

Judge Hughes: . . . Number 5 relates to a juvenile judgement and impluse control, and it is definitely relevant to Domenic, okay, and whether the Death Penalty is an appropriate penalty for a juvenile. . . but it is only relevant to Domenic. It is not relevant to the others. So I don't want that on the questionnaire. . .

Mr. Schwartz: Judge in regards to certianly my potential defense - aren't these cognitive factors relevant to diminished capacity? Valentines Day 2005 pgs 169-170

(A little later)

Mr.Schwartz: . . . Who is going to be less fair if it is a juvenile? It is incomprehensible.

Judge Hughes: It is not because they are adults in my courtroom. And it is perfectly legal and acceptable for you to say: Look Ladies and Gentleman, they are kids. Think about it. But it ain't perfectly acceptable for me in my voir dire. Because by Law they are charged as adults in my courtroom. I give you guys lattitude to ask the jury to look at the reality. But we all know that once they

walk in my courtroom they are adults. I don't give a squat whether Daddy or Grandma is sitting out there they are adults, that is how they get treated. Is that irrational? Yes. But is this the proper forum to deal with it? No this is not the forum.

Valentines Day 2005 pages 174-175.

By Law being a Juvenile was only relevant to being executed not having your liberty extinguished. And we are denied any defense of diminished capacity. To argue if being a juvenile must be deemed irrelevant, then the question of malice is decided against the facts of reality.

Lord knows there was no malice in my heart, but panic. Fear is a powerful motivator. Somewhere in the chemical coruncopia I had come to call my brain the wires got crossed in my fight or flight response facing the prospect of losing Nicky. I short circuited.

How do I fight what even my Judge could not? Where am I supposed to take this fight to? I don't even know the true adversary I must face. . .

## CHAPTER 15

"All animals are equal, but some animals are more equal than others."

-George Orwell

At the time I filed for relief pursuant to the high court ruling in Miller vs. Alabama. A void was created because of Pennsylvania's lack of another sentence for First and Second degree murder. At this point in time (July 2012-ish) my initial P.C.R.A. Filed 6/9/11 had still never received a response, so it was not lost on me the work I was preparing wouldn't amount to a blip on the radar before whatever new sentencing structure the legislature would enact would be in place. Nonetheless, Not being heard was no excuse not to record my argument.

So I sought to construct a plausible sentence. Not within reason mind you because if reason had any basis, the people who are rehabilitated and yet remain here for aeons wouldn't still be here now would we? I had to proceed to play my hand with the cards on the table dealt from the stacked deck against us. As reflected in my brief, the void in the sentencing structure left a "mischief to be remedied" the legislative correction of which entail "applying the former law if any including other statutes upon the same or similar subjects." . . . Any ambiguity in a penal statute should be interpreted in favor of the defendant.

I have life without Parole. I have a sentencing proceeding dying in jail of 10 to 20 years. Followed by another 10 to 20 year sentence then finally yet another 2 ½-5 year sentence.

The eighth amendment prohibition of cruel and unusual punishment guarantees every American citizen not to be subject to excessive sanctions which flows from the basic precept that punishment for crime should be graduated and proportioned. . .

. . . A juvenile can not be classified among the worst offenders. . . A juvenile is not absolved of responsibility for his actions but his transgressions are not as morally reprehensible as that of an adult. . . Because juveniles have diminished culpability and greater prospects for reform, we explained they are less deserving of the most severe punishment. . . (Supreme Court precedents cited in my brief)

Death is the ultimate penalty, though many will tell you it is more merciful than LWOP. But the powers that be decree it as only the penultimate punishment and dispense it as a mercy from execution. As we move forward, the true contention of what I am writing is not merely LWOP is cruel and unusual punishment for a juvenile. It is cruel and unusual period for my Adult Counter parts serving life, or those sentenced to the numerical equivalent of a life without parole sanction. Our countries widespread imposition of it is horrendous. As if the more it is applied, gradually it can become the usual. It is only an increase in cruelty.

Nowhere in the world save the U.S. and Somalia sentences a juvenile offender to life. Pennsylvania has the most Juvenile offenders serving life in the world, 502. Most of whom come from Philadelphia, where I am from. Nationally, 41,000 inmates are serving LWOP, almost 5,000 are serving life in Pennsylvania. 9.4% of it's total prison population is permanently incarcerated (70) That's upwards of 4,500 adults serving LWOP, that's not even including anyone serving life in numbered sentences.

It wasn't always like this for any offender of any age. In the early 1950's the average life sentence nationwide for adult offenders was 10 years. In the Feds, in 1913 a life sentence meant 15 years, a couple decades later it was dropped to 10 years. Ten years later it became life without parole. State governments also began initiating the sanction in their respective jurisdictions.

Where the sentencing of juveniles to life is condemned universally. Sentencing an adult to life without parole is almost as unrecognized in the rest of the civilized world. Even where it is practiced, its application is uncommon and used only rarely when it is absolutely warranted.



Italy, France, and Germany have deemed it unconstitutional. Brazil, Costa Rica, Columbia, El Salvador, Peru and Mexico do not permit any form of life in prison and deem it inconsistent with Human rights. Norway, Portugal, and Spain also disallow it for adults.

Rachel E. Barkow illustrates the international stance on LWOP: The international criminal court accepts the possibility of a life sentence, as does the European Convention on human rights. The International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda also permit life sentences. Life sentences are also possible in Austria, Belgium, Cyprus, The Czech Republic, Germany, Italy, Romania, Sweden and Ukraine. Indeed some countries accept LWOP. . . Hungary, Slovakia, Russia, Turkey, Lithuania, and Bulgaria similarly provide for a sentence of LWOP. To be sure, both LWOP and actual life sentences are relatively rare in Europe and certainly as compared to the United States (Roughly 1 in 11 incarcerated individuals - more than 140,000 people - in the US are serving a life term.) (71)

As said, it is practiced in other countries rarely. Netherlands and the UK provide whole life sentences, each country has about 40 people in that status. France has a life term with a 30 year minimum for murder of a girl under the age of 15 with rape and torture, only 3 people serve this sentence. (72)

Belgium has parole eligibility after serving 10 years. Austria, Luxemburg and Switzerland provide parole eligibility after 15 years. In Germany, all life sentenced prisoners are constitutionally entitled to be considered for release after 15 years. If someone does not pose a continued major threat to public safety and was not convicted of crimes involving "Exceptional gravity" of guilt "he or she is generally released after serving 15 years." Crimes involving "Exceptional gravity of guilt" include multiple homicides and instances of particularly cruel, brutal, reckless or anti-social acts. In those instances, typically they serve 18 to 20 years according to Frieder Dunkel and Ineke Pruin. As of 2007, Germany had about 2,000 prisoners serving life sentences or about the same number as the state of Mississippi, whose total population is barely 4% of Germany's population. (73)

As for the movement to abolish the Death penalty which has contributed to streamlining LWOP as the lesser of 2 evil's, According to data from 56 Countries. Not one that abolished Death replaced it with LWOP. (74)

I don't like to compare America to other countries. America is my home. It is where I want to be. It is my shame to of bastardized and utterly despoiling the legacy of my ancestors that made the American dream possible for me and I turned it into this living nightmare. Our Country is the leader of the free world. A beacon of hope that brings people the whole world round to the land of opportunity to start a new life. Here I stand on the green and is there no hope I can pay my debt society yet still not contribute to it? We are an example to the civilized world. The statistics are just data. I'm not calling on those results to be imitated I am calling on Americas capacity to out-perform them. The results don't make me envy living somewhere else. It makes me want my country more.

Like George Jung said in "Blow" We were on the wrong side of an imaginary line. An imaginary line divides me from everything forever? I am not disrespecting the rules, I am disrespecting the consequences. I don't even want to leave Pennsylvania. (Obviously not in the same manner they wish to hold me resident.) I don't even want to disparage this great state, I admire it's history. But it's dishonoring itself. Life without parole means just that. LIFE.

Another void I sought to address. The Miller decision created is, the 45 year total consecutive sentence following LWOP. I came across the case Commonwealth vs. Divincenzo. Which although it is a non-homicide case it did raise some interesting points. The Pennsylvania Superior Court ruled: "To

impose a sentence of 81-162 years is in effect an imposition of a life sentence without the possibility of parole." 81 years of incarceration precludes the possibility of rehabilitation and effectively removes [Divincenzo] from society for the remainder of his natural life. It is also necessary to weigh the cumulative sentence which would take a relatively young man [Divincenzo was 33] through the prime of his life for a term six times as long as the average life sentence. (75)

A life sentence is thus being described as 25 years, by a Pennsylvania case law. As it has been referenced elsewhere (Com. vs Brown, Browns 25-50 year sentence is referred to as two consecutive life sentences) So Nicky, Eddie and I are serving in effect five years short of a triple life sentence. Brown is not a homicide case either. It is an appeal of the 3 strike rule, the repeat offender doctrine based on the concept an offender receive 3 chances to get their act together or it's 3 strikes your out, which in Pennsylvania the law is :

P.A.C.S.A. 9714(G): A violent offender can receive 10 years for the first strike, 25 years for the second strike and life without parole for the third strike. Under the reasonable assertion that after having the benefit of a meaningful opportunity to reform, the offender proves themselves incorrigible.

As noted Brown and Divincenzo are non-homicide cases but take into consideration the offenses applicable to be considered a "First strike" by statute include: Third degree murder, Voluntary manslaughter of a law enforcement officer, Murder of the third degree of an unborn child, Use of weapons of mass destruction, Terrorism, Human trafficking, Rape and all it's deviate progeny.

All adult sanctions. And each offense must occur during a separate not the same criminal episode to be considered a second strike.

Is it so far off to compare these "same or similar laws" to our present situation? I think not, especially in consideration of the leeway given to sentence so many people to life in prison outright. If our opponent seeks, to boldly suggest some possible difference between the function of LWOP versus the incapacitation last resort function of the third strike it is only obvious. Adults are herein given three chances as violent offenders where juveniles are denied any chance for rehabilitation in Adult jurisdiction where they are stripped of their diminished capacity. Twenty five years is your incapacitating speed limit before life without parole and Cop killers and Terrorists are eligible for parole in ten.

The US Supreme Court ruled in Roper vs. Simmons no juvenile offender is to be subjected to the "most excessive sanctions." You have seen how well we have fared in adult court. We aren't getting it as bad as adults. We are getting it worse.

An example from Marie Gottshalk (73): The median loss in of a Robbery is \$100. The typical time served is 60 months at a cost of approximately \$113,000. She cites a bureau of justice statistic. Americans generally serve more much longer than those sentenced for the same crime in several European countries. (73)

The discrepancies can be just as drastic locally. I am 17, first time offender, on the charge of Robbery. I am serving 10 to 20 years (after I die of course) Let's look at the case of Gerald Fuller, my fellow Pennsylvania Constituent. ~~The Time~~ Tribune reported under the headline: "13 years for 13 Robberies one man crime wave sentenced." Fuller was 40 years old, A first time offender and was sentenced to 6½-13 years for 13 separate Robberies, After he put his head down and told the Judge he "knew better."

Maureen Dowd reported in her article "Murder not for fun, or profit. (76)" Johnny "The Executioner" Martorano who in exchange for his testimony against Whitey Bulger he received a 14 year sentence for 20 murders. (He has already served 12 years.) He testified he does not consider himself a hitman, despite as Ms. Dowd points out, he co-authored his autobiography (and just sold the

rights to Hollywood) The title of which is "Hitman."

Okay, Prosecutors can argue the gravity score on my one Robbery against a full grown manlike Fullers 13 Robberies may be raised by the Robbery in Commission of a Homicide but there are adults in Pennsylvania who commit offenses of the same nature. Take the case of Rafael Robb, a 55 year old Economics professor at the University of Pennsylvania (77) who bludgeoned his wife Ellen Gregory Robb to death with a chin-up bar. He was charged with First degree murder. He ended up getting a deal for Voluntary manslaughter. 5-10 years. He lied to Detectives for a year after staging a burglary to cover up.

Does this not rise to level of Brutal violence of my case? The treachery of killing his wife rise to the level of Eddie and his betrayal of Jason? A 55 year old professor is less in control of his mental capacity? Then teenagers who lose their diminished capacity so the same state can give us life? Professor Robb gets 5-10 while we have the same sentence as Zaccarias Moussaoui one of the terrorists who plotted the attack on the twin towers on 9/11. I'm not saying Robb should get more time. We should have less. Most lifers of any age should. The argument is equal treatment. Not equal mistreatment.

At the time I filed for this state representative Robert Matzie sponsored the bill HB 1994, to put into law every Juvenile lifer be eligible for parole after serving 10 years. Representative J. Preston sponsored another one where we could apply for parole after 3 years on a 10 to life sentence. And in the U.S. House of representatives, on 12/6/07 Rep. Robert C. Scott of Virginia submitted HR 4300 to abolish JLWOP at the Federal and State level through financial incentives, and penalties for failure for states to comply. This Bill would make every juvenile offender eligible for parole after 15 years and every 3 years thereafter. With these bills in mind and the Pennsylvania case laws describing a life sentence as 25 years is therefore the most excessive sanction for an adult that the US Supreme Court forbids a juvenile to be subjected to. I prayed the Court in my brief to amend my sentence to 10 to 20 years.

The American Bar Association, amicus brief states "Neither public safety nor penological objectives would be compromised by allowing the chance of parole for juveniles." The ABA is 4,000 members strong Joe Heckel noted. Heckel added: (In Miller vs Alabama) The Supreme Court emphasizes individualized sentences for defendants facing the most serious penalties. Not only should a court consider a juveniles lessened culpability; but also the juveniles "Greater capacity for change" ~~The Juveniles~~ gift of "capacity for change" can be a guide for minimum sentences. Sentences of life with parole can be devised as one state has done with a minimum of 40 years. This hardly reflects the spirit of the Supreme Court. Nor is it consistent with the recent decision. While life with a minimum of 10 years might seem extreme in the other direction, it is more consistent with the juveniles greater capacity for change. And bear in mind a minimum date is not a release date. A parole board determines the date of release on the merit of the prisoner. (78)

But Joe Heckel adds: Many prisoners are never paroled. This could prove true in a life with parole sentence. Not to mention the parole policy in place requiring prisoners serve 85% of their sentence. Parole eligibility is not liberty. It is only a chance for liberty. And even parole is not liberty as any parolee or parole officer will tell you.

But it is a chance. That is all I ask. Factor in plugging us into the surveillance Leviathan and your still serving a sentence. We would be out of the cage, but we'll still be tethered to law enforcement. Then there is the fear of all of us killers walking among you. When your called to face that by whatever opponent suggests it. Consider this. How many Homicides go unsolved? That is exactly how many killers walking among you already that have never been reined in and remain on the loose? How many Rapists and Pedophiles are walking out of prison everyday? Then what about the Army vets? Unknown CIA agents?

Unmanned drone operators. They have every honorable intention of serving our country, yet how often are they called into question yet still walk among you? I'm not taking anything away from them. I have nothing but the utmost admiration and respect for them. I wish to God they would let me serve in the Army instead of this sentence. I mention them not simply because they are killers walking among you but because of what keeps them from going off and killing everyone? Is it not their discipline? What purpose does prison provide but to be a disciplinary measure?

Police can just kill anyone without consequence. Trayvon Martin's death proves you don't even have to be a cop just sign up for town watch and you'll be back home beating up your wife in no time. I dread the long feared uprising of the hall monitors is not far off. Another case I point out-

The New York Times reported: On November 2nd 2012, Danielle Willard, who had struggled with drug addiction much of her life was shot and killed by undercover officers from the West Valley City Police Department Narcotics Unit. The Police say Ms. Willard had been seen buying drugs and that when officers approached her silver Subaru Forrester she (backed) up in their direction. They opened fire hitting her in the head. She was unarmed. As weeks passed with little information about Ms. Willard's killing questions multiplied. Ms. Willard's family seethed, publicly calling West Valley cities silence a cover-up. The Salt Lake Tribune raised questions about the departments policies, and people started asking whether West Valley's residents could still trust it's Police force. (79)

But things aren't like this for nothing. Offenders have abused second chances as Rachel E. Barkow details (71): In the political climate of the United States today, it takes just one high profile mistake to call the entire enterprise of rehabilitation into question. Every instance in which a paroled or pardoned individual goes on to commit a violent crime shatters the public's confidence that decision making about dangerousness deserves deference, even if the decisions are right much of the time. Take the politically infamous case of Willie Horton which many people believed played a major role in costing Michael Dukakis the presidency. Horton was allowed to participate in a week-end furlough program while serving a LWOP sentence and took the opportunity to commit a violent armed robbery and rape. But Horton was an outlier. The program had an overall success rate of 99.5% this statistic mattered little in the public debate, particularly when Horton's victims declared that "When you are dealing with people that are this dangerous and this violent, anything short of 100% is not successful. (71)

Willie Horton is an asshole, who not only lacks the decency to accept responsibility, but has the arrogance to insult Angela Barnes by claiming she lied about the rape to Playboy magazine. (80) I am not Willie Horton. Crime is subjective. My fingerprints in the Police database are unique to me. My DNA in their databank is mine alone. My signature a graphologist can use to single me out. But the only Criminal justice application of each and every individual characteristic that demonstrates not ant one of us is the same person as the next, only serves to pigeonhole us and compartmentalize into the same systematic process to serve the same mandatory sentence, into the same jumpsuit that blurs together into its all just the same old song, same old story, that gets quieter and fades away into the backdrop of society disappearing behind concertina wire.

Furloughs did have a ~~purely~~ <sup>purely</sup> human benefit for lifers. It was a way to maintain contact with family. To see your children. The administration had a vested interest in it as well. It kept the prison population in line to earn this reward. The officials who implemented this successful program found "Preventing culture shock, prevented future crime." A gradual return to assimilate back to society instead of returning right back out to the light of day after years in darkness. Above all it screened

who could be released back into society and filtered out who was not yet ready. In 1988, it had a 99.5%. In 2013, plugged into the surveillance Leviathan surely we can make up that .5% difference.

Nicky, Eddie, Justina and I are considered the worst of the worst. The most anti-social and inhuman offenders. A prime example to warrant Life without parole for juveniles. I have proven by now they have no idea what they are talking about. We do not even pose a risk of "Future dangerousness" one of the primary concerns of releasing us now. Does my full disclosure explain how this all ended in tragedy? Fuck if I know, I have the same question but does any of this mean that.

A.) All of us actually believed something was going to happen?

B.) That we don't know what happened is wrong?

C.) Subsequent incarceration does not make us see it is wrong?

D.) 10 years later we still don't know we were wrong?

Or do we get regulated to the typical soundbite we are "just sorry we got caught?" If anyone considering us for release does not want to consider our Good behavior in here, which mind you is a 24/7 job against all the elements of the wild. It's not New York, but if we can make it here, we can make it anywhere.

Then how about you consider back in 2003, when we were supposedly in the thrall of our bloodlust after the killing. Nicky and Eddie were set to kill Justina to eliminate a future witness but I stopped them. Not only did I not participate in more bloodshed. I prevented more. Which I say not just for my own credit but Nicky and Eddie could be reasoned with. This incident on the van I wrote about earlier, was mentioned at trial. Yet the only part that made the newspapers was the part about Justina stripping in the van. If you don't believe me the press adds dramatic flair, like to say I shrugged my shoulders and smiled at our sentencing, to create something to make us look worse. Can you believe they omit parts that would make us look better? Preventing anything happening to her is a small detail compared to her taking her clothes off in reporting on a homicide trial apparently. What we did is messed up enough, did it really need spicing up?

I am sorry for what happened. For not stopping it. For all of it. But how could I take Nicky and Eddie serious? Jason himself didn't. How many people say they are going to kill someone? I didn't know. I never would have stood for it, let alone participated. This isn't a situation I went looking for, it was homegrown. If I knew everything that was going on I still wouldn't of guessed. I would never allowed this to happen to Jason anymore then I would let them kill Justina. I didn't stop it because I was in love with her. I stopped it because it was the right thing to do not because I loved her or her family, because it was right. Letting her live was against my "criminal interest" as Nicky and Eddie very well knew she would testify. At that point I just didn't care after what we did. Saving her doesn't make me a saint. I was still out of control. I couldn't handle myself anymore than I could handle the situation. I got a grip in time to save Justina, but not in time for Jason. I am guilty and know I was irresponsible.

Now Justina has to do at least 17½ years before she is considered for parole. Fifteen and she has to do at least 17½ years. She was not some evil unleashed on the world. She was fucked up. She had fucked up role models. I was one of them and I was oblivious to her in my own self-destruction. I never saw the impact I had on her or anyone. I was so busy trying to make something of myself, I was neglecting what I meant to everyone. I didn't even know how Eddie and Nicky were treating her, shrugging her off as a junkie whore, and not someone who made a place for all of us at her dinner table and into her family. I couldn't think of her like that, nor ever imagine my brother could do what he did to her. I would have stood up for her if I knew what was happening to her. I could have stopped it.

But woulda, shoulda, coulda-didn't but one thing I can say in defense of our not being a future threat to society. Is Before a cop or courtroom was anywhere in the picture Nicky and Eddie could be reasoned with. Ten years in prison and does anyone think they want to go down this road again? Do you think any lifer after 10 years at any age would want to? I think alot feel the same way. And not only would not, could not.

I never wanted to be a killer. I wanted to be a rock star. If I wanted to be a killer, I would have rocked the spotlight like Martorano, like Willie Horton. Never. I never wanted to be a killer. I didn't want to be one on May 30th 2003 anymore than I want to be one now. But no matter what happens to me, if I had to be sucked into this vortex at all at least I saved her. She's my one good thing.

Future dangerousness? How can I prove myself? Would you like to videotape and broadcast the exploits of my arrested development? My immortal adolescent mindset striving to grow in this little cage stunting my growth like the production of veal? My internal anxiety eating me alive and my triumph of overcoming it all for the grand prize of facing it all again tomorrow. Why don't you give me my own reality show and call it "My So-called Life Sentence."

## CHAPTER 16

"There was a time in the world when we honestly thought if people just know that this is happening, no one will stand for it."

-Lara Logan

It's important to remember Miller vs. Alabama did not ban the sentencing of Juvenile offenders to LWOP for murder. Only the mandatory imposition of it. While we all awaited how the legislature in Pennsylvania would respond. Hopes were high and speculation was wild as I told you. But long after the first rays of light appeared at the end of the tunnel, did the storm clouds blot it out and the political peopholes came to steal everyone's umbrella, Marie Gottschalk (75) gives us the forecast:

In the immediate wake of Graham vs. Florida, (2010 US Supreme court case forbidding sentencing Juvenile offenders to LWOP for any non-homicide offense.) Not a single former Juvenile sentenced to LWOP in Florida has found much relief in the courts. The handful who have thus far returned to the trial courts for re-sentencing received de facto life sentences of 50, 65 and 90 years. Although Graham certainly provides a legal opening it is likely to be a very limited opening. (73)

And things did start to move forward. Joe Heckel's newsletter cited state trends from a report by the campaign for youth: (81)

1. 4 States (Colorado, Maine, Virginia, Pennsylvania) have passed laws limiting the ability to house youth in adult jails and prisons.
2. 3 States (Connecticut, Illinois, Mississippi) have expanded their Juvenile Courts jurisdictions so that older youths who previously would automatically be tried as adults are not prosecuted in adult court.
3. Ten States (Arizona, Colorado, Connecticut, Illinois, Indiana, Nevada, Utah, Virginia and Washington) have changed their transfer laws making it more likely that youth will stay in the juvenile justice system.
4. Four States (Colorado, Georgia, Texas and Washington) have changed their mandatory minimum sentencing laws to take into account the developmental differences between youth and adults.

The void created by Miller vs. Alabama was left to each states discretion. Not long after the June 25th 2012 decision did the states react.

July 2nd 2012, North Carolina passed legislation for juvenile lifers to be eligible for parole after 25 years. California passed similar legislation for 25 years. In effect they are still serving the most excessive and severe sanctions for an adult. But those kids should be grateful they weren't in Iowa, where Governor Terry Branstad "Commuted" the sentences of 38 offenders to 60 years.

The former Attorney General of Pennsylvania Ernest D. Preate, Jr said on the subject: "It is important to note that the Supreme Court emphasized that. The sentence must take into account how children are different and how those differences counsel against irrevocably sentencing them to a lifetime in prison. Pennsylvania must now act responsibly and fairly in dealing with this new reality."

In June 2012, Michigan, who is second to Pennsylvania in leading the world to sentencing juvenile offenders to life (As of June 2012 they had 358 said offenders serving.) Conducted a report entitled "Basic decency: Protecting the Human rights of children and recommended parole review after serving ten years and mandatory public hearings on each individual every five years."

Paul H. Robinson gives us a look into the tough position lawmakers find themselves in times like these: A sentencing judge or a guidelines drafter is left to the grossest sort of speculation inevitably doomed to setting either a term too long-thus unfairly detaining a non-dangerous offender and

wasting preventive resources-or a term too short-thus failing to provide adequate protection. In deciding between these two bad choices, decision makers commonly opt for errors of the first sort rather than the second, and with the result as has recently been the case with harsher prison terms. A rational preventive detention system would do what current civil commitment systems do: Make a determination of present dangerousness in setting detention for a limited period, commonly six months, and then periodically revisit the determination whether the need for detention continues. (82)

A preventive detention system hidden behind the cloak of criminal justice not only fails to protect the community efficiently but also fails to deal fairly with those who are being preventively detained. The inaccuracies created by the use of prior records as a substitute for actual dangerousness results in the unnecessary restraint of a greater number of non-dangerous offenders. The inaccuracies created by the use of determinate sentencing can have the same effect. In cases in which a non-incarcerative sentence would provide adequate protection, the use of a prison term provides one more example of needless restraint. . . (82)

If an offender has served the portion of his or her sentence justified by deserved punishment and continues to be detained for preventive reasons, punitive conditions become inappropriate. Similarly an offender being preventively detained should logically have a right to treatment, especially if such treatment can reduce the length of intrusiveness of the preventive detention-a specialized application of the principle of minimum restraint. If treatment can reduce the necessary individual sacrifice, the offender ought to receive it. One might achieve the preventive detention goal with greater accuracy, fewer wasted resources and less unjustified intrusion on liberty-avoiding the justice systems regular conflicts with desserts-by relying instead on an open civil preventive detention system, as currently exist's to civilly commit persons who are dangerous because they are mentally ill or have a contagious disease or drug dependency. If preventive detention can be more effective when performed apart from the criminal justice system, and if such separation avoids the conflicts with empirical desserts it seems difficult to justify the using of incapacitation as a distributive principle for criminal liability and punishment. (82)

Mr. Robinson is making these arguments for the evaluation for every lifer nationwide young and old alike calling for their rehabilitation against retribution. Before the arguments were made Joe Heckel added the hope against all pessimism including his own: "wouldn't it be great for PA to regain their historical roles as leaders in Correctional reform!"

September 12th 2012 In our corner, the Juvenile law center and the defender association of Philadelphia argued mandatory JLWOP was unconstitutional under Miller vs. Alabama and since the Commonwealth's sentencing scheme listed no alternative to LWOP for First and Second degree murder. Our sentences should be defaulted to the only available numerical sentence for murder, that of the Third degree sanction. Which the court already "knows how to deal with," therefore it would not tread on the legislators power to establish a sentencing scheme.

Justice McCaferly was troubled by the prospect that a First degree murder defendant could only receive a maximum sentence of 20-40 years for Third degree murder and objected that a 17 year old murder defendant might be able to get out at 37. To my horror, our legal team reassured the Pennsylvania Supreme Court, that us defendants typically have more than one charge and they can be run consecutive to the 20-40 years for Third degree murder. This is after I filed my brief that the Miller decision bans life for a homicide. Graham vs. Florida forbids life for non-homicide offenses. Thus we should be barred from any cumulative effect and resulting numerical equivalent of a life sentence. They just threw us under the bus for a possibility of receiving



a 44½-85 year sentence for all our lesser charges added to the maximum Third degree murder sentence!

I appreciate the efforts of our advocates but these arguments are catering to more draconian nonsense as if there is no defense against these sentences that they keep placing over us. Instead of using the ammo we have we waste our efforts trying to reverse engineer their hot air balloons they drop all this drivel down on us from, by filling it back up with more hot air?

Couldn't someone argue to Justice McAffery (because I can't be presided over our preliminary hearing so he has to recuse himself from all our future litigation) That the immediate years we are incarcerated are the prime time for our rehabilitation. These are the same years where people are trained to serve in the military. When people go to college, vocational training and join the work force. Except we no longer have the luxury of going on party raids and getting wasted. We are your captive audience. You have our undivided attention.

We could have a Masters degree in anything by now. How long until I get a P.H.D. in going home? It's long enough to learn the golden rule of all faiths. Do unto others. The tenant of the Philosophy of objectivism, the exultation of your independence and to earn your own merit, not to feed off others like a parasite and be a "second hander." I get self conscious about being rude to hurt someones feelings let alone physically hurt another person again. Yet I have been here longer then it takes to get a law degree to be in the position to judge me. 24 hours a day. 7 days a week. No school bell ringing to sound my dismissal. No weekends off. No holidays. No spring break. And just in case I do learn my lesson I am denied any eligibility. Long past the point corrections serves, becomes a testament in increasing my tolerance of taking it.

Meanwhile Senate Bill 250 (SB250) got passed unanimously signing into law after June 24th 2012, Anyone under the age of 18 at the time of the crime, 15 years older faces LWOP or at least 35 years to life. Under 15, LWOP or at least 25 years to life for the crime of First degree murder.

For Second degree: 15 years old and up-30 years to life. Under 15 20 to life at least.

The Juvenile Law Center posted on it's website 10/24/12 "Pennsylvania misses the mark on LWOP for juveniles": Pennsylvania this month missed an opportunity to transform the harshest sentencing scheme in the world into one that is fair, proportional and consistent with the latest knowledge of adolescent development. . . Juvenile Law center, along with many other advocates, faith groups and family members opposed this legislation. But with proponents determined to rush the bill through in a matter of days so they could recess to campaign. There was insufficient time to educate the legislature about the folly of the new bill.

Retiring Senator Mary Jo White spoke for many of us when she stated, in opposing the bill. "I am here for one of my last votes of my career and to voice my extreme displeasure, not just about the content but in the manner it is presented. [This bill] never came through the judiciary Committee and I saw it for the first time today. What is particularly egregious. . . The House took advantage of this hodge podge to take up a serious matter of minors sentenced to life without parole. . . and now have created mandatory minimums. . . one of the reasons [it] didn't come through the Senate Judiciary is because we have expressed extreme displeasure with mandatory minimums. . . Judges need discretion. We have now tied their hands. . . by turning our process over to stakeholders. When we permit this kind of process and bypass our own standing bodies, we make this body irrelevant and that is really sad."

The Juvenile Law Center concluded SE 850 merely exchanges one bad law for

another. . . It is out step with criminal justice professionals. Indeed the American Law Institute (ALI) reviewed it's Model Penal Code (MPC) sentencing provisions to chart a specialized course for Juveniles charged as adults. Where they would receive Life as adults. They recommend 20 years for anyone under 16. 10 years for anyone under 14 and further recommends that no one under 18 serve no sentence of imprisonment longer than 25 years for any offense or any combination of offenses.

ALI's mission is to clarify, modernize and otherwise improve the law. It is comprised of 4,000 lawyers, judges and law professors and produces the authoritative scholarly work in this country. The MPC serves as a model for legislatures all around the country. The general assembly blundered when it declined to use the M.P.C. as a guide to new legislation in Pennsylvania. We hope that either Governor Corbett will decline to sign the bill or legislators will have the courage to recognize and correct this miscarriage of justice.

SB 250 got the Governor's autograph but I had one lingering question. What happened to every other bill submitted to the House? How did we go from 10 to life to 35 to life? The Juvenile Law center gave me my answer (and not to mention renewed my confidence in them.) They sent me a copy of their brief appealing the sentencing scheme.

The Juvenile Law center unveiled: While the legislature attempted to "fix" the deficiency in PA law following Miller by enacting Act 204 of 2012, it has only enacted yet another unconstitutional law. . . Senate Bill 850 which became Act 204 of 2012, violated the Pennsylvania Constitution because the bill's original purpose changed dramatically during the legislative process. It began in 2011 as a bill seeking to protect children, specifically dealing with cyber bullying and sexting and establishing procedures for the expungement of Juvenile records.

However it's purpose radically changed in October of 2012, when it shifted it's focus to defining a completely new sentencing scheme for youth convicted of murder in adult court. . . The Pa Constitution provides that during the legislative process, a bill shall not be altered or amended to change it's original purpose. . . The original bill focused exclusively on juveniles and juvenile offending in juvenile court, the final bill, as relevant here dealt with Juveniles convicted of First or Second degree murder, though technically Juveniles, this group of defendants were convicted as adults in an entirely separate criminal justice system. . . cyber bullying has nothing to do with the sentencing of minors for First degree or Second degree murder. . . In it's final form, Act 204 did not even contain a single provision concerning the criminalization of cyber bullying. (See pages 210-211)

The Senate had first passed the original SB 850 on 10/19/11. . . Nearly a year later the house completely gutted SB 850 and provided a new sentencing scheme for juveniles convicted in adult court of First or Second degree murder on 10/16/12. . . Because the original purpose of SB 250 changed so dramatically during the legislative process by crafting this statute as amendment to an already existing bill, therefore ensuring it would bypass the Senate Judiciary committee. . . Article 3 of section 3 of the Pennsylvania Constitution which is intended to both safeguard against the legislature hiding the substance of a bill from the public or integrating an unpopular element into an otherwise supported, and generally to ensure the public is kept informed of legislative developments.

. . . Our Supreme Court has explained that the purpose of the single-subject requirement is to curb last minute consideration of important measures, logrolling, mixing substantive provisions in omnibus bills, low visibility and hasty enactment of important and sometimes corrupt, legislation and the attachment of unrelated bills in the amendment process. . . While amendments

HOUSE JOURNAL  
PUNTER'S NO. 2418  
1892

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 850 Session of 2011

INTRODUCED BY GREENLAND, BAKER, SHATTUCK, TORZANO, COSTA,  
JUDICIAK, BOSCOLO, ALONRY, BOHRS AND FARMER,  
MARCH 16, 2011

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF  
REPRESENTATIVES, AS AMENDED, SEPTEMBER 21, 2012

AM NOE

1 Amend the following sections of the Pennsylvania Code, to read: 1  
2 Section 1102.1 (a) (1) and (2) shall read: 2  
3 Section 1102.1 (a) (1) shall read: 3  
4 Section 1102.1 (a) (2) shall read: 4  
5 Section 1102.1 (b) shall read: 5  
6 Section 1102.1 (c) shall read: 6  
7 Section 1102.1 (d) shall read: 7  
8 Section 1102.1 (e) shall read: 8  
9 Section 1102.1 (f) shall read: 9  
10 Section 1102.1 (g) shall read: 10  
11 Section 1102.1 (h) shall read: 11  
12 Section 1102.1 (i) shall read: 12  
13 Section 1102.1 (j) shall read: 13  
14 Section 1102.1 (k) shall read: 14  
15 Section 1102.1 (l) shall read: 15  
16 Section 1102.1 (m) shall read: 16  
17 Section 1102.1 (n) shall read: 17  
18 Section 1102.1 (o) shall read: 18  
19 Section 1102.1 (p) shall read: 19  
20 Section 1102.1 (q) shall read: 20  
21 Section 1102.1 (r) shall read: 21  
22 Section 1102.1 (s) shall read: 22  
23 Section 1102.1 (t) shall read: 23  
24 Section 1102.1 (u) shall read: 24  
25 Section 1102.1 (v) shall read: 25  
26 Section 1102.1 (w) shall read: 26  
27 Section 1102.1 (x) shall read: 27  
28 Section 1102.1 (y) shall read: 28  
29 Section 1102.1 (z) shall read: 29  
30 Section 1102.1 shall read: 30  
31 Section 1102.2 shall read: 31  
32 Section 1102.3 shall read: 32  
33 Section 1102.4 shall read: 33  
34 Section 1102.5 shall read: 34  
35 Section 1102.6 shall read: 35  
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39 Section 1102.10 shall read: 39  
40 Section 1102.11 shall read: 40  
41 Section 1102.12 shall read: 41  
42 Section 1102.13 shall read: 42  
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94 Section 1102.65 shall read: 94  
95 Section 1102.66 shall read: 95  
96 Section 1102.67 shall read: 96  
97 Section 1102.68 shall read: 97  
98 Section 1102.69 shall read: 98  
99 Section 1102.70 shall read: 99  
100 Section 1102.71 shall read: 100

1 Section 1102.1 (a) (1) and (2) shall read: 1  
2 Section 1102.1 (a) (1) shall read: 2  
3 Section 1102.1 (a) (2) shall read: 3  
4 PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED TO READ: 4  
5 SECTION 1102.1. SENTENCE FOR MURDER, MURDER OF UNKNOWN CHILD AND MURDER 5  
6 OF LAW ENFORCEMENT OFFICER. 6  
7 (A) FIRST DEGREE.-- 7  
8 (1) EXCEPT AS PROVIDED UNDER SECTION 1102.1. 8  
9 (A) EXCEPT AS PROVIDED UNDER SECTION 1102.1. 9  
10 MURDER, MURDER OF AN UNKNOWN CHILD AND MURDER OF A LAW 10  
11 ENFORCEMENT OFFICER.-- A PERSON WHO HAS BEEN CONVICTED OF A 11  
12 MURDER OF THE FIRST DEGREE OR OF MURDER OF A LAW ENFORCEMENT 12  
13 OFFICER OF THE FIRST DEGREE SHALL BE SENTENCED TO DEATH OR TO 13  
14 A TERM OF LIFE IMPRISONMENT IF ACCORDANCE WITH 42 PA.C.S. § 14 14  
15 9711 (RELATING TO SENTENCING PROCEDURES FOR MURDER OF THE 15  
16 FIRST DEGREE). 16  
17 \* \* \* 17  
18 (B) SECOND DEGREE.-- (A) EXCEPT AS PROVIDED UNDER SECTION. 18  
19 1102.1, A PERSON WHO HAS BEEN CONVICTED OF MURDER OF THE SECOND 19  
20 DEGREE, OF SECOND DEGREE MURDER OF AN UNKNOWN CHILD OR OF SECOND 20  
21 DEGREE MURDER OF A LAW ENFORCEMENT OFFICER SHALL BE SENTENCED TO 21  
22 A TERM OF LIFE IMPRISONMENT. 22  
23 \* \* \* 23  
24 SECTION 2. TITLE 18 IS AMENDED BY ADDING SECTIONS TO READ: 24  
25 A.1102.1. SENTENCE OF PERSON UNDER THE AGE OF 18 FOR MURDER. 25  
26 MURDER OF AN UNKNOWN CHILD AND MURDER OF A LAW 26  
27 ENFORCEMENT OFFICER. 27  
28 (A) FIRST DEGREE MURDER.-- A PERSON WHO HAS BEEN CONVICTED. 28  
29 AFTER JUNE 24, 2012, OF A MURDER OF THE FIRST DEGREE, FIRST 29  
30 DEGREE MURDER OF AN UNKNOWN CHILD OR OF MURDER OF A LAW 30  
31 ENFORCEMENT OFFICER. 31  
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1 ENFORCEMENT OFFICER OF THE FIRST DEGREE AND WHO WAS UNDER THE  
 2 AGE OF 18 AT THE TIME OF THE COMMISSION OF THE OFFENSE SHALL BE  
 3 SENTENCED AS FOLLOWS:

4 (1) A PERSON WHO AT THE TIME OF THE COMMISSION OF THE  
 5 OFFENSE WAS 15 YEARS OF AGE OR OLDER SHALL BE SENTENCED TO A  
 6 TERM OF LIFE IMPRISONMENT WITHOUT PAROLE, OR A TERM OF  
 7 IMPRISONMENT, THE NUMBER OF WHICH SHALL BE AT LEAST 15 YEARS  
 8 TO LIFE.

9 (2) A PERSON WHO AT THE TIME OF THE COMMISSION OF THE  
 10 OFFENSE WAS UNDER 15 YEARS OF AGE SHALL BE SENTENCED TO A  
 11 TERM OF LIFE IMPRISONMENT WITHOUT PAROLE, OR A TERM OF  
 12 IMPRISONMENT, THE NUMBER OF WHICH SHALL BE AT LEAST 25 YEARS  
 13 TO LIFE.

14 (B) NOTICE.--REASONABLE NOTICE TO THE DEFENDANT OF THE  
 15 COMMONWEALTH'S INTENTION TO SEEK A SENTENCE OF LIFE IMPRISONMENT  
 16 WITHOUT PAROLE UNDER SUBSECTION (A) SHALL BE PROVIDED AFTER  
 17 CONVICTION AND BEFORE SENTENCING.

18 (C) SECOND DEGREE MURDER.--A PERSON WHO HAS BEEN CONVICTED,  
 19 AFTER JUNE 24, 2012, OF A KINDER OF THE SECOND DEGREE SECOND  
 20 DEGREE MURDER OF AN INFANT CHILD OR OF MURDER OF A JAIL  
 21 ENFORCEMENT OFFICER OF THE SECOND DEGREE AND WHO WAS UNDER THE  
 22 AGE OF 18 AT THE TIME OF THE COMMISSION OF THE OFFENSE SHALL BE  
 23 SENTENCED AS FOLLOWS:

24 (1) A PERSON WHO AT THE TIME OF THE COMMISSION OF THE  
 25 OFFENSE WAS 15 YEARS OF AGE OR OLDER SHALL BE SENTENCED TO A  
 26 TERM OF IMPRISONMENT, THE NUMBER OF WHICH SHALL BE AT LEAST  
 27 30 YEARS TO LIFE.

28 (2) A PERSON WHO AT THE TIME OF THE COMMISSION OF THE  
 29 OFFENSE WAS UNDER 15 YEARS OF AGE SHALL BE SENTENCED TO A  
 30 TERM OF IMPRISONMENT, THE NUMBER OF WHICH SHALL BE AT LEAST

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1 20 YEARS TO LIFE.

2 (D) FINDING.--IN DETERMINING WHETHER TO IMPROVE A SENTENCE  
 3 OF LIFE WITHOUT PAROLE UNDER SUBSECTION (A), THE COURT SHALL  
 4 CONSIDER AND MAKE FINDINGS ON THE RECORD REGARDING THE  
 5 FOLLOWING:

6 (1) THE IMPACT OF THE OFFENSE ON EACH VICTIM, INCLUDING  
 7 CRIMINAL AND NATURAL VICTIM IMPACT STATEMENTS MADE OR SUBMITTED  
 8 BY FAMILY MEMBERS OF THE VICTIM REGARDING THE PHYSICAL,  
 9 PSYCHOLOGICAL AND ECONOMIC IMPACT OF THE CRIME ON THE VICTIM  
 10 AND THE VICTIM'S FAMILY, A VICTIM IMPACT STATEMENT MAY  
 11 RECEIVE CONSIDERATION IN THE DETERMINATION OF THE IMPACT.

12 (2) THE IMPACT OF THE OFFENSE ON THE COMMONWEALTH.

13 (3) THE THREAT TO THE SAFETY OF THE PUBLIC OR ANY  
 14 INDIVIDUAL, FOUND BY THE DEFENDANT.

15 (4) THE NATURE AND CIRCUMSTANCES OF THE OFFENSE,  
 16 COMMITTED BY THE DEFENDANT.

17 (5) THE DANGER OF THE DEFENDANT'S CONTINUITY.

18 (6) MOTIVATION FOR COMMITTING AND AGGRAVATING FACTORS  
 19 BY THE DEFENDANT'S COMMISSION OF THE OFFENSE.

20 (7) AGE-RELATED CHARACTERISTICS OF THE DEFENDANT.

21 (8) PREVIOUS CRIMINAL RECORD.

22 (9) MENTAL CAPACITY.

23 (10) MENTAL HEALTH.

24 (11) THE NATURE AND EXTENT OF ANY PRIOR DELINQUENCY OR  
 25 CRIMINAL HISTORY, INCLUDING THE SUCCESS OR FAILURE OF ANY  
 26 PREVIOUS ATTEMPTS BY THE COURT TO REHABILITATE THE  
 27 DEFENDANT.

28 (12) THE NATURE AND EXTENT OF ANY PRIOR DELINQUENCY OR  
 29 CRIMINAL HISTORY, INCLUDING THE SUCCESS OR FAILURE OF ANY  
 30 PREVIOUS ATTEMPTS BY THE COURT TO REHABILITATE THE  
 DEFENDANT.

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to legislation are common and often permissible, they must also be rationally related to the subject of the underlying bill. "Assist in carrying out a bill's main objective or be otherwise germane to the bill's subject". . . Act 204 is precisely the kind of multi-subject legislation that section 3 was enacted to prevent. (Filed 11/21/12)

What could have been the rush to bypass the Senate Judiciary committee but to circumvent what was already in the pipeline? Bills re-submitted for us to be eligible for parole after serving, 10 or 15 years. (1) P.A.C.S.A.1928 states any ambiguity in a penal code should be interpreted in favor of the defendant. We, all 500 plus of us should be granted the relief that was hijacked from us. Not only do the Political Pedophiles still violate our human rights. They are cheating to do it!

And that is not even the best part. The new law only applies to Juvenile offenses that occur after 6/24/12. This isn't the sentence they are giving all the Juvenile offenders already serving LWOP. This is the sentence they are making us fight for! The PA Supreme Court is currently deadlocked on making it retroactive. In spite of the Jackson case attached to Miller vs. Alabama being a Habeas Corpus petition and he was granted the "relief" Miller was, sure Jackson is not a Pennsylvania case it is a US Supreme precedent, and like Roper vs. Simmons it will be retroactive. If not in the PA Supreme Court through the Cunningham case, it will be in Federal review. The panic is the point, to worry about losing our chance to overturn our LWOP sentence. Only to embrace this draconian sentence as if it's victory and not playing into the Political pedophile pitfall it truly is.

They can have SB 250. I will not file one piece of paper for that sentence. I am by no means ungrateful and by no means do I feel left out. The kids coming into the system won't know no better. The kids with 30 years in prison are already packing their bags for the long overdue relief they have no doubt earned. As for me I can't help but feel cheated. Again. 35 years is 10 years longer than the harshest sanction for an adult that as a juvenile I should not be subjected to at all, yet under SB 250 the 35 year sentence exceeds the average life sentence for an adult by 10 years.

Let me tell you what SB 250 means to me. It means the last 10 years I have spent in prison doesn't count and I just started my life sentence 6/3/13. I am only four months into my sentence now? 17 weeks? Nothing I have been through in these hell holes matters for the last decade? And now your telling me if I be really good and eat all of my vegetables I might get out when I am 52? I live in the land of the free. I am from the city of Brotherly love, the former Capitol of the free world and this is the American dream of justice? We stagnate so our elected officials save face?

And I thought the Life sentence I once suggested to the Juvenile lifer newsletter in July of 2007 would be considered off the mark, Ahem:

Why not rehabilitate us in league with natural development? Would sentencing a juvenile to a term of years equivalent to how long he or she has spent on this Earth be irrational? I would suggest a juvenile sentenced to life, it should be the life they were limited to in the first place, with an eligibility for parole in between and call it "Juvenile Life" (For example I would be sentenced to 9½-18 years.)

But what was I thinking? Crazy lil' starry eyed dreamer that I was. . . 35 years is a proportioned sentence? My buddy just eclipsed the amount of time he was on the streets, with the 18 years he has served in jail now and he is only ½ way to parole eligibility? Meanwhile his wife and twin daughters live all the way across the other end of the state and a single parent can only afford to make the trip but so often and he is nowhere near being able to come home to support his home, broken by his unending incarceration.

As for me if I got out today. I don't want to go home. That is not what I am fighting for. I want a fresh start. A life sentence is not the only thing

keeping me from my "friends" and that lifestyle. It was horrible. I am out. And I am staying out. I don't care if I have to be cougar bait on EHarmony.com or whatever to meet new people. I'll even work at McDonalds, it beats the job I have now. In fact I am not even just saying that in jest. McDonalds not only hires ex-offenders, they offer gainful employment with real opprutunities for career growth. I can enroll in their management training program and earn credit towards a 2 to 4 year degree. Did you know McDonalds is the only restaraunt organization recognized by the American Council on Education for it's restaraunt management curriculum? While you work you can even earn a scholarship to enter the world renowned Hamburger University curriculum. I really can start over. Matbe start a band if I could get back into playing guitar again.

What can I do in 25 more years at 52? If I am, dare I say "lucky" and am released on my "minimum." (And I don't have to serve 85% of my time first.) Sheesh, Hello EHarmony. . . I'll probably be looking more Alfred than Bruce Wayne by then. Might not be able to catch Catwoman no more. . . a Cougar is going to be too high on the food chain for me too. Damn. . . But all is not there still remains one untapped genus of feline for me. "Cat Ladies." I would totally tap that demographic as long as their not scaredy cats. Career is hopeless, I'll never have enough time to climb the corporate ladder at Micky D's through Hamburger U. How am I ever supposed to bring the big bucks home to my Cat Lady in waiting? Forget music, I'll be lucky if I can still shake my hips. 35 years? I wish I could take the killing back. But I can't anymore than I could that day, then I can 25 years from now. lost

## CHAPTER 17

"Poor mothers," He thought. There's one thing sadder than to see their children die - to see them live evil lives.

-Victor Hugo

35 years is too much. They know their going to get away with it. There is nowhere to appeal to. Appellate procedure feels little more than hollow pomp and ceremony designed to exhaust us long before our post conviction remedies are exhausted. I have to appeal this sentence all through the Pennsylvania Courts who won't rule against the legislature. The Federal Courts that will deem the 35 year sentence constitutional. Back up to the U.S. Supreme Court that didn't do anything in the first place.

The Supreme Court demurred where it should have proclaimed leaving the States too much leeway to appease the Miller ruling while sticking to their stop-loss sentencing sanctions all while placating the human rights victims with a slightly brighter hope while in all reality Pennsylvania is doing nothing still and Thanks to the Supreme Court they don't have to. Leaving us to rot still, able to do nothing to avail ourselves. Don't take my word alone that this sentence could stand uncontested;

Rachel E. Barkow has noted: Indeed it has been 3 decades since the court found a non-capital sentence unconstitutional. . . Currently, LWOP sentences receive procedural protections or Judicial oversight but instead are treated like every other non-capital sentence. . . Despite promising a "meaningful opportunity" to obtain release based on demonstrated maturity and rehabilitation. But as the dissenting Justices pointed out, the court provided no guidance on what the "meaningful opportunity" entails or how the parole boards must go about their decisions. The courts prior treatment of parole suggests that a "meaningful opportunity" ultimately means very little. As the court recently reiterated in the context of parole. We have held the procedures required are minimal. The court has not been willing to say that due process requires anything more than the opportunity for the prisoner to be heard and some statement of reasons for parole denial. The court has consistently made clear that the substantive standards for release rests entirely with the states. But if the parole availability in *Graham vs. Florida* is to have real significance, one might think the court will have to fashion a more robust definition of what a "meaningful opportunity" entails. . . (71)

To be sure many people [including herself] have argued that the courts responsibility under the eight amendment is in fact to police all sentences and not to create artificial categories of sentences it will review and ones it will not. But that would cover too much of the criminal justice system. The Supreme Court has kept it's death penalty Jurisprudence from bleeding into other areas of Criminal justice by repeating the truism that "death is different." In contrast the line between LWOP and life with parole in a state where parole is rarely granted is not so clear. Nor is the difference between life without parole and a 70 year sentence. If the courts worried about administrability and its eighth amendment jurisprudence shows that it has been one of the courts primary concerns-the court is likely to define LWOP narrowly. That means the states can achieve the rest of LWOP in other ways and more generally, all other noncapital sentences remain essentially off the table when it comes to the courts jurisprudence. (71)

Thus a somewhat intractable dilemma presents itself for a court with administrability concerns, to truly police what are effectively sentences of LWOP, the court would need to review sentences that achieve the same ends even if they don't use the same terminology. But if the court does that there is no logical stopping point to what it will need to review. . . It is insufficient to rely on to make individualized assessments of blameworthiness to ensure that

sentences are not cruel and unusual. The Constitution places that responsibility with the judiciary. That the court continues to ignore that in the context of individual challenges to noncapital sentencing is perhaps the greatest cause for hopelessness when it comes to Criminal Justice reform. (71)

Matt Taibbi observed in Rolling Stone in his investigation into the 3 strike law: Justice Sandra Day O'Connor defended the sentence as a rational judgement entitled to deference. She added with a straight face that the Supreme Court does not sit as a Super Legislature to second guess the states. Despite the fact that's exactly what the Supreme Court has been doing for almost 250 years. (83)

In addition to the Supreme Court holding out relief for all subjected to this sanction. It will be a long time before the issue comes before them again. This happened with the last human rights violation of executing Juvenile offenders. When in 1988 they declared sentencing anyone 15 and younger to die as cruel and unusual punishment. The following year in Stanford vs. Kentucky the Supreme Court held it was constitutional to execute 16 year olds and 17 year olds. That was 1989, it would not be until another 16 years until they abolished the execution of any offender under 18 outright. This is not an isolated event it was the same deal with the execution of the mentally retarded. In 1989 the Supreme Court upheld their execution. It was not for another 13 years the Supreme Court decided that was wrong in 2002.

How many leap years must we all wait until one of these Groundhog days the Supreme Court finally peeks their heads out to admit we deserve spring after how long of a winter? Justice delayed is Justice denied. It is cruel and unusual punishment to wait this long to be heard. How long until what is known about the diminished culpability of anyone under 18? The diminished capacity of anyone under 25? Or everything that is wrong with the Criminal Justice system? Give the citizens of America the chance to be rehabilitated before they can be considered a failure. Apply the technology and the treatment available instead of contenting yourselves your dissenting opinion will be validated by a later generation. Just because the house band on the Titanic is playing your song does not alter the fact the ship is sinking.

It almost seems like baby steps the Supreme Court takes are for our benefit. Not to give the rabble too much lest they rouse the unsettled masses. Instead they ease the idea of change to us, a nudge in the right direction here, a little suggestion there, rocking us to sleep and everything will be all better before we know it and it all seems like it all fixed itself and our Supreme Court Justices smile knowingly from behind the curtain, like Obiwan Kenobi, Anakin Skywalker and Yoda at the end of Return of the Jedi.

How can the hand that rocks the cradle be so numb? If we can take the injustice, we can take justice. As if America is not invigorated by social upheaval. Why push back correcting a setback? We are not asking for a drastic step forward, we are out of step to begin with, and we will never get anywhere if we keep dragging our feet. The purpose of the Supreme Court Justices being seated for life is to nurture boldness and innovation and independence free from any pressure of politics (Recall that by gone American Spirit deal?) Somebody should call Maury Povich for a paternity test. Because in the case of the Supreme Court Justices we need to find out if they have the forefathers they say they do.

If it is not enough the Supreme Court takes for ever we can't even apply for commutation until we have exhausted our post conviction remedies. Ah, I remember when the people who represent commutation defendants paid a visit to the prison. I truly felt bad for them, our representatives had no idea what they were walking into. They told a roomful of condemned people about how "majestic" the building our fates would be decided in is. While the lifer next to me picked at the church pew in front of us until I wrapped his wrist and pointed at him sternly. Making Zook and Jon Yount laugh. They didn't have no



answers to anyone's questions except hang on to hope and don't forget the filing fees.

Commutation, like the "meaningful opportunity for parole" is the other outlet the United States of America's Supreme Court defers releasing a prisoner to as Jessica S. Henry points out: If appellate intervention is unusual in non-capital cases so is executive clemency. Although the granting of clemency has become essentially unavailable to imprisoned offenders in almost every Jurisdiction. As the Supreme Court recently recognized the remote possibility of [executive clemency] does not mitigate the harshness of the sentence [of LWOP] while it continues to be possible for offenders to receive clemency, the granting of clemency is indeed a rare event. (70)

Marie Gottschalk further enunciates why: Over the past four decades or so, retribution has become a central feature of U.S. penal policy, supplanting rehabilitation and even public safety as the chief aim. As a consequence, mercy, forgiveness, and redemption which have been central considerations in religious philosophical and political debates about punishment for centuries—indeed millenia—have been sidelined. This is starkly evident not only in the sharp drop in the use of executive clemency today but also in the marked change in how public officials justify the few pardons they do grant. (73)

Pardons and commutations were vital features of the U.S. Criminal Justice system throughout the 19th century and much of the 20th century. Presidents and Governors regularly invoked their powers of executive clemency to reduce prison sentences, to remit fines and to spare the lives of prisoners on Death row. Despite the widespread view that pardons and commutations were anti-democratic and sources of corruption. Executive clemency was a key mechanism to manage the prison population, to correct miscarriages of justice, to restore the rights of former offenders and to make far reaching, public statements about the Criminal Justice system. Presidents and Governors continued to wield their powers of executive clemency even in the face of public uproars over particular pardons or commutations. (73)

On Christmas day in 1912 Governor George Donaghey of Arkansas a fierce opponent of convict leasing pardoned 360 state prisoners in one fell swoop in a gesture that made national headlines. For years a coalition of cotton planters, coal operators corrupt judges and anxious taxpayers had stymied his attempt to end the brutal system of convict leasing in Arkansas. . . In the 1930's at the height of the "Jim Crow" era, Governor Mike Conner traveled to Parchman Farm to investigate the "forgotten men" of Mississippi's infamous penal farm. He offered a personal hearing to any convict who had served a sentence of at least ten years. At his "Mercy Courts" Conner freed dozens of black prisoners in the face of charges that he was "granting amnesty to ancient coons." The Governor was particularly affected by the sight of black children wearing prison stripes at Parchman, where one out of five inmates was under 20 years of age. He sent a number of children home after giving them a lecture about honesty. (73)

Compare that with the modern day commutation record of Pennsylvania. one of six states where life means life and where the lifer population has increased eleven fold since the early 1970's. Between 1967 and 1994, Pennsylvania Governors and Pardons board commuted the life sentences of nearly 400 inmates. Since then only six life sentences have been granted commutation. Democrat Ed Rendell commuted only five life sentences during his two terms. Three of those were announced just weeks before he left office in early 2011. (73)

By contrast Democrat Milton Shapp commuted 251 during his eight years in office (1971-1979) and Republican Raymond Shafer (1967-71) commuted 95 during his single term. PA's state officials vigorously battled a lawsuit filed on behalf of inmates sentenced prior to 1997, when the commutation rules changed significantly. Under the old rules a commutation recommendation

was forwarded to the Governor, if a majority of the pardons board supported it. The new rules, enacted in the wake of a high profile double murder committed by a man whose sentence had been commuted, requires a unanimous decision from the board, which includes the Attorney General and a representative of victims groups. That lawsuit dragged on for more than a decade--or almost as long as the typical lifer spent in prison in PA in the 1970's before being released--and was eventually decided in the states favor. (73)

. . . A survey of all commutations in non-capital cases between 1995 and 2003 found that most states averaged fewer than 100 commutations during these eight years. 34 states including, Texas, California, Ohio and PA, which have some of the largest prison populations, granted 20 or fewer commutations during this time. The American Bar Association's Justice Kennedy Commission reviewed the state of pardoning in the United States and found that in most jurisdictions, the pardon power is rarely utilized to reduce sentences or promote re-entry of individuals to the community "The Kennedy Commission" wisely recommended that states and the Federal government revitalize the clemency process. It urged them to establish standards and provide an accessible process by which prisoners may request a reduction of sentence in exceptional circumstances. Including but not limited to old age, disability, changes in the law, exigent family circumstances, heroic acts or extraordinary suffering. . . (73)

Public officials need to once again assume the political risks that come with releasing offenders early. In the past Governors and Presidents were willing to weather the charges of being Anti-democratic or corrupt when they invoked their clemency powers. Now that crime has become such a persistent political trip wire in the United States. They need to steer and prepare the public for the rare but inevitable when a released prisoner goes on to commit a front page crime. (73)

Jessica S. Henry asks: Should the possibility of reoffending justify the wholesale elimination of the redemptive possibility? Has retribution become so embedded in our cultural mindset that we cannot imagine a less punitive punishment structure? Are we so committed to severe punishment (and the more severe the better) as the best response to serious (and sometimes less serious) offending that we cannot envision an alternative? (70)

Sharon Dolovich affirms: Politicians fear of being "Wille Horton-ed" has arguably had a direct and serious impact on parole in the United States. Although the parole structure differs in many jurisdictions, in many states the Governor has considerable control over the process, whether indirectly through the appointment of the parole board members or directly through veto power over their decisions. Many states executives have preferred to dramatically curtail the granting of parole rather than risk the single mistake that might threaten their career. But--and here is the key point--it is unlikely that this trend would have emerged were it not consistent with the prevailing propensity to exclude were people in prison widely viewed as Human beings. Just like anybody else it might be regarded as beyond cruel, not to mention an indefensible waste of taxpayer dollars to maintain in custody those who could show themselves to be reformed. (84)

Ms. Dolovich cites the recent hostility towards releasing lifers in North Carolina who received life sentences between 1974 and 1978, when a life sentence was 80 years but with good behavior they could be out in 40. Despite earning their release, their parole was challenged by the State Governor, leading newspapers, the North Carolina Fraternal order of police and victims rights advocates all lined up to condemn the decision. Ms. Dolovich notes here that this opposition is so predictable, despite the fact that those people whose sentences stood to be affected had uniformly committed more than three decades previously. Obviously there was some concern being there was no individual determinations of a public threat. Instead of individual hearings, Governor Ev Perdue fought any release at all. In terms of the exclusion

project she asserted "Life should mean Life" Thomas Bennet, Executive director of the North Carolina victims assistance network said: "We've got a hole in the law and these Felons are going to use it to crawl out of prison." (84)

It is through it's policies and practices that a state reveals it's position on the spectrum between meaningful reintegration and permanent exclusion. For this reason one should perhaps not make too much of the statements of Perdue and Bennet. But these statements are nonetheless telling, especially read alongside the states refusal even to consider releasing people who were found to have a strong legal claim to freedom and who after decades in prison, may well have posed no public safety threat. . . the obstacle is not the individuals inability to safely reintegrate but political resistance to granting release. (84)

A Mauer et survey cited by Charles J. Ogletree and Austin Sarat detailing: Lifers have very low rates of recidivism, including for violent crimes. For example in Michigan, 175 persons convicted of murder were paroled between 1937 and 1961: None committed another homicide and only four returned to prison for other offenses. In Canada between 1920 and 1967, 119 persons originally sentenced to death for murder had their sentences commuted to life and were eventually released on parole. One was convicted of another homicide. From 1959 to 1967, an additional 32 persons were released and by 1967 only one had been convicted of a new offense (not a murder.) (74)

Marie Gottschalk cites a study from England finding people that were arrested for murder that were paroled on supervision have lower rates of recidivism than any other sanction. She points out elsewhere: The recidivism rate for lifers is much lower by far than for other offenders. People released from a life sentence were less than one third likely to be re-arrested as all released prisoners, according to an analysis by the sentencing project. Two thirds of all people released in 1944 were re-arrested compared with one in five people who were released from a life sentence. Only seven of the 285 lifers in PA who were released on parole between 1933 and 2005 after their sentences were commuted were recommitted to prison for a new crime. According to a 2011 study by the New York State parole board, of the 368 people convicted of murder. Who were granted parole in New York between 1999 and 2003. Just **Six** or 1.6%, were returned to prison within three years for a new Felony conviction--none of them a violent offense." These findings are consistent with other studies documenting the relatively low recidivism rate of people convicted of murder and of people on death row. For example Hugo Adam Bedau found that less than one percent of released murderers were returned to prison for committing a subsequent homicide. . . Finally, many lifers are first time offenders convicted of homicide. The phrase "one than done" is commonly used to sum up their criminal proclivities. (73)

Pear in mind all of these facts pertain to adult homicide offenders that all this data is shunned to support their rehabilitation let alone their Juvenile counterparts. Despite as Joe Heckel sure won't neglect to mention: Contrary to popular perception, many of these Juvenile lifers have matured into responsible adults and have gone on to achieve Associate and Bachelor degrees, master vocational skills and develop various individual talents. These accomplishments have been made despite the assumption Juveniles who are tried as adults are unable to be rehabilitated and are not amenable to treatment.

The facts support that all lifers deserve a fair chance at rehabilitation. All People. Of all ages can change. Less than 10% of convicted killers commit another homicide. Being plugged into the surveillance state it can be reduced to zero. The less than 1% has been achieved without technology. If we can ever get past the redundant retribution, we can harness technologies potential for true Penal reform.

Until something changes we are going to keep coming against the same walls. Irregardless of who we petition for release. Our actions after our offenses

are only considered to our detriment. Not one accomplishment in prison will outweigh nay misconduct, No matter how long of a passage of time has elapsed in pursuit of getting that 85% of the sentence. Parole agents often accuse offenders of being "too well behaved" and declare their suspicious we are manipulating the system. If we try to go to school we are accused of only trying to look good. They stopped the Pell grants allowing us to get college credit, and we are even chastised for overcoming this embargo on self-help!

Commutation used to be about making a statement, now politicians just tell the public what they want to hear as if there is no defending us. Good leaders have not changed the politics have. Remember the Stanford vs. Kentucky case I cited emphasizing the Supreme Courts in action on abolishing executing Juveniles? Stanford did not get executed. Why? Not because of the Supreme Court that's for sure but because the Governor of Kentucky intervened and commuted his life sentence. The only thing that the Governor can be accused of is what? Forward thinking? If he waited 16 years more for the Supreme Court, Stanford would be dead.

The difference between Retribution and Rehabilitation must be restored to the scales in Lady Justices hand. My guilt over the victims pain will weigh on me forever, in or out of prison, but all trying to take responsibility does is weigh against me. There is no opportunity. I can not be helped. I can only be hurt. I'm not allowed to prove myself. I have lived 28 years as a person. A minute as a killer. I know that minute cost Jason his life but I am powerless to change what happened no matter how much I wish I could. Marie Gottschalk details one of the Supreme Court Justices who has not remained silent on the subject: Justice Anthony Kennedy lamented in a 2003 speech to the American Bar Association "The pardon process of late seems to have been drained of it's moral force; as a consequence, many crimes remain eternally unforgivable and unforgettable. The perpetrators are forever defined by the crime they were convicted of, despite all the evidence piling up over the decades that they are not the same person who committed that crime and they do not pose a major threat to society." (73)

It doesn't make a difference if we grow out of who we were anymore than if we ever were who they said we were in the first place. No matter the case unlike many other things subject to Time, Gravity does not add anymore weight to our side of the scale. The bar isn't getting any lower either. As Michael Piccuh Executive Director of the PA, DA's association (PDAA) made clear in 2010: "We owe it to the victims and to society to ensure that while we do offer an avenue to clemency, it has to be a very high threshold. . . it's not a right, not an entitlement."

In an August 2010 legislative hearing on JMWOP and inquiry into PA sentencing more Juveniles to life than any other jurisdiction in the world. Marie Gottschalk was taking notes: Pennsylvania has been persistently unwilling to commute the sentences of juvenile lifers who have served decades behind bars even in instances when members of the homicide victims family called for mercy and release. (73) ((I must add this is the only time the victims are forgotten and their testimony is given no weight.))

In opposing the legislation (Before SB 250, when the bills were for 10, 15 years until parole eligibility.) The PDAA and other opponents argued the proposed legislation, arguing they support reducing the prison population but for non-violent offenders. "That is the cohort group our collective attention should be focused on-not on letting murders out early. They also emphasized that the states board of pardons provides adequate means for offenders to prove they are rehabilitated and seek release through the commutation process. . ." (73)

Representatives of the victims organizations portrayed ending JMWOP retroactively and that to now make juvenile offenders eligible for parole consideration as a betrayal. They contended that many victims families agreed not to push for the death penalty because of assurances from prosecutors that the perpetrator would be locked for life thus sparing the family the

seemingly endless appeals process of capital punishment. (73) At the same time District Attorneys are cutting these deals, they tell defendants the laws may change one day (to get released) to get them to plead guilty. But God forbid a lawyer ever being called a liar.

Bobby Jaminskra spoke at the hearing for the National organization of victims of Juvenile lifers charging that ending JLWOP in Pennsylvania would be tantamount to torturing victims whose loved ones were murdered forcing them to "relive the trauma over and over" with each parole hearing. (73)

The victims family in my case embody the old testament archetype "seekers of blood." Let me tell you where my remorse has gotten me with these good people I have had the misfortune to cross. The Sweeneys very publicly called for the death penalty, in fact Jason's Stepmother expressed she wished we could get stoned. Around 1/13/04. The prosecution decided not to seek the death penalty against Nicky and Eddie or Justina, only me. I read in the Philly Daily News the family just wanted me to get death. Nicky and Eddie had already turned on me, I was already on my own, why not be singled out for execution? I didn't really get it but felt like whatever if that is what Jason's family wants, so be it. I'll lay my head on the guillotine if it helped them at all.

I took it to trial. I didn't plead guilty to get life in prison. I didn't plead not guilty. I pled nothing. My only plea was going to be for death if that was what the Sweeney's wanted. If Roper vs. Simmons went the other way I would of been executed by now. It is not my fault I did not get executed. And as you can see I am not thrilled with LWOP, but eventually I had no choice but to accept going with the flow and who knows maybe one day get out.

For years I told myself it is the only thing I can do and that nothing I think or feel matters because my sin is irrevocable and since I could not change it any effort otherwise would just insult the injury. I have made the Sweeney's suffer because ultimately I am just a killer. I can't change it. If I could not get back into court, at least I could believe that the Sweeney's would have the closure the prosecution promised each of them and if my suffering did nothing for them then I hoped it at least counted towards some greater good out there somewhere.

For years I was holding onto this. Nine and a half in fact. Then one day I am told the Biography Channel did an episode of "kid killers" on us? And every episode when they cue up the theme songs our mugshots are part of the photo montage providing the backdrop? The national organization of victims of Juvenile lifers is a bit off to suggest we shouldn't be paroled because it would "torture" them by "reliving the trauma over and over?" Our victims are willingly participating in the re-enactment. They don't want to relive it? They can't wait. Justina isn't even eligible for parole for another seven years.

Nicky, Eddie and I are doing forever behind **bars**. What else do they want? Not only do we suffer under the Yoke of this sentence that gets heavier every passing day we lose. They want to jump up and down on it? What else could sate their thirst for vengeance? My remorse has kept me silent, holding my tongue with my head down. Self conscious with shame. And you say I have neither and spit upon my atonement? I can be reduced to nothing more and not an ounce of integrity is counted my suffering that I take full on as penance? We are sentenced beyond forever and still you rally?

Out of respect of my offense against the Sweeney's, irregardless of what I may suspect their motivation is to do this Television show, It is not purely to honor Jason's memory. And I cannot make this claim for my co-defendants this is just how I feel. The Sweeney's want to make me look like an asshole? They have no idea how much of an asshole I was. Not one of us said anything. Spoken

we face, I pray for too God knows I am ready. But lets keep spirituality out of this, lest I am accused of playing the God card.

I am Sorry. There are no words for it. I did not want to insult you in the courtroom with an apology you did not want even against my own self interest to show the Judge remorse. I feel Horrible about what happened. Everything from ruining the family gathering you had planned that night for Melissa going away to have to stay and suffer with all of your family. I hate all of it. I am sorry for ruining your family. I am sorry for ruining all of ours. I am sorry I can do nothing to take it back.

And despite my silence. Still none of you have no peace. You still have each other. I have lost everyone and everything and am left only with my conscience and she is not doing me any favors. This punishment isn't working for you? Because it has taken everything of me. What else do you want? Because obviously I can not give it to you.

If this isn't good enough for you then it is not good enough for me either. You are the ones that stirred all this up. I can't just sit here for nothing. Now I have to pray God people that have nothing to do with this into the open to call on the courts, prosecutors, police and tell them they missed a few details. . . Like all of them because we are not getting no justice. And if you feel you haven't got none, then theres not even that point to our suffering. So I'm done trying. I am sorry Paul, Dawn, Melissa, all of your family. I wish there was some way to fight this without fighting you. With or without your forgiveness I have to because this is not just about us. This is bigger than our case.

Why is there not a better system in place. Do I seriously have to do all this? It is Fucking 2013 and all it is going to get me is burned at the stake for this. I should clarify I am not attacking victims. I am attacking the Political pedophiles that hide behind them but since the two have become intertwined strangling legislation. We are the ones losing air and trying to breathe.

Nothing in the Criminal Justice system can ever compensate for the loss of life. Nothing. Not excusing us. Not holding us forever. Nothing. It is not like justice isn't being done. It's being overdone. I will not, nor could I ever seek to diminish the impact on the victims. But that is the offense. The offense is not who I am. That is not my defense. Proceeding in this manner is pure retribution if that is how it is always going to be then execute me. If you keep asking me to argue with a corpse than bury me too.

Lady Justice holds two scales in her hands, with equal measure in the center with blind objectivity, currently the scales tilt toward retribution. They must rehabilitated back to balance. Paul H. Robinson shows the effect this had on the model penal code where it used to read: (2) The general purposes of the provision governing the sentencing and the treatment of offenders are: (a) To prevent the commission of offenses: (b) To promote the correction and rehabilitation of offenders: (c) To safeguard offenders against excessive, disproportionate or arbitrary punishment. . .

The new provision reads: (2) The general provisions governing the sentencing and corrections systems are: (a) In decisions affecting the sentencing and correction of individual offenders: (1) to render punishment within a range of severity proportionate to the gravity of offenses, the harms done to crime victims and the blame worthiness of offenders (ii) when possible with realistic prospects of success, to serve goals of offender rehabilitation, general deterrence, incapacitation of dangerous offenders and restoration of crime victims and communities, provided that these goals are pursued within the boundaries of sentence severity permitted in subsections (a) (ii) and (iii) to render sentences no more severe than necessary to achieve the applicable punishments. . . (82)

David C. Anderson helps weigh in the contenders in the face off someone trying to accept responsibility comes up against the inconsolable

in today's political arena who has the advantage? :Victims gained invincible credibility. How can any decent person deny them the satisfaction they sought? How could anyone dare to shrug off their pain? (80)

I. Pernet Capers a, former district attorney adds on the subject: We have reached a point where if someone does something that offends our sensibilities, we arrest him for breaking the law, or if there is no law that prohibits its activity we create one or bend existing laws to serve our purposes. (86) Or the crusade for vengeance a victim embarks on, often exceeds receiving justice. Not just in my case, as I'm about to demonstrate.

The Times Tribune announced a new sentencing scheme in June 2013 and what made it happen: The determination of a devoted Mother led to tougher sentences for those convicted of Third degree murder of children. The average sentence ranges from seven years to the statutory maximum of 20 years. . . The PA commission on sentencing unanimously added a two year **sentence** enhancement, which grants the Judges the option of adding two more years. (The defendant in the mother of the victims case plead guilty and was sentenced to 15 to 40 years in 2006.) (87) ((For the murder of Zachary Scott))

~~The article continues: Through her sons killer~~

The article continues: Though her sons killer received a stiff sentence, Mrs. McLaughlin was troubled to learn there was no mandatory minimum for Third degree murder of a child. A state representative joined her to campaign a bill to establish a bill for a minimum of 13 years. The bill went to the floor in January 2012 and passed the house 192 votes to 1. Rep. Greg Vitali was the lone dissenter, but his May "electrified the room" Mrs. McLaughlin said. (87)

You know I really hate to be an asshole, let <sup>ABN</sup> to defend this particular statute but the bill Mrs. McLaughlin got passed is for less than the defendant she is a victim of received. The point being she is not after justice. State Rep. Vitali electrified the Senate floor? The real shock is only one person has the objectivity to with stand being guilt tripped into enabling a far reaching liberty infringement.

Our faithful advocate Julia Hill dared to ask at the aforementioned JLEOP hearing: "A serious question arises about whether personal grief is appropriate basis for public policy and legislation." (73) The driving force behind this is the mantra "Don't forget the victims" that politicians will do anything to prove they haven't long after they have forgotten the Constitution.

Governor Corbett is no exception.

On 6/19/13, The Times Tribune took us on a tour of another new law just passed: With a Luzerne County family at his side, Gov. Tom Corbett on Tuesday signed a law that allows crime victims and their families to testify in person before the State parole board decides to release an inmate. The family of Robert T. Curley (who was slowly poisoned over a period of time by his wife for 13 months. Joan Curley the defendant in this case was sentenced to 10 to 20 years, for this premeditated murder she plead guilty to when she was 32.) His family shock hands with Gov. Corbett the former U.S. Attorney and Attorney General. (88)

Corbett stated the State legislature has been to slow to strengthen the rights of crime victims but this law is a big step forward. I don't want to say it is a culmination, because I know we have more to do but this is certainly a mountaintop when it comes to victims. Gov. said during the bill signing ceremony. "Hopefully we can move forward and hear the voices of victims across the Commonwealth of Pennsylvania." (88)

The Curley Family had to resort to letter writing campaign in it's attempt to block parole. One of Luzerne Counties most notorious murderers. She has been denied parole five times before this new law and will finally max out her 10 to 20 year sentence on 12/12/16. (88)

On June 19th 2013, The Times Tribune was not alone in trumpeting how much Gov. Corbett cares about "The voices of victims across the Commonwealth of Pennsylvania." Also on June 19th 2013 the Philly Daily News reported another

instance of victims having no outlet and also having to resort to a letter writing campaign of about two dozen parents and about 20 school children from several Philadelphia Public schools took ourselves along with 4,000 letters written to legislators by students K-12, to Harrisburg, (reported Arden Cass) our goal was to personally deliver the letters and our opinions on the current school budget crisis to Gov. Corbett. We decided to go to Harrisburg to give our legislators and their leader the opportunity to make firsthand connection to the numbers on their spreadsheets and the faces of the human beings standing in their offices and in the rotunda. (SS)

. . . Many of those opposed to providing the "thorough and efficient education" that is our constitutional right according to Article 14 of the Pennsylvania Constitution, were otherwise engaged. . . We then gathered our signs and our 4,000 letters and headed to Gov. Corbetts office to deliver the mail-to offer him an opportunity to meet the actual human beings, he is handing both tangibly and emotionally, today and for the long run, e-mails and phone calls announcing our visit. Our children and their letters trailed in two at a time, to hand their futures over to a secretary. While we did make many personal contacts in Harrisburg, we have apparently not yet made contact with Gov. Corbett's, Humanity. (SS)

We know how the Governor can sign SE 250 and justify taking our futures but how can he justify taking theirs? How can he use victims to stop our progress yet all the while not let them stand in the way of his own? At least we know what is stopping all the prisoners from doing better what is stopping the legislators and the Governor?

Ladies and Gentlemen I am beyond sorry for everything. Everything. But just because I can not give the Sweeney's their son and brother back does not mean I can't give something to the world.



## CHAPTER 18

"Globalization was supposed to be about a new system of equality among nations. We were coming together and agreeing to live by the same rules, or so it was said. But it is more evident than ever that the big players are still making the rules and enforcing them, often enforcing them on everyone but themselves."

-Raoni Klein

It is a brave new world since leaving behind, "No child left behind." Underfunded education ~~education~~ contra overfunded incarceration are merely compass points of the great divide. Prison is not the only hell children end up in. According to the "All we need is love foundation" One in seven children run away from home. One third of these runaways end up in human sex trafficking.

The New York Times cited a report by David Murphey of the research group "Child Trends", estimates that out of a hypothetical class of 100 high school graduates this year. The class of 2013 will include as their Alma Mater: 71 who have experienced physical assault. 39 who have been bullied physically or emotionally, 28 who have been victimized sexually, 72 will live in poverty, 10 who report they have been raped, 1 who has had an abortion. (90)

Charles F. Elow, The author of the New York Times article does not ignore the issue: on many measures of childhood well being in the United States, has been one of Stagnation we remain an outlier in many ways among developed countries. . . We have not sufficiently prioritized some fundamental safety structures for children in this country—fighting child poverty; supporting all families (including single parent ones) and their children through programs like paid family leave and early childhood education; insulating children from a culture soaked with violence; educating children fully about sexuality and pregnancy. . . (90)

Our problems would be fixable if only we could argue that the protection and healthy development of this countries children is not only a humanitarian and moral imperative but also an economic and cultural one: Today's students are tomorrow's workers. However, many conservatives seem too selfish to take the altruistic view and too blind to take the self-interested one. (90)

For instance we are among only three countries that have not ratified the United Nations 1989 convention on the rights of the child which Unicef calls the first legally binding international instrument to incorporate the full range of Human rights—civil, cultural, economic, political and social rights. The other two countries are South Sudan which became a country in 2011 and Somalia. During a 2008 youth debate between the Presidential candidates, Barack Obama and John McCain were asked whether they would seek to ratify the treaty. Obama responded: It's important that the United States return to its position as a respected global leader and promoter of human rights. It's embarrassing to find ourselves in the company of Somalia, a lawless land. I will review this and other treaties and ensure the United States resumes its global leadership in human rights. (90)

Embarrassing is an understatement but efforts to have the United States ratify the treaty have been met with opposition from Republicans because as Mother Jones reported in 2010: "Under the treaty" parents would no longer be able to administer reasonable spankings to their children, the government couldn't sentence teenagers to life in prison, kids could get sex-ed and birth control and—gasp—children would be able to choose their own religion, according to a fact sheet published by Parental rights.org. . . When you prefer the company of Somalia on issues of children's rights and well being you know where your priorities are. (90)

We can't appeal to the Supreme Court. The Governor won't commute anything. Is the way out of a Pennsylvania life sentence, Pennsylvania Avenue? The

invaluable: Marie Gottschalk guides us around the downward spiral of Presidential pardons: In the first half of the 20th century Woodrow Wilson, Franklin D. Roosevelt and Harry Truman issued hundreds in some cases thousands of commutations during their terms. The number of Presidential pardons began to ebb during the Eisenhower years and severely dropped off with George H.W. Bush. (\*The Father of the get tough movement that put the Horton in getting "Willie Horton-ed" literally\*) (73)

Back to Ms. Gottschalk: Since at least the mid-1990's, the federal bureau of prisons has declined to take a position on the merits of clemency applications. It has abdicated its **historical** role in assisting the pardon attorney of the U.S. Department of Justice in identifying appropriate cases to the White House for early release. As one commentator quipped, since becoming president, Barack Obama has issued more to Thanksgiving turkey's than to ex-offenders (citing "Public tired of Willie Horton?" Wither 21st century clemency? Critic for breakfast blog 1/10/10) Mrs. Gottschalk later added: Technically this is no longer true at the end of Obama's second year in office, he finally got around to issuing his first pardons. The nine pardons were characterized as "stingy" and "lackluster." Six of them were for offenses so minor, that they did not warrant time behind bars. Six offenses were committed three decades ago (Mr. Obama's lackluster pardons Washington Post, 12/30/10.) (73)

So where do we go? I mean lets be realistic, Even in 2013 with a highly enlightened individual as Commander in Chief. A former Professor of Constitutional law and Nobel prize recipient who has broken other long overdue social barriers who I will not even disrespect with the prospect of political pressure. America has enough problems but I am not one of them and there are far too many people sitting in prison just taking up space that have no one to appeal to.

I know the President has his hands full but if he can make time to visit victims of natural disasters we are powerless against. Can he find the time to visit the issue of the unnatural disaster far too many American citizens wake up still in prison to everyday that **the** President can help? LWOP is that unnatural disaster. To Juvenile and adult offender alike that is ignored even where the developmental potential of the latest discovery Nature has revealed in the diminished capacity of everyone under 25, which coincides with the fact of people aging out of crime. The already less than 1% recidivism rate for convicted killers, factor in the increasing practice of law enforcement that could reduce that less than 1% to zero by reducing the offenders option to reoffend, only increases their receptiveness to get with the program.

Marie Gottschalk brilliantly displays how the public has come to make this prevalent use of LWOP a reality: The politics that have helped normalize a sanction that like the death penalty is way out of line with human rights and sentencing norms in other developed countries. Many European Countries do not permit LWOP, and those that do use it sparingly. In much of Western Europe a "life" sentence typically amounts to a dozen or so years, as it once did in practice in many U.S. States. (73)

I know this is America, not Europe. As I have said earlier I do not suggest we should be imitating other countries, we should be outperforming them. I understand the politics believe me. I'm the one who is not being pardoned. Who's appeals fall on deaf ears. Who can't even request a furlough.

Then my people voted for Obama it was not before he wrote about aweacity and asked people to believe. I know they hope Obama believes people can change. It wasn't impossible for Obama to come all this way to change not only our country, but to change the world. But does Obama believe a woman or a man can change. A girl or a boy? Change to do right and not wrong. To be good

and not bad. To help and not hurt. If <sup>not</sup> by their own moral resolve than under the weight of being locked away? Should an intervention by the State as drastic as incarceration serve to make a human grow or reduce them to nothing? Do we hope in vain to fight what the world knows is wrong? That America won't fight? This issue has been overlooked for too long now. It is time for some oversight. The system of justice is terminally unbalanced its power has gone long unchecked. Addressing this serves the Constitution, the economy, if not the very spirit of America itself. The facing spectre of which is beginning to look like a ghost.

Ch. We are America. We don't have to ratify no United Nations treaty. Put what about our own human rights obligations guaranteed to every American? In fact obligations "An encyclopedia of Human rights in the United States" define as: (Four legal obligations every state must fulfill) under International human rights law)-International law is based on the free consent and of the Sovereign and equal states and expressed in the international community in legal agreements or custom. This consent gives rise to freely chosen legal obligations, in relation to each state party to the treaty of all states under customary international law. There are four separate legal obligations which states such as the United States, undertakes to fulfill and must fulfill to make human rights real and practical and not illusory and abstract only. These four obligations are. (1) Obligation to human rights. (2) Obligations to protect human rights from the actions of others. (3) Obligation to ensure Human rights by other States. (4) Obligation to fulfill by all things necessary and proper for full enjoyment.

In International law there are certain obligations deemed so important for the continued existence and development of the international community, and so necessary for the protection of human dignity that they are known as obligation "Ergo Omnes" this latin term means essentially towards everyone. . . Refraining from torture, Genocide or Slavery for example are considered Ergo Omnes. They are also referred to as "Peremptory norms" of conduct which means that states can not pass legislation inconsistent with such norms.

After Roper vs. Simmons the American Civil liberties union petitioned the Inter-American Commission of Human rights organization of American States (see page 228) on behalf of Juvenile Lifers but why not take on LWOP altogether? While it is not Condemned internationally like JLWOP it is by no means a Peremptory norm, if it was the United States would not hold 25% of the entire worlds prisoners while America as a whole only makes up 5% of the entire human population of the planet earth. The international sentencing discrepancy is obscenely obvious and in no way conceivable and by no means a peremptory norm anywhere.

The norms which give rise to Ergo Omnes obligations are called Jus Cogens. This term means a compelling or cogent right from which no limitation or derogation is possible. As demonstrated the average life sentence in the civilized world is approximately 12 years for an adult. Let alone a Juvenile while both receive LWOP indiscriminately in America. Why then should our response be bifurcated? Why pick the low hanging fruits of Geriatric and Juvenile lifers as if one bad apple does not spoil the bunch? LWOP is not only a problem for certian branches on the trees of life that separates all lifers from their liberty equally. It's like the proverb of old, says about solving problems. You have to hack at the root not the leaves.

We are endowed by our creator with certian inalienable rights, that among these are life, liberty, and the pursuit of happiness. Rights so long forgotten, stripped of us and abandoned to this cruel and unusual punishment. Our country will just keep ignoring. Is an International human rights claim any viable option left in America?

I must say the current International exchange rate on Criminal Justice sucks.

**TO THE HONORABLE MEMBERS OF THE  
INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,  
ORGANIZATION OF AMERICAN STATES:**

**PETITION ALLEGING VIOLATIONS OF THE HUMAN RIGHTS  
OF JUVENILES SENTENCED TO LIFE WITHOUT PAROLE IN THE UNITED  
STATES OF AMERICA**

By the undersigned, appearing as petitioners and as counsel for the individual petitioners under the provisions of Article 23 of the Commission's Rules of Procedure:

Steven Macpherson Watt  
Ann Beeson  
Human Rights Working Group  
American Civil Liberties Union

Deborah LaBelle  
Kary Moss  
American Civil Liberties Union of Michigan

Submitted: February 21, 2006

**I. INTRODUCTION**

In the United States each year, children as young as thirteen are sentenced to spend the rest of their lives in prison without any opportunity for release. Despite a global consensus that children cannot be held to the same standards of responsibility as adults and recognition that children are entitled to special protection and treatment, the United States allows children to be treated and punished as adults. In the criminal justice context, children are increasingly excluded from the protection of juvenile courts and tried and sentenced as adults based on the nature of the offense, without any consideration of age, maturity or culpability of the child, and without taking steps to ensure their understanding of the legal system under which they are prosecuted.

Changes in U.S. law over the past fifteen years have increased the mandatory treatment of juvenile offenders as adults based solely on the alleged crime, and resulted in an explosion in the number of children sentenced to life without parole. Over two thousand children have been sentenced to spend life in prison without the possibility of parole (LWOP) which requires a child remain in prison without release until death, irrespective of whether the child poses a threat to society or has, or can be, rehabilitated.

These laws and practices violate well established international standards explicitly prohibiting juvenile life without parole and express provisions of the American Declaration of the Rights and Duties of Man including the right to special protection (Article VII), to be free from cruel infamous or unusual punishment and to humane treatment (Articles I and XXVI) and guarantees to due process (Articles XVIII, XXIV, XXV and XXVI). They also violate other applicable human rights law norms.

This petition is brought against the United States of America and the State of Michigan for violating the rights of Kevin Boyd, Barbara Hernandez, Henry Hill, Patrick McLemore and Damian Todd, and twenty-seven adolescents, identified in Annex A, who were all tried and then sentenced as adults, without consideration of their individual circumstances or juvenile status, to a mandatory sentence of life in an adult prison without possibility of parole.<sup>1</sup> A life without parole sentence is the harshest sentence available for adults in Michigan, which does not have a death penalty. Life without parole means a sentence of imprisonment until death with no review by a parole board or consideration for release.

Petitioners also include the American Civil Liberties Union and the American Civil Liberties Union of Michigan who are preparing this petition in conjunction with and on behalf of the named incarcerated petitioners. The American Civil Liberties Union and its Michigan affiliate are represented by Deborah LaBelle, 221 N. Main St., Ste. 300, Ann Arbor, Michigan, U.S., 48104, [dehlabelle@aol.com](mailto:dehlabelle@aol.com), 734.996.5620 (O), 734.769.2196 (F).

It's bad enough the sentencing discrepancy alone but if my human rights were being violated in another country. The U.S. embassy would defend me because I am an American citizen but as an American citizen in American jurisdiction I have got nothing coming. And if that wasn't enough terrorists get better legal representation than I do in my own country. The C.I.A. defending our shores by waterboarding known "threats" for intel that can save lives gives rise to an uproar nationally meanwhile I'm not even allowed to argue my rights being violated? People would not only rather adopt foreign causes they'd rather adopt foreign children and abandon how many American children to the foster system? The unemployment rate skyrockets while jobs are sent overseas pursuing cheap labor through tax loopholes instead of putting stock in the homeland. Buy American don't sell it out.

SP 250. . . I mean damn! The legislators didn't just pick the prize, they designed our battle plan to chase retroactivity to not only subject us to this extension of life in prison, but by the time it applies to us were going to feel like we earned it. Celebrating the legislators victory with a taste of the poisoned apple they are serving us. All the while telling ourselves we picked it from the tree of life all by ourselves. At present we are still waiting for our bite out the apple and the sweet poison to start running its course.

At this point everyone is told to be patient and my fellow juvenile lifers need not be told twice, its all back to their regularly scheduled programming. Its really not their fault they tell us nothing happens overnight. Indeed it doesn't. And nothing happens everyday.

The Prosecution hardly had to try to get their will. At the hearing held in front of the PA Supreme Court on 9/12/12. Their argument against retroactivity is pitiful. It was basically Aw damn, you mean we have to do sentencing all over again?! Thankfully Justice Eder didn't take the matter so lightly and sagely countered: "And what would be wrong with giving 300 or 400 children a new sentencing hearing?"

Or for that matter how hard would it be to change any of these outlandish penal sanctions? It's not like anytime the law goes on the prosecutions side to "crackdown" on things and create a new law to lock things down. It's not a problem. There is no such difficulty. Like the T.S.A. response to 9/11. The myriad pedophile response laws named after the respective victims or I don't know, laws created in response to a super predator crisis that never came to be while the human rights crisis it actually created is ignored.

Why exactly is it, that we act like the assembly line shipping all of us people these cages that keep getting built can't be reversed? Who says we can't switch the tracks on the railroad? Is it easier to do injustice than justice? Can no one pull the lever? Or should only we who are held prisoners, wrongs be so swiftly corrected while the powers that be make the mistake of keeping us? Guilt does not justify everything the people who have lost their innocence are suffering.

Individually a politician in all likelihood will acknowledge our plight but quickly admit nothing can be done. If it is true that no one knows what to do with us, then no one should get away with what they are causing to happen. If none of them can shoulder the responsibility they have been appointed to. How can they hold us into full account of responsibility? Is it any wonder they charge any of us as adults? Apparently the grown-ups don't know what they are doing either.

It's not even the Supreme court, that enables the system it is the faceless bureaucracy that defers individual culpability by affording Government agents what amounts to a corporate veil shielding them from personal liability. This faceless entity amasses a very real body count while moving freely. It has a thousand heads to shift the blame to but not one set of shoulders for

culpability to land on.

I have accepted full responsibility only to be seized into the custody of the irresponsible. To a system that admits its own inaction. It's own ineffectiveness. It doesn't know what to do with us so its answer is to do nothing? It surrenders us to condemnation for their abandonment of us? As if they can not fail those who fail themselves under the doctrine of you can not rape the willing. Leaving us with all the tenderness and dignity the morning after affords any rape victim.

We deserve a chance to prove we can be responsible and we are doing everything in our power the rest is out of our hands. We are trying. The system is not. I have been arguing adrift alone a while now into some very deep waters that are fertile to call me crazy but its not just me.

Save me Sharon Tolovich: The claim here is not that no legitimate public interests are realized by criminal punishment. Some criminal offenders deserve serious punishment. No doubt, too, many citizens are dissuaded by criminal activity by the threat of penal sanctions. But given the highly imperfect fit between conventional penological justifications and the actual practices of the American carceral state, it seems clear that something more is going on and that contemporary penal practices are serving some other purpose. (64)

But as unrepentant as criminals are, the government need not address the great wrong of holding us prisoner while the issue remains inconsequential to the general public or as Kaban and Lussbaum puts it in their "Two conceptions of emotion:" It is when the law refuses to take responsibility for it's most contentious choices that decision makers and spared the need to be principled and the public the opportunity to see correctible injustice.

Everything is boxed in Good and Evil. Black and White. The good guys vs the bad guys. Prisoners and people. Phillip Zimbardo is far more qualified than me to explore this social dynamic. Dehumanization is the central construct in our understanding of "Mans inhumanity to man." Dehumanization occurs whenever some human beings consider other human beings to be excluded from the moral standpoint of being a human person. The objects of this psychological process lose their human status in the eyes of their dehumanizers. By identifying certain individuals or groups as being outside the sphere of humanity, dehumanizing agents suspend the morality that might typically govern reasoned actions toward their fellows. Dehumanization is a central process in prejudice, racism and discrimination. Dehumanization stigmatizes others attributing to them a "spoiled identity." (29)

For example the sociologist Erving Goffman described the process by which those who are disabled are socially discredited. They become not fully human and thus tainted. Under such conditions it becomes possible for normal, morally upright and even usually idealistic people to perform acts of destructive cruelty. Not responding to the human qualities of other persons automatically facilitates inhumane actions. The Golden rule then becomes truncated "Do unto others as yo would." It is easier to be callous or rude towards dehumanized "objects" to ignore their demands or pleas, to use them for your own purposes, even to destroy them if they are irritating. (29)

Zimbardo describes elsewhere: One of the worst things that we can do to our fellow human beings is to deprive them of their humanity, render them worthless by exercising the psychological process of dehumanization. This occurs when the "others" are thought not to possess the same feelings, thoughts, values, and purposes in life that we do. Any human qualities that these "others" share with us are diminished or are erased from our awareness. This is accomplished by the psychological mechanisms of intellectualization, denial and the isolation of affect. (29)

In contrast to human relationships which are subjective, personal and emotional. Dehumanized relationships are objectifying and analytical and empty of emotional or empathic content. To use Martin Pober's terms humanized relationships are "I-thou" while dehumanized relationships are

"I-it." Overtime the dehumanizing agent is often sucked into the negativity of the experience of the experience and the "I" itself changes to produce an "It-It" relationship between objects, or between agency and victim. The misperception of certain others as subhuman, bad humans, inhuman, inhuman, dispensable or "animals" is facilitated by means of labels, stereotypes, slogans and propaganda images. (28)

Zimbardo adds later: Beyond perceiving and derogating others in the "out-group" with animal like qualities people also deny them any human "essence". Outgroup inhumanization is a newly investigated phenomenon in which people tend to attribute uniquely human emotions and traits to their in-group and deny their existence in out groups. It is a form of emotional prejudice. However, we go further in declaring the essence of humanness resides primarily in ourselves, more so than in any others, even our group members. While we attribute inhumanity to out-groups, as less than human we are motivated to see ourselves as more human than others. We deny uniquely human traits and even human nature to others, relative to our own egocentric standard. (29)

What we did makes us the bad guys. Therefore whoever punishes us is the good guy. And the more they punish us the better they are apparently. Not only do they pat themselves on the back they are rewarded handsomely for the job well done on this abomination. We are not merely objectified. That is just the cartoon on the cereal box. We are a bonded stock and inventoried commodity and business is-a-boomain.

Sean West Wispay reported in his article "Dump the prison stock, invest in humanity" He detailed: Philadelphians allied for a responsible economy (Phare) targeted banks that fund private prison companies that helped fuel policies that lead to mass incarceration in both state and private facilities and boost their profits. A 2011 study by the justice policy institute found that the industry had given \$835,514 to Federal politicians since 2000 and \$6,092,331 to State politicians in the last five elections. They are a major lobby that makes big money by locking up more people and keeping them behind bars for longer amounts of time. It's for this reason that members of Phare targeted the banks financing of private prison companies and not because they believe that public prisons are any better than private prisons. Both are part of the same prison-industrial complex that tear apart communities and prevent the real possibility of community based restorative justice. (31)

The law should be above private interests not intertwined to the extent it overrides human interest to exact a persons entire existence for profit. Talk about a vulture fund. . . Don't worry I do not expect an uproar about the bank industry credit line to Corrections Corporation of America and Ceo group (Which Wells Fargo sold just enough of their holdings to avoid their legal obligation to report it so they could hide their relationship.) (31)

I don't expect the world to care anymore than it did when Matt Taibbi refused to let HSBC disappear quietly into the night as he reported in Rolling Stone: The deal was announced quietly, just before the holidays, almost like the government was hoping people were too busy hanging stockings by the fireplace to notice. Flooring politicians, lawyers and investigators all over the world, the U.S. Justice Department granted a total walk to executives of the British based bank HSBC for the largest drug-and-terrorism money laundering case ever. Yes they issued a fine \$1.9 Billion, or about five weeks profit-but they didn't extract so much as one dollar or one day in jail from any individual, despite a decade of stupefying abuses. (32)

. . . It was the dawn of a new era. In the years just after 9/11, even being breathed on by a suspected terrorist could land you in extra legal detention for the rest of your life. But now when your too big to jail, you can cop to laundering terrorist cash and violating the trading with the enemy act, and not only will you not be prosecuted for it, but the government will go out of its way to make sure you won't even lose your licence. Some

on the hill put it this way. Ok, fine no jail time, but they can't even pull their charter? Are you kidding? (92)

So much for transparency. Even if we know whats going on and who is doing it. When people incorporate to avoid personal liability to sheathe their actions as those of the corporation and not their own doing is one thing, but when a corporation is used to get away with violating societys laws to advance its own interests, shouldn't that be quite another?

Crime and punishment is vital to any progressive society, and offenders need to be brought to justice, and whoever brings them in is going to smell like roses. I knew the people I hurt when I got arrested but I never dreamed it would help. Our sin is not only used to warrant these insane punishments, it is used to make it look good and proper. All that has to be done is don their corporate mask, shrug their shoulders and point the finger at us. This seems like a goodpoint to point out the fundamental psychological precept that more often than not, one who is quick to accuse other people of certian character traits actually recognize something they do not like within themselves.

Christopher Hedges author of the brilliant "Empire of Illusion" dissects how embedded within this corporate culture we have become:

Corporations are ubiquitous parts of our lives, and those that own and run them want them to remain that way. We eat corporate food. We buy corporate clothes. We drive in corporate cars. We buy our fuel from Corporations. We borrow from, invest our retirement savings with and take out college loans with corporations and corporate banks. We are entertained, informed and bombarded with advertisements by corporations. Many of us work for corporations. There are few aspects of life that have not been taken over by corporations, from mail deliveries to public utilities to our for-profit-healthcare system. The corporations have no loyalty to the county or workers. Our impoverishments feed their profits. And profits for corporations are all that count. (93)

Hedges quotes material from the 2005 documentary the Corporation. The work of Mark Achbar, Jennifer Abbott and Joel Bakan. An investment manager Robert Vonks stated in an interview in the film. "The corporation is an externalizing machine, in the same way that a shark is a killing machine." There isn't any question of malevolence or of will. The enterprise has within it, those characteristics that enable it to do that for which it is designed. (93) Ray Anderson CEO of Interface Corporation the worlds largest commercial carpet manufacturer calls the corporation "a present day-instrument of destruction" because of its compulsion to externalize any cost that an unwary or uncaring public will allow it to externalize. "The notion that we can take and take and take and take, waste and waste, without consequences is driving the biosphere to destruction." (93)

The documentary, based on Pakans book. "The Corporation": "the pathological pursuit of profit and power, asserts that the corporation exhibits many of the traits found in people clinically defined as psychopaths. Psycholigist Robert Hare recites in the film a checklist of psychopathic traits and ties them to the behavior of corporations. Callous unconcern for the feelings of others; Incapacity to maintain enduring relationships; Reckless disregard for the safety of others; Deceitfulness: Repeated coming of others for profit; Incapacity to experience guilt; Failure to conform to social norms with respect to lawful behavior. (93)

J'accuse!! The very characteristics they thrust upon us to keep us off the streets they rule by. Oh, my dear "unwary, uncaring public" America is beautiful is it not? How could I expect you to be concerned? That's one of the most beautiful things about America it is too comfortable to care. Believe me I am no revolutionary, I just want to get a puppy, a milkshake and a soft bed to curl up into a ball in.



I am well aware people barely talk face to face now, let alone, be willing to come together to attend the public square for a greater good. Believe me I'd rather just play with my intelli-phone too. This isn't a modern phenomenon. All of this has happened before. All of this will happen again. Sure the distractions have been upgraded but the same forces are still at play. It is fortunate that our forefathers left one of many gifts behind. Foresight.

"And accordingly all experience hath shown, that mankind are more disposed to suffer, while evils are sufferable than to right themselves by abolishing to which they are accustomed. But when a long train of abuses and usurpations, <sup>pressing on</sup> invariably the same object evinces a design to reduce them under absolute despotism, it is their right, it is their absolute duty to throw off such government and to provide new guards to their future security."

- Declaration of Independence.

I am not saying overthrow the Government, but I am saying there is a time when enough is enough and our Government must take action to avoid a life without parole unless it is absolutely deserved and every element that feeds, raises incarceration and starves education for the next generation of Americans. Now whether we have entirely been sold out to corporate America or not is beyond me and the scope of this effort. There are more people with such questions with better resources than I have at hand. But however if these wrongs visited on us media uncorrected at this ever increasing pace. An investigation is easily warranted and this being one of the subjects of inquiry worthy of consideration should be brought to the fore in any exploration of things ACTUALLY changing.

I don't want to espouse conspiracy theories. I am here to learn my lesson and something will not let me go. I know that much. I am not out to indict Corporate America. I am defending myself against it. Nor do I suggest all prisoners should be released because some shouldn't be but they should be rehabilitated. And I'm not claiming the prison system should be shut down, it just needs an upgrade. Finally I do not dispute the rule of law. I only dispute the leaders ruling the law by taking power out of the peoples hands who stand in awe of the power structure now standing and gaining in doe-eyed idol worship of it wondering how the monstrosity got there, as if they have not been feeding the beast for years.

Dr. Zimbardo tell them I'm not crazy. . . : The most important lesson from the Stanford prison experiment is that situations are created by systems. Systems provide the institutional support, authority and resources that allow situation to operate as they do. After we have outlined all the situational features of the S.P.E., we discover that a key question is rarely posed: Who or what made it happen that way? Who had the power to design the behavioral setting and to maintain its operation in particular ways? Therefore who should be held responsible for its consequences and outcomes? Who gets the credit for successes? And who is to blame for failures? . . . Finding that answer is not so simple when we deal with complex organizations such as failing educational or correctional systems, or corrupt mega corporations. (29)

System power involves authorization or institutionalized permission to behave in prescribed ways or to punish and forbid actions that are contrary to them. It provides the "higher authority" that gives validation to playing new roles, following new roles and taking actions that would ordinarily be constrained by pre-existing laws, norms, morals and ethics. Such validation usually come cloaked in the mantle of ideology. Ideology is a slogan or proposition that usually legitimizes whatever means are necessary to obtain an ultimate goal. Ideology is the "Ei, Kahuna" which

is not challenged or even questioned because it is so apparently "right" for the majority in a particular time or place. Those in authority present the system as good and virtuous, as highly valuable and moral imperative. The programs, policies and standard operating procedures that are developed to support an ideology become an essential component of the system. The systems procedures are considered reasonable and appropriate as the ideology comes to be accepted as sacred. (29)

Who so ever should fall short of this sacred system shall henceforth be marked profane and cast out in permanent exile. What are we to do? Is this system above debate. Simply for coming to accept it for the mere fact it is already there? So it has to be right? It is a man made structure. I'm not telling myself it can be knocked down. I know even if I am able to reach anyone. After the dust settles. The structure will remain in place. The inaction inertia is the only thing that will move on. When did inalienable rights fall circumspect to a system of law thus held inviolable? It is not like it is the Great Pyramid or any of the wonders of the world. Its a wonder it stands at all.

## -CONCLUSION-

"You are the only problem you'll ever have. . . and you're the solution too."

-Christina Comaford-Lynch

The Supreme Court, as you recall has not declared a non-capital sentence unconstitutional in three decades. Josh Powers cross examines the logic of the Highest Court of the Land: The counter argument echoed by the Supreme Court, is that the "severity and irrevocability" of the death penalty make it a punishment different in kind, not degree. But, once we scratch below the surface it becomes less clear that DOP is definitively milder along either dimension. On the question of finality even a short term of years may be considered final as death in the narrow sense that the inmate can not recover lost time. But even under a more robust meaning, DOP and death are comparable because in both contexts the defendant is scheduled to die behind bars. (94)

How long does it take for someone to change? But unfortunately it is a sad fact of this situation. I have to make a case for change, where do I start? The first thing that comes to mind is an episode of the television series "Nikita" where the character Alexandra Udinov tells the woman she rescued something to the effect of a butterfly is God's reminder we can change, that's not completely accurate quote, but it sounded prettier in Russian anyway.

To think someone can not change is think that life is meaningless. All matter is constantly moving. The entire universe is in a continued vibrant flux. It is a biological fact every cell of our bodies is replaced with new ones and within seven years our bodies are completely renewed. It is also a legal standard if a person is gone seven years they are declared legally dead. Even on a subatomic level, an observation has been made in both quantum physics and Esoteric schools of thought that subatomic particles respond to observation.

The New York Times celebrated a revolutionary change produced on the Bio-Molecular level in the medical field as follows: It is hard to believe but last spring Emma Whitehead, was near death from Leukemia. She had relapsed twice after Chemotherapy and doctors had run out of options. Desperate to save her, her parents sought an experimental treatment at the children's <sup>hospital of</sup> Philadelphia, one that had never been tried on a child or in anyone with the type of Leukemia Emma had. The experiment, in April used a disabled form of the virus that causes AIDS to reprogram Emma's immune system genetically to kill cancer cells. The treatment very nearly killed her. But she emerged from it cancer-free, and about 7 months later she is still cancer free. (95)

Since then similar reverse engineering of this and similar lethal strains have proven effective at treating other "malignancies including other blood cancers and tumors in organs" in adults. (96) So even if all of us lifers could be considered nothing more than single cell organisms whose sole nerve stimuli is to kill-we could change. A major drug company is betting on these rehabilitated cells Novartis is committing \$20 million to build a research center in hopes for the University of Pennsylvania team. (96)

A disabled form of the AIDS virus can be rehabilitated to do good but we as human beings, the highest evolved consciousness bearing Apex and Zenith over "A" to "Z" of all of creation can not change? Not even before they are fully developed? Just because most people do not mesh up to the extent we have does not alter the fact that none of you are the same person you were in high school. Just like we aren't. You are different now. So are we. But if you can not accept that and your only going to hold me here, kill me because I can't fight my 17 year old self at 26. For how much taxpayers pay each year after fiscal year. You would think they could improve upon something.

What more motivation to change could a person have than someone in my

position? I watch my life flash before my eyes every miserable second of all the years I have been here. How many ~~are~~ people throughout history subscribe life changing events to a moment? Is anyone qualified to time change? We are human beings not chia pets. A story can change your life through any Media outlet. Digital or tangible. Another person. Something you may not even be able to explain but is for you to understand whatever it is, that breakthrough, understanding, epiphany. A visit from the naves. A dark night of the soul. This is a dark life of the soul.

How can change be timed, when not even time is ranked? They set these draconian sentences to get tough. The lawmakers go apeshit when someone resists arrest. It must be insane to be a police officer to negotiate a peaceful surrendering of the rest of your life to a cage they are never going to let you out of. Politicians get tough but don't fight their own battles. Maybe there would be one less threat to the daily life of a police officer if the person they were apprehending knew they had a real chance to get himself together. If the police already had him plugged into their smarttech, the person of interest would have to wiser up himself.

Politicians have pushed for more and more time and they have got it all now and they still act like it is not enough. It's time to give time itself a little more consideration. While they toss out these sentences like they are nothing, let's put the present moment in perspective, outside the fact that ten years in today's society where the currency of youth is a worldwide standard to live in the age of instant gratification. An age we can have the world at our fingertips in an instant. There is nothing instant or gratifying about spending a night in jail.

I feel all of every second. Time flies when you're having fun? I'm really not having a good time. How slow does time move when you want something really bad? Anticipation. Something you are eager for. Wanting out of a cage is irresistible. The compulsion stretches every second. Is there any instance outside of a sentencing scheme when a year is not considered a long time? (Besides the Grand Canyon eroding, or the Andromeda Galaxy inching its way closer to favour our Milky way galaxy.)

Think of how much we flinch at even the slightest moment of discomfort. How comfortable do you think being buried alive is? Every second is another grain in the sands of time adding to the tons of pressure bearing down blotting out any light at the end of the tunnel. Consider the dread you have of a night alone. Your waiting for your partner to get home from working overtime. Waiting to be seated at a restaurant. Waiting for your computer to download something. Waiting for your coffee to cool. On the television series "Supernatural" when the character Crowley was appointed the new king of hell. He claimed his greatest torture was making the condemned stand waiting in line, then when they get to the front they return to the back for it to begin all over again.

Prison is the tightest waiting zone in the state budget. You know he saying it is to be get on hold when your trying to get through to someone. Then they flip on the elevator music? How slow does the minute hand go when your waiting to get out of work? The only clock ticking for me is my pulse. No day off. No vacation. No school bell at 3 o'clock. You can not tell me I am only 22. I feel so old its as if I have never been born. And they called me an old soul before. . . A minute is a long time. A day is as long as well the day is long. Five years is forever. Ten is oblivion. 10 years. 10 summers. 10 Christmases.

Kids I used to babysit are adults now. Eddie and Dave Crafo's Mothers are dead now. Our pain are dead. A generation has passed. How much has changed in the past 10 years? And How Fast? And by what other than the minds of people that can reshape our entire world and redefine daily what is possible. Yet

How many prisoners are held as incapable of even being able to change themselves?

This is no longer atonement it is overkill. I understand how wrong what I did is. How I ruined all of our families but is that how it has to end? How could I settle for apologizing from within a prison cell? I can't even talk to anyone from here. I pushed everyone away so they don't have to suffer with me. If I can't promise them I can find a way, that thing's will get better their better off without me. I can't promise anyone anything. Not one thing. And we are treated like we are getting off easy? It's not like if you let me go right now Casey Anthony is magically going to appear and we're going to ride off on a white horse together far, far away from all this madness.

That "meaningful existence" can I possibly wrangle up in here? Take a correspondence course? Write a book? I'm just a killer right? That's all that you'll let me be. I do not dare look forward to the future for fear of getting my hopes up. I refuse to live in the past. The present I actively avoid. The only full proof preventive measure is sleep, which only serves to rest the nerves to insure I feel the impact of waking up Fucked again. How many children born with cancer fight for their next breath and I threw away everything they may never have. Why not just kill me for the waste of life you say I am? I'm worthless just sitting here. I know all the prosecutors are salivating to drool out the typical DA response that I am suffering the perfect punishment.

The punishment is far from perfect in order for me to suffer I need to still feel. I had to let go of everything. Hanging onto it would just tear me apart. I had to hollow myself out into this torpid drone to keep hopping back on my hamster wheel day after day. I'm afraid to want anything because I'll just lose it. I couldn't play guitar for years in solitary. To this day I still can't get back into it because its something to lose. I lost years without it already. Call it my crash course in Buddhism. All desire is suffering as I stop, sucking all of it. Embrace the philosophy all life is an illusion as my delusion not to deal with it but I can't completely because there is always my guilt.

Do you think I actually care now? I don't because I have nothing to lose. No one running the show has any idea what they are doing anymore then we did that day. Do you think they care? Yet they determine our fate. Their job is our lives. They can just say we can not be rehabilitated in the face of all the data to the contrary of the underdevelopment of everyone under 25. On top of the less than 1% recidivism rate for released lifers. We are the least common denominator. Technology is poised to be the equalizer to that less than 1% to zero. And no one should serve LWOP unduly.

I was actually considered the worst of the worst. If that is true then all of us should of been home years ago. I know I should be ashamed of myself for saying so. Well I already Catholic guilt tripped myself to death just being out, away in the underflow of LWOP and not even that was enough for Jason's family. I don't know what else they want there is nothing more to give.

I fucked up my whole world. Let down everyone I love. My friends. Our families. Our parents. The rest of the world is just spectators. I had to face all the pain I caused. That's why I couldn't face Paul and Dawn Sweeney when Nicky and Eddie delivered them the alibi. I know what we did. I have to live with it. It is not what I wanted. This is not something I went looking for, it found me. This is not something that could ever happen again. It is not something I could ever be a part of. I won't be.

This can not be it. You can not condemn us to live without freedom until we die. You can't just exile us for not fitting in. Abandon us for being alone. Make us dwell forever on our ignorance and tell us we have not learned and make us get ourselves together so we can daily fall apart. You can not

leave us to rot when we aren't even ripe yet. I only stop short of calling this a nightmare because I am awake now. To put it more accurately this is a hangover. Where otherwise I could rise from the ashes like a phoenix. I am stuck like Peter Pan forever a lost boy in never, never going home land.

One thing that keeps me going, was someone who didn't know me amidst a mob of others who didn't know me muttering and giving me dirty looks back in 2003 making it a point to tell me "Hope dies last." I never met or saw Nadia in that visiting room again but I never forgot that. And whenever the thought of giving up crosses my mind, it is dismissed as fast as it comes. It takes an amount of indifference to give up and I asked myself why can't I channel that indifference towards facing this uphill battle? Memento Morti, Remember I'm going to die. And if this building is going to kill me I will not do its job for it. Defending our humanity is the only shot at the weak spot in the death star.

There is a man behind the curtain somewhere. Its time for them to stop playing big brother and evoke Parens Patriae on the Justice system and stop neglecting all the wards of the state they won custody of in court. The Criminal Justice system needs to be fixed because its not a criminal system alone. It is a social system as well. That is what it is supposed to really be all about. That is what being human entails. As much as you would like to dehumanize and humiliate us to the point of subhuman degradation until conviction is achieved then cut **us** off like we are cancer. You can not remove us with out blackening yourselves.

Again this is a social system. Social system. The world does not work without one another and it wont get better without each other. Abandoning people to harsh alienation that only fosters anti-social behavior is counter-productive. You have to include someone to make them a part of something and not want to tear it all apart. Does anyone think we can all stand by and let the world burn without losing everything in the flames? What, will we just wait and hope the rising sea levels will put out the fire? How can I point out the horizon to you if you don't see someone as human standing before you?

What else can I do? Do you think in this 10 years of this constant stock and inventory that I don't want to live my life differently? Do you think I am not trying everyday? Do you know how hard it is when you are damned? It's like I am not even allowed to be good. Do you know I withstand the gnashing of the teeth of my peers in hell, mocking me for trying? I resist this poisonous atmosphere and for what reward? It counts for nothing. The state will have nothing to do with me so I rehabilitated myself. I already am who I am going to be and nothing will ever stop me again and it's not going to cost another living soul a damn thing.

It was my choice to live recklessly and not responsibly before. But it didn't hurt anyone but myself. I would of had more respect for others if I had respect for myself. This crime was not an act of love, it was an act of fear. It was not me being a good brother, this happened because I couldn't of been a worse brother. I didn't tell him the truth about the abortion but he didn't tell me he blamed Paul Sweeney. How could I ever of took any of this serious otherwise? Jason thought nothing of it either. I sold drugs and was a thief before that but we never hurt anyone before like that. God knows if I took this serious it never would have happened.

But it did and I can not blame the Police, Prosecution, Judiciary, Politicians or my brother. Like Nicky said I did this to myself. You may wonder how I could praise Judge Hughes after she separated me from my brother because in doing so she did teach me an invaluable lesson. About loyalty. True loyalty wasn't me sticking to my trying to shield my brother even after he betrayed me figuring I was already flying over his anyway. That was like jumping off a skyscraper and noticing the ocean but still aiming for the concrete. I wasn't truly loyal to anyone before because I was not loyal to myself. I have

discovered my life is not over and where I would die for him before I am not so willing now as I want to live for myself. I took a suicide mission upon myself after learning the truth about the abortion. I know now I didn't have to do anything more for him than I did in the first place. I made it clear I did not approve of her. I warned him. The rest was on him. I didn't owe him anything I shouldn't of guilt tripped myself. I should have never left my sanctuary with Eliza. All the time I thought the worst part was losing my brother it was losing myself.

I will never give myself up to anything at the expense of others ever again. I got a grip on myself now, and have come to grips with everything, with the world. This world and nothing in it. Nothing you want. Nothing you love will give you what you need. You have to give it to yourself because it doesn't exist until you give it to the world first. You can't keep anything to yourself. I don't have to die for something to be worth something to anyone else. I can't take care of everyone else if I can't take care of myself. Like the proverb of old: "know thyself." I can not forgive others without forgiving myself. I can't love others without loving myself.

All the love, respect and admiration I have learned to save a little bit for myself. I don't have to hide behind a mask to conform to what I think anyone wants to be accepted. I can look in the mirror and see what I know and not what others think. I know what's best for the world is what's best for me. Being in tune with myself connects me to everyone I meet. There is no need to construct a premise when everything is laid bare. Being who we are, the understanding is already there. We all want the same thing. Being at peace with myself, and at all times with the world and I am one last thing the world has to worry about. I want what you want and I do not wish to disturb what you have.

The damage I have done does not sit well with me. I can't make it up to the world but its no reason to lay down and not try. It's not like they sentence people to community service for nothing. It's social restitution. Not only am I capable of taking care of myself. I can make a difference and really help others. I am rehabilitated even if it takes rehabilitating the entire system to prove it. I am being held accountable why not accept my responsibility to it? Because being responsible is not burying my head in the sand feeling sorry for everything until I finally die. That is going to happen whether things get better or keep getting worse but come whatever. I'm not going out with a fight.

So. "Such atrocity merits no mercy?" Let me quote State Rep. Dennis O'Brien in full when he felt compelled to cite my case to justify sentencing Juveniles to Life Without Parole. O'Brien said: "LEOP recognizes the seriousness and heinousness of the crime. Kids are growing up quicker in Philadelphia and Pittsburgh, then they are maybe in Kansas. You can't just say you can do time until your 21. That's working these crimes as being on the house." (1)

Dennis O'Brien must be a man of his word. His actions since this 2006 quote certainly suggest he believes kids are "growing up quicker in Philadelphia and Pittsburgh" not only does he believe Juveniles are competent enough to be prosecuted to the fullest extent in the State Justice system. Perhaps he feels Juveniles are also too competent to receive a better education as well.

Charles Fogby, Pennsylvania State budget secretary responded to O'Brien's attack on Gov. Corbett accusing the Governor of cutting funding to the Philadelphia school district in the Philly Daily News. In Fogby's article he brought to light: In fact the record shows that O'Brien was one of the legislative leaders in 2009 and 2010 who supported the prior administrations budgets that cut the state basic education funding by nearly \$500 million across the state and \$55 million to the district. (97)

This action not only reduced the states financial support the district but it replaced those dollars with \$315 million in one time . . .

federal stimulus funding-money that was only temporary. This created the illusion that the state increased funding for education when the exact opposite occurred. It should also be noted that the Commonwealth and the legislature, of which Mr. O'Brien was a part shortchanged the teacher pension system by nearly 3.8 billion. (97)

Mr. O'Brien, coming under fire for getting another soundbite in an attack on Gov. Corbett for not finding a better way to fix a calamity he helped initiate. Typical political pedophile, quick to point the finger as if their hands are not dirty. I hear tell it is in good political etiquette to attack an opponent when their going down but when a political pedophile such as Dennis O'Brien decides not to keep his hands to himself and add a finishing touch, it's still a "bad touch."

You have to love this progressive leadership we have in power. I mean seriously Dennis O'Brien I should die in jail because ole "country figurin" don't add up to our fast city reckonin? How do we grow up faster in the city? Is it being exposed to more scumbags per capita? Is it our sense of entitlement? It didn't make me more mature it made me an asshole. I had instant access to everything. Where as a kid in the country has to go the extra mile literally. Kids have more chores and responsibility where as in the city we are spoiled and take everything for granted as soon as it is given. Absent any notion of having to earn anything I just got wasted and squandered everything. In the country people have stronger ties to the roots of America and to their community. Where as in the city people live on top of one another and go out of their way to avoid each other pursuing our own ends as an express lane to (apathy), living in the city doesn't make someone mature it makes them jaded.

We are taught values then grow into a world where they don't mean anything and if you subscribe any meaning to any of it. You are mocked and shamed for buying into any of it. If you can not remain upright it is all downhill from there. People go through lifes journey of self-discovery with so much anxiety bubbling under the surface that manifests into little more than narcissistic self-aggrandizing. Everybody gets a gold star. Everybody is nobody so they embrace psychosomatic self-diagnosises to validate all the beating themselves up they do because the last they can do is let themselves get away with thinking maybe there is nothing wrong with them **other** than being self-indulgent. -Sigh. I know I have been there and I know firsthand there is nothing mature about being self absorbed.

I had so many people around me I was too shy to make contact with because I thought everything had to be perfect. That I wasn't good enough. I figured once I succeeded and got a little bit of status. Then I would be a better person. Until then it didn't matter. I was invisible. That's how I became blindly ambitious and didn't want anything to stand in my way.

I didn't just have a goal or a dream. I found the way and the means. I didn't live in the moment, always the future what I'm about to do. I feel like everyday I wake up I am a different person and whoever I am today has no right to hold back who I was going to be tomorrow. It made me hesitant to do anything of consequence. I hung in a tattoo parlor and to this day I do not have any ink for fear I would regret it later and it would always be there. I was disappointed to make the sacrifices Kurt had to take care of his kids, that I went above and beyond to make sure I didn't knock any of my girlfriends up. To the point of offending them.

I took and take life seriously. I didn't want to do anything to impact the rest of my life-then I got LWOP. Maybe people don't want to believe I ~~planned~~ didn't plan to kill anyone. Can you believe maybe I would have been too selfish to gamble with my future? I had plans. This is not what I practiced guitar every night for. I didn't plan this, it happened. That is the truth. I know I am going to come under attack for this but don't get mad at me. If you don't believe me



fine but might I suggest you try this crazy revolutionary innovation called an in-ves-ti-gation?

How does this crusade for answers to the tragedy we caused, comprised of how much press coverage? How many articles written? Media gone over the last ten years by investigative journalists and good ole fashioned police work, where not only prosecutors, detectives and journalists sounded off on this but state, reps, Pa supreme court justices and tinsel town made it a point to, who all took on the guise of Spelunkers on the job to get to the bottom of things. Only digging themselves out a soundbite in the media melée. How many asked for answers? How many asked questions? So much attention and nothing is discovered? How does that happen?

I'll tell you, none of the parties who took it upon themselves to go public have any interest in justice, or even in good old fashioned retribution. It is all about the Witch hunt. Not the burning us at the stake bit, just so these showmen can light their sparklers from the flames and they can be seen with all the pretty lights. Our guilt renders us fair game for their own ends. It is as old as time and it never ends.

They did not just dehumanize us or demonize us. They erased us. Wrote us off as "neighbor hood nuisances" that society is finally rid of once and for all. It's not like no one cared about us. More like we cared too much to drag anyone down with us by airing out dirty laundry in public. Kurt has nothing to do with any of this but he is apart of who I am and that is everything against what they say I am. My brother is still in love with Jessica. I am breaking his heart to write this but he broke mine. Steven Levitt hypothesized the wave of super-predator murderers never arriving is the credit of Roe vs. Wade and the legalization of ab ortion? If abortion was illegal there would be four less Juvenile Killers. Go ahead tell me I chose to be in this situation. That I should of took it serious. That I should have known my brother actually blamed someone for the abortion. How could I have known that? How could I of even had an inkling to even ask that?

Whatever I am accuse of next will not alter one thing I have brought to your attention here. The investigation centered on one thing. And one thing only their precious First degree murder conviction. First place, Gold medal, Grand prize. Our life is just a sport to law enforcement. I told them so much more was going on, they didn't care. Now they tell me I can't change. Why because they wrote the script? Not only are we not supposed to fight back, we're not even supposed to be able to.

Now their just going to come harder at me. I'm going to be given a whole new diagnosis. I can hear it now. I have a Messiah Complex, illusions of grandeur. I'm a megalomaniac, a psychopathic little engine that c-c-c-could. That thinks he could save everyone. Nicky, April, Josh, That Junkie bitch, all the people he won't name. Now he thinks he can save every last crey of society. The school children, the wits, the economy, the country.

If I do have a Messiah Complex let me tell you why it may not be brought on by my own self aggrandizing delusion maybe I am inspired by my exposure to the warden roaming the prisons. There is an epidemic of utterly self indulgent resignation surrounding me in here. Apathy permeates the aether. Everyone around me is an agent carrying this rampant contagion. These poor souls not only give up. They act liberated to lose their liberty. My language may be flowery at times but its not a pathetic design to appear sympathetic. Being this far in the game I have earned the distaste and objectivity to afford it its proper public discourse.

I can tell you what is pathetic being trapped in a supermax prison with societys Roogeyren. Everyone in here who has hurt someone in one way or another and accept merely being in here is good enough. Like if you go to church on Sunday it is okay to raise hell all week. They amble on from commissary bag to commissary bag, recieving it like Holy communion and if they just have a little faith everything will change, including themselves.

3 beds and a cot and another day down before primetime. I took an innocent life, I don't know about everyone else in here but I think I owe something more to the world.

And the State owes more to people it won't release. They don't know what to do with themselves because they don't know they can get better. Prison can have that effect on somebody. This is the fallout of shock and awe and of detaining people en masse. You have to follow up the shock you administered. Otherwise don't just stand there in awe of all the lack of results from not doing anything all these years, for all these people.

No one stands up on either side. Politicians fear committing political suicide. Our side is black listed. Everyone is waiting for someone else if things don't just change themselves. I was waiting too. I waited for Miller vs. Alabama. I waited through all of our advocates updates. Through all the press. But nothing is changing. And it's not as if nothing can be done so much as nothing is being done. My reaction to the Sweeney's putting us back in the press wasn't what immediately inspired me to write. It told me how sitting here all these years is worthless. Even for them. Eventually another question crept up on me. Am I then incapable of doing anything of worth?

I'm not just thinking about me, or even Nicky and Eddie. I'm thinking about that kid who had an adverse reaction to his medication with the cute sister, who is doing life now. I think of everyone who is driven by circumstance to end up here that can not find their way home, and not all of them are under 25. I think of how many people are on their way here and have no idea, nor any chance of making it back out alive. How many kids are about to be robbed of a better education to help some people here? I think about how Justin's Mom had to sell their home to finance a "4-11" for her 15 year old daughter to be free again within the next 17 1/2-35 years. I think of people who leave home to defend our country and when they come home they are treated like they just got out of prison. I think about who will honor the constitution not as a privilege of the elite, but as the barrier to tyrannical overbearance it was designed to be.

Believe me I realize the futility of a prisoner posing as an authority on anything, but when no one else will take up the issue on any qualifications I may lack, I have then make up for in interest. I would be guilty of one more crime if I did not do so as we are all so duty bound by the constitution to address great wrongs. I must fulfill this obligation if I should ever expect any of the promises the Constitution guarantees.

If you can tell me that I could not walk out of here today and not only function but prosper. Add something to the world and not take more from it. That I can not learn from the most earth shattering mistake I made that uprooted and disrupted my entire existence that I have had to face every turbulent millisecond only to be held subject to a bi-partisan bitchfest and not of my own accord and my fate is decided by a government that operates like a going out of business sale then you have no place in any seat of judgement.

I could care less what pundit is about write a response to my plea. Bring it on. I will even give you the title. Diabolical Juvenile. I am by no means shameless. I hate what I did, with every cell of my body I want to do some thing better. You know what I am proud of though? This. This is what being an American is all about. I told you sentencing lifers more than any other country in any other instance doesn't make me envy living in one of those other countries. It makes me want my own country more. If I die in Prison, it is not because of something I did. It is because of something my country didn't do. I didn't do the right thing before but I am doing the right thing now. Not doing anything would be doing something worse. I am doing something better.

For if nothing I say with my freedom of speech can rescue my right to discredit my accuser, defend the loss of a fair jury by not only my peers,

but the fair cross section of the community justice warrants and not to be compelled to be a witness against myself and nothing can save all of us from this most cruel and Universally unusual punishment. Then the constitution is dead. If the American Dream is just pillow talk. Then give me the morning after pill because you are not going to leave me in the wet spot to suffer the pangs of Never ending labor.

Oh, and one last thing. This time, when you tell the world all that I am, make sure you get my name right. It's spelled Domenic with an "E" not an "I."

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"ACKNOWLEDGEMENTS."

While many of the people I wish to thank must remain unsung (outside of my heart anyway.) Many do not hold back from openly supporting us. The first person who on top of his major contribution to the cause makes where to start the list of who to thank simple.--Joe Heckel. He is and has been the Godfather of every Juvenile Lifer. Emily Keller and the Juvenile Law Center. Julia Hall and each and every one of our Faithful advocates. Also all the contributors to the work I have cited "LWOP: Americas New Death Penalty." Which I hope I have plagiarized tastefully (It's for a good cause.) Patti Depp, Murray the Best Trainer with the worst methods and Jennifer Gladney who I have not spoken to in 13 years who did not let that stop her from going out of her way to make it a point to say the last thing anyone wanted to hear about the case. Somethin' Good about ME.

APPENDIXES



## Appendixes

- A. Ex parte hearing
- B. Suppression hearing
- C. Detective Watkins Testimony at trial
- D. Detective Mangolds Testimony at trial

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**First Judicial District of Pennsylvania**

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*Hearing Volume 1*  
*March 11, 2004*

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IN THE COURT OF COMMON PLEAS  
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
TRIAL DIVISION (CRIMINAL)

COMMONWEALTH : JUNE TERM, 2003

VS. : MURDER

DOMINIC COIA : NO. 1389 4/4

COURTROOM 1108, CRIMINAL JUSTICE CENTER  
PHILADELPHIA, PENNSYLVANIA

MARCH 11, 2004

HEARING

BEFORE: THE HONORABLE BENJAMIN LERNER, J.

APPEARANCES:

LEE MANDELL, ESQ. AND  
RANDOLPH GOLDMAN, ESQ.  
ATTORNEYS FOR THE DEFENDANT

(1) (Colloquy)

(2) MR. MANDELL: Lee Mandell. It looks  
(3) like there is no Assistant District Attorney.

(4) THE COURT: The record should reflect  
(5) that present in the courtroom besides The Court  
(6) staff and the court reporter is the defendant,  
(7) Dominic Coia, the defense counsel, Mr. Lee  
(8) Mandell, who is lead counsel, and Randolph  
(9) Goldman, who is mitigation counsel.

(10) I scheduled this hearing ex parte on  
(11) purpose. The District Attorney is aware that  
(12) the hearing is taking place and also aware that  
(13) it's taking place ex parte with no Commonwealth  
(14) representative here.

(15) Mr. Coia, I want to ask you some  
(16) preliminary questions before I talk to you  
(17) about the letter that you sent me recently.

(18) (Dominic Coia, sworn.)

(19) THE COURT: How old are you?

(20) THE DEFENDANT: 18.

(21) THE COURT: How far have you gone in  
(22) school?

(23) THE DEFENDANT: Depending what school.  
(24) I was in 10th grade. The credit system was  
(25) different at the Franklin Learning Center and

(1) (Colloquy)

(2) when I got expelled from there, they brought me  
(3) back to 9th grade because it was insufficient  
(4) to the last school.

(5) THE COURT: Somewhere between 9th and  
(6) 10th grade in terms of your formal education?

(7) THE DEFENDANT: Yeah.

(8) THE COURT: You read, write and  
(9) understand English, correct?

(10) THE DEFENDANT: Yes.

(11) THE COURT: Are you under the  
(12) influence today of any medication, prescription  
(13) medication or drugs or alcohol?

(14) THE DEFENDANT: No.

(15) THE COURT: Have you ever been treated  
(16) for any mental illness or mental disease of any  
(17) kind?

(18) THE DEFENDANT: Not recently.

(19) THE COURT: Mr. Coia, you are aware  
(20) that you are facing trial. You are charged  
(21) with murder and other offenses in relation to  
(22) the killing of Jason Sweeney. You are aware of  
(23) that?

(24) THE DEFENDANT: Yes.

(25) THE COURT: There are three

(1) (Colloquy)

(2) codefendants in the case Justina Morley, who,  
(3) as you know, recently entered a guilty plea to  
(4) third degree murder, and two other  
(5) codefendants, your brother, Nicholas Coia, your  
(6) younger brother, and Edward Batzig, correct?

(7) THE DEFENDANT: Yes, Your Honor.

(8) THE COURT: You are represented by  
(9) court appointed counsel because you cannot  
(10) afford to hire your own lawyer in this case?

(11) THE DEFENDANT: Yes.

(12) THE COURT: I take it that you have  
(13) met on more than one occasion and discussed  
(14) this case with Mr. Mandell; is that right?

(15) THE DEFENDANT: Yes.

(16) THE COURT: Have you met with  
(17) Mr. Goldman also?

(18) THE DEFENDANT: Yes.

(19) THE COURT: You wrote me a letter  
(20) recently in which you made some objections,  
(21) raised some questions about Mr. Mandell and  
(22) Mr. Goldman's representation and asked that  
(23) different counsel be appointed. I want to give  
(24) you the opportunity to tell me today on the  
(25) record exactly why you think Mr. Mandell and/or

[1] (Colloquy)  
 [2] Mr. Goldman are not properly or effectively  
 [3] representing you.  
 [4] **THE DEFENDANT:** No. I was worried  
 [5] because I didn't get the opportunity to see the  
 [6] motion before I went in, and worried about  
 [7] losing grounds because I understand when it  
 [8] goes in, certain grounds are presumed to be  
 [9] waived if they are not there on the record.  
 [10] **THE COURT:** The motion that you are  
 [11] talking about, I take it, is that the motion  
 [12] that you filed to suppress your statements?  
 [13] **THE DEFENDANT:** Yes.  
 [14] **THE COURT:** For the record, you have  
 [15] given both written and a tape recorded  
 [16] statement in connection with this case,  
 [17] correct?  
 [18] **THE DEFENDANT:** Yes.  
 [19] **THE COURT:** When I read your letter, I  
 [20] understood you to say that you did not want Mr.  
 [21] Mandell to litigate that motion on your behalf?  
 [22] Did I miss understand you?  
 [23] **THE DEFENDANT:** That's because at the  
 [24] time he was being very discouraging. He was  
 [25] putting on pressure to plead guilty and telling

[1] (Colloquy)  
 [2] me no other option than just kill myself or  
 [3] I'll be executed otherwise, and he was talking  
 [4] about quitting if I didn't plead guilty, and I  
 [5] didn't feel really competent in proceeding with  
 [6] someone who is about to quit when I'm fighting  
 [7] for my life.  
 [8] **THE COURT:** Let's stick with the *Charge Re Subj*  
 [9] motion now. Do I understand you correctly you  
 [10] do not have any objection to Mr. Mandell and  
 [11] Mr. Goldman litigating on your behalf a motion  
 [12] to try to have this statement suppressed; is  
 [13] that correct?  
 [14] **THE DEFENDANT:** Like can I go into the  
 [15] motion about a couple of things?  
 [16] **THE COURT:** No. I don't want to talk  
 [17] about the substance of the motion now. I'm  
 [18] trying to get at what you wrote to me in your  
 [19] letter because, frankly, I've reviewed the  
 [20] statements as the calendar Judge. I've seen  
 [21] the videotape and I don't understand how a  
 [22] defendant could object to having their lawyer  
 [23] trying to keep those statements away from *trust*  
 [24] whatever Judge or jury might ultimately hear  
 [25] this case.

[1] (Colloquy)  
 [2] **THE DEFENDANT:** Oh, no. I was afraid  
 [3] to lose certain grounds on the motion itself.  
 [4] **THE COURT:** As I understand the  
 [5] motion, neither Mr. Mandell nor Mr. Goldman are  
 [6] waiving any possible basis for having the  
 [7] motion suppressed. They are going to try  
 [8] everything that the law raises as far as issues  
 [9] that they can raise in the suppression motion.  
 [10] I'm correct in that, aren't I, *well record 122*  
 [11] Mr. Mandell?  
 [12] **MR. MANDELL:** You are.  
 [13] **THE COURT:** So under those  
 [14] circumstances I take it you have no objection  
 [15] to this motion being litigated on your behalf,  
 [16] correct?  
 [17] **THE DEFENDANT:** No. Not at all.  
 [18] **THE COURT:** Let me respond to  
 [19] something that you said in your letter and that  
 [20] you just repeated about your feeling that Mr.  
 [21] Mandell is advising you and, in fact, strongly  
 [22] advising you to take a certain course of  
 [23] action. The first thing that I want to make  
 [24] clear to you is that like any defendant in a  
 [25] Criminal Justice Center case right now, you are

[1] (Colloquy)  
 [2] presumed innocent and you have an absolute  
 [3] constitutional right to a trial.  
 [4] You have an absolute constitutional  
 [5] right to a jury trial and nobody can take that  
 [6] right away from you unless you choose  
 [7] intelligently and voluntarily to give it up.  
 [8] Do you understand that?  
 [9] **THE DEFENDANT:** Yes.  
 [10] **THE COURT:** If you go to trial, the  
 [11] Commonwealth has charged you with first degree  
 [12] murder and also served notice on you and your  
 [13] counsel if you are convicted of first degree  
 [14] murder they will seek to have the jury return  
 [15] the death penalty against you. Do you  
 [16] understand that?  
 [17] **THE DEFENDANT:** Yes, sir.  
 [18] **THE COURT:** In connection with that  
 [19] notice they have alleged what are called under  
 [20] the law aggravating circumstances. So you are  
 [21] not only facing a trial but you'll be facing a  
 [22] capital trial. You are facing a trial which,  
 [23] again, as I said, the Commonwealth intends to  
 [24] try to get a jury not only to convict you of  
 [25] first degree murder but to sentence you to

[1] (Colloquy)  
 [2] death. Do you understand?  
 [3] **THE DEFENDANT:** I understand.  
 [4] **THE COURT:** Now I don't want you to  
 [5] tell me or go into with me specifics of any of  
 [6] the attorney-client conversations that you've  
 [7] had with Mr. Mandell and/or Mr. Goldman. Those  
 [8] are confidential communications between you and  
 [9] your lawyers. But is it fair to say that both  
 [10] Mr. Mandell and Mr. Goldman in a general way  
 [11] have strongly discussed with you courses of  
 [12] action that you could take which would involve  
 [13] giving up your right to a trial but would mean  
 [14] that you would no longer be facing the death  
 [15] penalty?  
 [16] **THE DEFENDANT:** Yes, it's fair to say.  
 [17] **THE COURT:** Is it fair to say that one  
 [18] of the reasons that you wrote me the letter and  
 [19] raised these objections about Mr. Mandell and  
 [20] Mr. Goldman is because you don't like what you  
 [21] are hearing from them?  
 [22] **THE DEFENDANT:** No. I was afraid to  
 [23] lose the privileges. As I mentioned, in the  
 [24] last suppression evidence he was considering  
 [25] quitting, and I wasn't aware that he put in a

[1] (Colloquy)  
 [2] motion.  
 [3] **THE COURT:** I can assure you neither  
 [4] Mr. Mandell nor Mr. Goldman are asking The  
 [5] Court to be relieved from representing you, and  
 [6] my understanding from your letter is that you  
 [7] were asking The Court to relieve them and give  
 [8] you other counsel. Am I incorrect in that?  
 [9] **THE DEFENDANT:** No. You are correct.  
 [10] **THE COURT:** I want you to summarize  
 [11] for me again -- without going into the  
 [12] substance of the conversations between you and  
 [13] your lawyers I want you to summarize for me, if  
 [14] you can or tell me as completely as you want,  
 [15] why it is that you think they are not properly  
 [16] representing you and why you want new counsel.  
 [17] **THE DEFENDANT:** The course of action  
 [18] they wanted me to take -- and I can understand  
 [19] because of the capital case litigation. I was  
 [20] worried because I thought there was more issues  
 [21] to suppress other than just the obvious, the  
 [22] interrogation itself, the pretrial publicity  
 [23] and the press. I was questioning all that. I  
 [24] didn't want to lose my right to that. I feel  
 [25] that it prejudiced me already thus far.

[1] (Colloquy)  
 [2] **THE COURT:** Let me explain something  
 [3] to you. The two lawyers who have been  
 [4] appointed to, at the present time, represent  
 [5] you are among the most experienced and the most  
 [6] able lawyers and the most skillful lawyers who  
 [7] do homicide defense representation in this  
 [8] court. They both have been before me as a  
 [9] Judge many, many times.  
 [10] Now the responsibility -- let me tell  
 [11] you something about myself. I've been a Judge  
 [12] hearing Criminal Justice Center cases for about  
 [13] almost 8 years. For three and a half I've been  
 [14] the Homicide Calendar Judge. So that at one  
 [15] point or another every homicide case in the  
 [16] City of Philadelphia has passed through this  
 [17] courtroom.  
 [18] I know something about Criminal  
 [19] Justice Center defense representation because  
 [20] besides having represented -- I don't know how  
 [21] many defendants in Criminal Justice Center  
 [22] cases myself. For 15 years I was the head of  
 [23] the Public Defender's office in the City of  
 [24] Philadelphia, which does most of the  
 [25] representation of Criminal Justice Center

[1] (Colloquy)  
 [2] defendants in this court, and which has a  
 [3] nationwide reputation for its effectiveness.  
 [4] Now why am I telling you that?  
 [5] Because I want you to know that I know what I'm  
 [6] talking about when I tell you that. Whether  
 [7] you as the defendant like it or not, it's not  
 [8] the job of a Criminal Justice Center defense  
 [9] lawyer to go up and talk to his or her client  
 [10] and simply tell them what they would like to  
 [11] hear or tell them optimistic things about their  
 [12] case.  
 [13] It's the job of the Criminal Justice  
 [14] Center defense lawyer, once the lawyer is  
 [15] familiar with the facts of the case -- and  
 [16] these lawyers are familiar by now with the  
 [17] facts of the case. It's the job of the  
 [18] Criminal Justice Center defense lawyer to  
 [19] layout as candidly as possible not only what  
 [20] your options are as a defendant but what they  
 [21] think are your best options and they are  
 [22] supposed to do that not as if they were  
 [23] teaching some class and were laying out these  
 [24] options so that every one of them was the same  
 [25] as everybody else.

(1) (Colloquy)

(2) If they are good -- and these guys are  
(3) good -- they are supposed to strongly and  
(4) forcefully advise you and try to persuade you  
(5) as to what they believe is the best option. Do  
(6) you understand that?

(7) **THE DEFENDANT:** Yes.

(8) **THE COURT:** Now that having been said,  
(9) there are certain decisions in a Criminal  
(10) Justice Center case that no matter what the  
(11) lawyer advises the defendant, only the  
(12) defendant can decide on.

(13) Mr. Laver, would you please step  
(14) outside.

(15) One of those decisions and the most  
(16) fundamental of those decisions is the decision  
(17) about whether to have a trial in the first  
(18) place or whether to seek some other form of  
(19) adjudication, a guilty plea, a degree of guilt  
(20) hearing, whatever else might be available.  
(21) That's the defendant's decision and ultimately  
(22) the defendant and only the defendant can make  
(23) that decision.

(24) If there is a trial, it's the  
(25) defendant's decision first whether to ask for a

(1) (Colloquy)

(2) jury trial or ask for a waiver trial. Now  
(3) whether you get a jury trial, you have an  
(4) absolute right to a jury trial. If you wanted  
(5) a waiver trial, that would be a decision that  
(6) the Commonwealth would have to agree to also  
(7) because in Pennsylvania the Commonwealth, as  
(8) well as the defendant, has a constitutional  
(9) right to a jury trial but the decision even to  
(10) ask for a waiver trial rather than a jury  
(11) trial, that's something that the defendant has  
(12) to decide ultimately. Do you understand that?

(13) **THE DEFENDANT:** Yes, I do, sir.

(14) **THE COURT:** Finally, if the case goes  
(15) to trial, whether it's in front of the judge or  
(16) in front of the jury, the defendant and only  
(17) the defendant ultimately decides whether he's  
(18) going to take the stand and testify on his own  
(19) behalf. Do you understand that?

(20) **THE DEFENDANT:** Yes, I do, sir.

(21) **THE COURT:** That doesn't mean that  
(22) lawyers are not supposed to strongly counsel  
(23) and try to persuade defendants in the strongest  
(24) terms to do what they think is in the  
(25) defendant's best interest. That's the lawyers

(1) (Colloquy)

(2) job, not to make the defendant feel good  
(3) necessarily, but to advise the defendant about  
(4) what they think about the case, the facts and  
(5) the options. Are you with me so far?

(6) **THE DEFENDANT:** Yes, sir.

(7) **THE COURT:** That doesn't mean,  
(8) however, that if you or any other defendant  
(9) decides to reject the lawyer's advice and  
(10) exercise your absolute right to a trial even  
(11) when the lawyer thinks that you would be better  
(12) off without one, that doesn't mean that either  
(13) Mr. Mandell or Mr. Goldman is going to do  
(14) anything less than their absolute best to  
(15) fulfill your issues and represent you  
(16) regardless of what they think about the wisdom  
(17) of your choice. Do you understand that, sir?

(18) **THE DEFENDANT:** Yes, I do, sir.

(19) **THE COURT:** Mr. Mandell has had  
(20) countless cases in which he's advised clients  
(21) strongly to do X. The clients have decided to  
(22) do Y. And he and Mr. Goldman also have gone  
(23) ahead and done the best job possible in  
(24) effectuating the client's wishes, and that's  
(25) exactly what they told The Court they intend to

(1) (Colloquy)

(2) do in this case if you decide whatever their  
(3) advice is, that you are going to reject it and  
(4) pursue a different course.

(5) Is that correct, Mr. Mandell?

(6) **MR. MANDELL:** Yes.

(7) **THE COURT:** Is that correct,  
(8) Mr. Goldman?

(9) **MR. GOLDMAN:** Yes, Your Honor.

(10) **THE COURT:** I want you to understand  
(11) that and I want you to understand that you are  
(12) not entitled to a different lawyer just because  
(13) you don't like what they are telling you in  
(14) private and you don't like the advice they are  
(15) giving you. Do you understand that?

(16) **THE DEFENDANT:** That I understand,  
(17) sir. Remember, that's not what I was alleging.  
(18) I was afraid in losing grounds on the motion.

(19) **THE COURT:** Give me one ground on the  
(20) motion that you think that you were afraid of  
(21) losing just as an example.

(22) **THE DEFENDANT:** I thought pretrial  
(23) publicity would somehow prejudice.

(24) **THE COURT:** What does pretrial  
(25) publicity have to do in your view with the

(1) (Colloquy)  
 (2) litigation of the motion to suppress before a  
 (3) judge?  
 (4) **THE DEFENDANT:** I thought that would  
 (5) be a factor.  
 (6) **THE COURT:** Where did you get that  
 (7) idea?  
 (8) **THE DEFENDANT:** I was just reading up.  
 (9) This -- that goes -- sorry -- suppress the  
 (10) motion, suppress the statement.  
 (11) **THE COURT:** What you are talking about  
 (12) has nothing at all to do under the law as to  
 (13) whether a statement can be suppressed. One of  
 (14) the problems is, Mr. Coia -- and this can't be  
 (15) avoided. One of the problems is that your  
 (16) lawyer is not with you every day or even every  
 (17) week, but you are surrounded by a lot of people  
 (18) who are self proclaimed, self professed experts  
 (19) in the law and in court practices and in  
 (20) Criminal Justice Center procedure and every one  
 (21) of those self professed experts who you have  
 (22) access to, who you can talk about your case and  
 (23) their case is up there basically for the same  
 (24) reason, because they are not nearly as smart or  
 (25) knowledgeable as they think they are and all

(1) (Colloquy)  
 (2) awaiting trial, lots of them in cases where  
 (3) their lives are also at stake.  
 (4) And what happens in my experience, a  
 (5) tremendous amount of misinformation and  
 (6) stupidity gets traded back and forth among  
 (7) people who are in custody awaiting trial,  
 (8) especially on serious offenses. And the people  
 (9) who are most in danger often of being taken in  
 (10) by that are people like you who don't have,  
 (11) prior to this case, a lot of experience in the  
 (12) Criminal Justice Center justice system. Do you  
 (13) understand me?  
 (14) **THE DEFENDANT:** Yes I do, sir.  
 (15) **THE COURT:** You can talk to whoever  
 (16) you want. It's a free country. And listen to  
 (17) whoever you want. But try to kept it in your  
 (18) mind. Remember who these people are, where  
 (19) they are and why they are there before you  
 (20) start thinking that their advice is so much  
 (21) better or so much smarter than what you are  
 (22) getting from your lawyers.  
 (23) They are not law trained. You are not  
 (24) law trained. Most of them haven't finished  
 (25) high school. You haven't finished high school.

(1) (Colloquy)  
 (2) The lawyers who represent you in this case have  
 (3) literally thousands of cases between them and  
 (4) years and years and years of experience and the  
 (5) respect of all the judges that they practice in  
 (6) front of. It might pay you, regardless of what  
 (7) you ultimately decide -- and again let me  
 (8) emphasize this it. Is your decision  
 (9) ultimately, but it might pay you to pay a  
 (10) little more attention to what they are telling  
 (11) you and the reasons they are giving you for the  
 (12) advice that they provide you.  
 (13) I can't make you do that but I can  
 (14) **tell you this:** So far you haven't given me one  
 (15) single reason why you are entitled to or even  
 (16) why it would be a good idea to consider giving  
 (17) you other counsel. So if there is any reason  
 (18) behind that request, other than what you've  
 (19) already talked about, this is the time to tell  
 (20) me.  
 (21) **THE DEFENDANT:** No. I already  
 (22) disclosed everything.  
 (23) **THE COURT:** All right. I want you to  
 (24) know, Mr. Coia, that I've had the opportunity  
 (25) now as the pretrial Judge in this case to read

*Like I said I did my homework*

(1) (Colloquy)  
 (2) all the statements, view a good deal of the  
 (3) evidence and also to see your videotaped  
 (4) statement. I presided over the guilty plea  
 (5) proceeding of one of your codefendants and I've  
 (6) read her statement.  
 (7) Now, like I said, it's your choice to  
 (8) make. But try to remember your life is  
 (9) seriously and literally at stake here. You  
 (10) alone, among all four of the defendants in this  
 (11) case, as the case stands now, are facing the  
 (12) possibility of the death penalty and you may  
 (13) believe that the Supreme Court of the United  
 (14) States or the Supreme Court of Pennsylvania or  
 (15) some Supreme Court somewhere is going remove  
 (16) that threat from you, but some decision that  
 (17) says nobody who commits a crime while they are  
 (18) under the age of 18 can constitutionally be  
 (19) executed, and, you know, it might turn out that  
 (20) you are right.  
 (21) It also might turn out that you are  
 (22) wrong. It would mean a change of law from  
 (23) where the law is now and there are a lot of  
 (24) lawyers who have been working in this area for  
 (25) longer that you've been alive who wouldn't dare

[1] (Colloquy)  
 [2] to predict what those courts are going to do.  
 [3] So as you sit here today, that's what you are  
 [4] facing.  
 [5] You are facing going on trial for your  
 [6] life. You are facing it with the best legal  
 [7] counsel that could be provided for you. And I  
 [8] hope that in the weeks to come you will at  
 [9] least be willing to listen with an open mind to  
 [10] what they say to you and what they suggest to  
 [11] you. Remembering again -- and I'm going to say  
 [12] this for the third time, because I don't want  
 [13] there to be any doubt about this. Remembering  
 [14] again in the end it will ultimately be your  
 [15] decision as to whether or not you are going to  
 [16] go to trial. Are we clear?  
 [17] **THE DEFENDANT:** Yes.  
 [18] **THE COURT:** Is there anything further  
 [19] that you would like to say?  
 [20] **THE DEFENDANT:** No, sir.  
 [21] **THE COURT:** Counsel, anything further  
 [22] that you would like to say?  
 [23] **MR. MANDELL:** No.  
 [24] **MR. GOLDMAN:** No.  
 [25] **THE COURT:** Sheriff, you can take

[1] (Colloquy)  
 [2] Mr. Coia back, please.  
 [3] (Hearing adjourned.)  
 [4]  
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**CERTIFICATION**

I HEREBY CERTIFY THAT THE PROCEEDINGS AND EVIDENCE ARE CONTAINED FULLY AND ACCURATELY IN THE NOTES TAKEN BY ME ON THE TRIAL OF THE ABOVE CAUSE, AND THIS COPY IS A CORRECT TRANSCRIPT OF THE SAME.

VINCENT O. DIGIROLAMO  
OFFICIAL COURT REPORTER.  
(215) 683-8034

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**First Judicial District of Pennsylvania**

*03061389*  
*Dominic Coia*

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*Motion Volume 1*  
*March 19, 2004*

**CRS**  
**Court Reporting System**

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*First Judicial District of Pennsylvania*  
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IN THE COURT OF COMMON PLEAS  
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
TRIAL DIVISION (CRIMINAL)

COMMONWEALTH : JUNE TERM, 2003

VS. : MURDER

DOMINIC COIA : NO. 1389 4/4

COURTROOM 1108, CRIMINAL JUSTICE CENTER  
PHILADELPHIA, PENNSYLVANIA

MARCH 19, 2004

MOTION TO SUPPRESS

BEFORE: THE HONORABLE BENJAMIN LERNER, J.

APPEARANCES:  
JUDGE CONROY, ESQ.  
ASSISTANT DISTRICT ATTORNEY  
LEE MANDELL, ESQ.  
ATTORNEY FOR THE DEFENDANT

(1) (Colloquy)  
(2) THE COURT: Are we bringing Mr. Coia  
(3) out?  
(4) THE COURT TIPSTAFF: Yes.  
(5) THE COURT: Do you plan to have him  
(6) testify?  
(7) MR. MANDELL: I do not.  
(8) THE COURT: It won't be necessary to  
(9) have him sworn in. Good afternoon, Mr. Coia.  
(10) We're here for the defendant's motion to  
(11) suppress. My understanding, Mr. Mandell, is  
(12) that your motion goes to both the defendant's  
(13) written statements, and there are two written  
(14) statements, and also the videotaped statements;  
(15) is that correct?  
(16) MR. MANDELL: Partially. The first  
(17) written statement. Well, depending on the time  
(18) frame, yeah, it would be. Both written  
(19) statements and the videotape, yes.  
(20) THE COURT: Do you want to state your  
(21) grounds first?  
(22) MR. MANDELL: If Your Honor please,  
(23) if there are any witnesses in the room, I would  
(24) ask they be excused.  
(25) THE COURT: Any witnesses to testify,

(1) (Colloquy)  
(2) please step outside, please.  
(3) MR. MANDELL: If Your Honor please,  
(4) the basis of the motion at the time of the  
(5) interviews Mr. Coia was a juvenile, age 17  
(6) plus, and it is my contention that when his  
(7) father was present and had an opportunity to  
(8) confer with him and the detectives, he advised  
(9) the detectives that he did not wish them to  
(10) talk to his son Dominic any further until he  
(11) had an opportunity to confer with his brother  
(12) and his brother's lawyer. *per video on defendant.*  
(13) He then left the Police Administration *per video on defendant was in room no family*  
(14) Building, and subsequent to his leaving an,  
(15) interview was commenced with Mr. Coia and the  
(16) statement -- statements were taken. Now my  
(17) understanding is that statement one, which was  
(18) at 11:05 p.m. on June 2nd of '03, may have  
(19) occurred prior to contact with the father but,  
(20) certainly, statement number two, which was  
(21) taken starting at 1 a.m., perhaps a little  
(22) earlier than 1 a.m., was commenced after the  
(23) father had already left.  
(24) THE COURT: 1 a.m. on June 3rd?  
(25) MR. MANDELL: Yes. And the video

(1) (Colloquy)  
(2) followed the second written statement. The  
(3) second written statement concluded at 2:30 a.m.  
(4) I was not sure about the time frame on the  
(5) video, but it was shortly thereafter.  
(6) THE COURT: The record should reflect  
(7) that I have read both of the written  
(8) statements, the one dated June 2nd, 11:05 p.m.  
(9) and the one dated June 3rd, which is early  
(10) Tuesday morning, at 1 A.M. I've also viewed  
(11) the videotape confession in its entirety and  
(12) I've read the transcript of the videotape  
(13) confession prepared by detective Watkins and  
(14) detective Mangold.  
(15) So it will not be necessary, during  
(16) the course of the hearing, to have the  
(17) statements themselves read into the record.  
(18) They obviously can be marked and be admitted  
(19) during the course of the hearing, can be  
(20) referred to. But in terms of The Court's  
(21) familiarity with what's in the statements, I  
(22) already know what's in all of the statements.  
(23) All right.  
(24) MR. CONROY: May I state one caveat to  
(25) The Court? In speaking with Mr. Mandell -- and

(1) (Colloquy)  
 (2) it may have been a misinterpretation on my part  
 (3) -- the only problem that I have is that I  
 (4) generally thought his motion was going  
 (5) principally to the second statement.  
 (6) It's not a problem. That was my  
 (7) understanding, and it's not a problem. I have  
 (8) detective Burns, who took the first statement  
 (9) subpoenaed, but he actually is on the stand in  
 (10) Federal Court.  
 (11) After I have detective Watkins testify  
 (12) there may be some downtime before I get him  
 (13) here, but I have him subpoenaed. He's ready to  
 (14) testify, but he was due on the stand and I let  
 (15) him go town there, Judge.  
 (16) **THE COURT:** That's all right. The  
 (17) first statement June 2nd is exculpatory but you  
 (18) may, for whatever purposes, you may wish to use  
 (19) that at trial, but we can deal with all the  
 (20) statements today.  
 (21) Let me tell you. There is a homicide  
 (22) judges' meeting scheduled at 12:30 but the  
 (23) meeting, it turns out, is not going to go off.  
 (24) At some point, in about a half hour, I have to  
 (25) go upstairs to tell my fellow judges to eat

(1) (Detective Carl Watkins-direct)  
 (2) **A.** 15 years.  
 (3) **Q.** You have been a member of the Detective Bureau  
 (4) for how long?  
 (5) **A.** It will be 10 years this November.  
 (6) **Q.** Detective, I want to direct your attention  
 (7) back to Monday, the 2nd of June, in the year 2003.  
 (8) Back on that date were you on duty as a homicide  
 (9) detective?  
 (10) **A.** Yes, I was.  
 (11) **Q.** Back on that date do you recall what tour of  
 (12) duty you were working?  
 (13) **A.** We were working day work, eight to four.  
 (14) **Q.** During the course of -- did you have occasion,  
 (15) detective, to go past your normal 8-hour tour of  
 (16) duty?  
 (17) **A.** Yes, I did.  
 (18) **Q.** Why was it?  
 (19) **A.** We were working on a murder that occurred in  
 (20) West Philadelphia.  
 (21) **Q.** At some point during the course of that  
 (22) evening, while you were still on duty, did you have  
 (23) occasion to be down at headquarters and become  
 (24) involved in the investigation of the beating death  
 (25) of a 16-year old male by the name of Jason Sweeney?

(1) (Detective Carl Watkins-direct)  
 (2) lunch and not wait for Judge Fitzgerald or  
 (3) Keogh to arrive because they will be waiting a  
 (4) long time.  
 (5) I'm scheduled to do a wedding at 2:00  
 (6) in chambers. That will not take more than five  
 (7) minutes. Otherwise, we have all afternoon.  
 (8) **MR. CONROY:** The Commonwealth would  
 (9) call detective Carl Watkins.  
 (10) **THE WITNESS:** Detective Carl Watkins,  
 (11) **W A T K I N S**, badge number 613, Homicide Unit.  
 (12) ... Detective Carl Watkins, having  
 (13) been first duly sworn as a witness, is examined  
 (14) and testifies as follows...  
 (15) **DIRECT EXAMINATION**  
 (16) **THE WITNESS:** Good morning, Your  
 (17) Honor. Good afternoon.  
 (18) **MR. CONROY:** May I inquire?  
 (19) **THE COURT:** Yes.  
 (20) **BY MR. CONROY:**  
 (21) **Q.** Good afternoon, detective.  
 (22) **A.** Good afternoon.  
 (23) **Q.** Detective Watkins, you are employed by who?  
 (24) **A.** Philadelphia Police Department.  
 (25) **Q.** Been a member of the department for how long?

(1) (Detective Carl Watkins-direct)  
 (2) **A.** Yes, I did.  
 (3) **Q.** Detective, can you tell the Judge when it was  
 (4) you became involved in the investigation?  
 (5) **THE COURT:** Hold it just one second.  
 (6) It occurred to me. You have all your other  
 (7) witnesses sequestered, right?  
 (8) **MR. CONROY:** Yes.  
 (9) **THE COURT:** Mr. Mandell, do you have  
 (10) fact witnesses that you might be calling.  
 (11) **MR. MANDELL:** The only one is outside.  
 (12) **THE COURT:** Sorry about that  
 (13) interruption. Go ahead.  
 (14) **BY MR. CONROY:**  
 (15) **Q.** Detective Watkins, can you outline for Judge  
 (16) Lerner how it was and where it was that particular  
 (17) evening, the 2nd of June, when you became involved  
 (18) in the beating death of a 16-year old male by the  
 (19) name of Jason Sweeney?  
 (20) **A.** Yes. At approximately 11:45 p.m. I spoke with  
 (21) Lieutenant Morrin who was my commanding officer at  
 (22) the homicide unit. He informed me of what was going  
 (23) on with another job that the other part of the squad  
 (24) was working on. That was a job concerning Jason  
 (25) Sweeney.

(1) (Detective Carl Watkins-direct)  
 (2) He informed me at that time there were  
 (3) two individuals inside of the homicide unit that are  
 (4) implicating three individuals that are at homicide  
 (5) at this time. He asked if I and detective Mangold  
 (6) would go in and take a statement from a Mr. Dominic  
 (7) Coia and a Nicholas Coia.  
 (8) Q. Did you, in fact, do that?  
 (9) A. Yes, I did.  
 (10) Q. Detective, when you were first contacted by  
 (11) your Lieutenant, Michael Morrin, as a result of  
 (12) receiving that information, what did you then do  
 (13) with detective Mangold?  
 (14) A. We then went into room A of the homicide unit.  
 (15) Inside of that room, Your Honor, was Mr. Dominic  
 (16) Coia, the defendant, Dominic Coia, and his brother,  
 (17) Nicholas Coia.  
 (18) MR. CONROY: May the record reflect  
 (19) that detective Watkins has identified the  
 (20) defendant at the bar of The Court, Dominic  
 (21) Coia?  
 (22) THE COURT: The record can so reflect.  
 (23) BY MR. CONROY:  
 (24) Q. So you arrived in that room about what time?  
 (25) A. It was around midnight.

(1) (Detective Carl Watkins-direct)  
 (2) Q. Did you become aware, with speaking with other  
 (3) detectives -- strike that.  
 (4) Other than Nicholas Coia, the  
 (5) defendant, Dominic Coia, and Dominic Coia, Sr. was  
 (6) there anyone else in that A room when you and  
 (7) detective Mangold went into the room?  
 (8) A. No. Just the three of them and me and  
 (9) detective Mangold.  
 (10) Q. How long were they in the room together?  
 (11) A. I believe they were in there about 20 minutes.  
 (12) Q. How was it that they were placed in that room?  
 (13) A. I believe detective Booker placed the father  
 (14) in there with Nicholas Coia, and Dominic, I believe,  
 (15) was already in there.  
 (16) Q. As a result of that information, you indicated  
 (17) that you and detective Mangold went in, in fact, to  
 (18) interview room A?  
 (19) A. Yes.  
 (20) THE COURT: Let me make sure that I  
 (21) understand. When you and detective Mangold  
 (22) went in there, was Mr. Coia, Sr. still there?  
 (23) THE WITNESS: Yes.  
 (24) THE COURT: When you went in, both  
 (25) Nicholas, Dominic and Dominic, their father,

(1) (Detective Carl Watkins-direct)  
 (2) was there?  
 (3) THE WITNESS: That's correct.  
 (4) BY MR. CONROY:  
 (5) Q. By the way, did you have occasion to see  
 (6) either this morning or very early this morning,  
 (7) Mr. Dominic Coia, Sr.?  
 (8) A. Yes.  
 (9) Q. He's out in the hallway?  
 (10) A. That's correct.  
 (11) Q. Explain for Judge Lerner -- tell us what  
 (12) happened that evening around midnight when you went  
 (13) into interview room A?  
 (14) A. I went in with detective Mangold. I  
 (15) introduced myself to Dominic, Jr., to Nicholas and  
 (16) the father. I then told him what we were there for.  
 (17) I was taking a statement from Dominic.  
 (18) Detective Mangold, along with me,  
 (19) would be taking a statement from Nicholas. I had  
 (20) the paperwork in front of me and I explained to  
 (21) Mr. Coia what I was going to do. I went over the  
 (22) front page of the statement.  
 (23) MR. MANDELL: I'm going to object just  
 (24) for a moment. When he uses the term Mr. Coia,  
 (25) I think he has to be more specific.

(1) (Detective Carl Watkins-direct)  
 (2) THE COURT: Yes. I think it's a good  
 (3) idea. There are three Mr. Coias. Tell us  
 (4) which one.  
 (5) THE WITNESS: If it's okay with you,  
 (6) counsel, I'll describe as father.  
 (7) MR. MANDELL: Fine.  
 (8) THE WITNESS: With the father present  
 (9) and with Dominic and Nicholas, I then started  
 (10) to go over the paperwork, the front page of the  
 (11) statement and the rights. I went through each  
 (12) of the individual rights.  
 (13) They are on page two of the 75-331.  
 (14) And I then got into where we would be getting  
 (15) into the statement of page one. It was at that  
 (16) time Mr. Coia had stopped me.  
 (17) BY MR. CONROY:  
 (18) Q. When you said Mr. Coia --  
 (19) A. I'm sorry. The father. The father had  
 (20) stopped me and said that he needed to talk to his  
 (21) brother.  
 (22) Q. By the way, if I can back up just a moment. I  
 (23) believe you indicated to Judge Lerner you were  
 (24) explaining the warning pages to all three Coias?  
 (25) A. Yes, all they Coias.

[1] (Detective Carl Watkins-direct)  
 [2] Q. That includes dad, Nicholas and Dominic, Jr.  
 [3] A. That's correct.  
 [4] Q. You were explaining them to dad as well?  
 [5] A. That's correct.  
 [6] Q. At that point, detective, tell us what  
 [7] happened during the course of explaining the  
 [8] warnings to each of the respective Coias?  
 [9] A. I went over the warning part and showed them  
 [10] the other page, where we would be starting the  
 [11] statement, and it was at that time that the father  
 [12] had stopped me.  
 [13] Q. What, if anything, did the father say?  
 [14] A. He said to me that he wanted to talk to his  
 [15] brother before we talked to them, meaning the sons.  
 [16] I explained to them, I said why do you need to talk  
 [17] to your brother? And he said I just got to -- need  
 [18] to talk to my brother. I said is there a reason?  
 [19] And he said my concern is not him.  
 [20] Q. Indicating?  
 [21] A. Dominic. My concern is him, Nicholas.  
 [22] Q. So the father said that?  
 [23] A. Yes.  
 [24] Q. Just so it's clear, my concern is not Dominic,  
 [25] my concern is Nicholas?

[1] (Detective Carl Watkins-direct)  
 [2] homicide unit.  
 [3] Q. So you stepped outside of the presence of both  
 [4] Dominic Coia, the defendant, and Nicholas Coia?  
 [5] A. That's correct.  
 [6] Q. Again, what exactly was said by you? What was  
 [7] said by Mr. Coia.  
 [8] A. I asked him again why he needed to talk to his  
 [9] brother, and he explained I need to talk to my  
 [10] brother before we go any further. I asked him if he  
 [11] was a lawyer, and he told me no, his brother is not  
 [12] a lawyer, that he just needs to talk to him.  
 [13] It was at that time that I explained  
 [14] to him, we can go get him. Where is he at? He said  
 [15] no, it's getting late and I have to get up at 3:30  
 [16] in the morning to go to work.  
 [17] Q. By the way, just so it's clear for the record,  
 [18] you offered him the opportunity to use the  
 [19] telephone?  
 [20] A. Yes.  
 [21] Q. So you offered him to use the telephone?  
 [22] A. Yes.  
 [23] Q. Did he use it?  
 [24] A. No.  
 [25] Q. He never used the phone?

[1] (Detective Carl Watkins-direct)  
 [2] A. Yes. Where Dominic is sitting over there in  
 [3] the corner. My concern is not with him. My concern  
 [4] is with him, and he's sitting next to Nicholas.  
 [5] Q. As he's indicating, he's pointing to him?  
 [6] A. Yes.  
 [7] Q. As a result of him saying that, what, if  
 [8] anything, did you then do or say?  
 [9] A. I asked him, Mr. Coia, to step out of the room  
 [10] so I can talk to him, and I went into the clothing  
 [11] room and I asked him why he has to talk to his  
 [12] brother, and I asked him -- and I said why?  
 [13] is your brother a lawyer? And he said no.  
 [14] Let's get your brother down here now.  
 [15] We'll pick him up. Whatever you need, we'll get him  
 [16] here. He said look, I need to talk to him. I said  
 [17] we'll pick him up.  
 [18] At that time the father said look,  
 [19] it's getting late and I have to get up at 3:30 in  
 [20] the morning to go to work.  
 [21] Q. Let me back up. When you had this further  
 [22] discussion with Dominic Coia, Sr., where did this  
 [23] take place?  
 [24] A. Right next to A room was our clothing room and  
 [25] water room, which is right next to A room in the

[1] (Detective Carl Watkins-direct)  
 [2] A. No.  
 [3] Q. After this discussion that you had with  
 [4] Dominic Coia, Sr. -- by the way, up to that point in  
 [5] time did Mr. Coia, Sr. -- did he understand what  
 [6] this investigation was about, detective Watkins?  
 [7] A. Yes.  
 [8] Q. By that did he understand that a young man had  
 [9] been murdered --  
 [10] A. Yes.  
 [11] Q. -- brutality?  
 [12] What then happens after you had this  
 [13] conversation inside a little coat room with Dominic  
 [14] Coia, Sr.? what happens? What did he do? Where  
 [15] did he go?  
 [16] A. Mr. Coia goes out to the waiting room of the  
 [17] homicide unit. Nicholas Coia is placed, I would  
 [18] say, about 25 feet from the room at our secretary's  
 [19] desk and I went back and explained to Lieutenant  
 [20] Morrin what had just happened and then Mr. Coia  
 [21] left.  
 [22] Q. Was he escorted out of the building?  
 [23] A. Yes. But I don't know who took him out.  
 [24] Q. Did he tell you when he would get back in  
 [25] touch with you when he left, detective?

[1] (Detective Carl Watkins-direct)  
 [2] A. No.  
 [3] Q. Did he give you his brother's name or  
 [4] brother's phone number?  
 [5] A. No.  
 [6] Q. Did he give you any instructions whatsoever,  
 [7] in terms of his brother, when he was going to  
 [8] contact him, etcetera?  
 [9] A. All he kept saying is that he needed to talk  
 [10] to his brother.  
 [11] Q. After Dominic Coia, Sr. leaves the Police  
 [12] Administration Building, that was approximately what  
 [13] time, detective?  
 [14] A. Around 12:30.  
 [15] Q. What then happens? Where do you go? You  
 [16] indicate that Nicholas Coia, his son, was taken out  
 [17] of A room?  
 [18] A. Yes.  
 [19] Q. And placed where?  
 [20] A. He is about 25 feet from A room into where the  
 [21] secretary is sitting at the secretary's desk.  
 [22] Q. Who is left in A room?  
 [23] A. Dominic is still in A room.  
 [24] Q. You are referring to the defendant?  
 [25] A. The defendant, yes.

[1] (Detective Carl Watkins-direct)  
 [2] Q. Tell us what happens, Detective Watkins. At  
 [3] any point in time what, if anything, happens while  
 [4] you are up there in the homicide division and  
 [5] Dominic Coia, Jr., the defendant, is in A room?  
 [6] A. Yes. About 12:45 Dominic knocked on the door  
 [7] of A room. I answered the door. He asked if he  
 [8] could have a cigarette, and, Your Honor, I believe  
 [9] they were his cigarettes. They were Marlboro one  
 [10] hundreds.  
 [11] I went into the room and gave Dominic  
 [12] a cigarette, Dominic, Jr. I lit the cigarette for  
 [13] him and we started to talk. He was explaining to me  
 [14] about going back to school and he would like to get  
 [15] a job.  
 [16] During that conversation Dominic had  
 [17] said to me that he wanted to talk about what  
 [18] happened involving Jason Sweeney, and I explained to  
 [19] him of what his father had said, and he said I don't  
 [20] care. I want to talk to you about what happened.  
 [21] At that time I left A room. I went  
 [22] out and I told detective Mangold to get the father  
 [23] Dominic on the phone and explain to him that his son  
 [24] Dominic now wants to talk. I then went to  
 [25] Lieutenant Morrin. I explained to him what had just

)  
 Explained what  
 he said. I thought  
 you said my f.  
 don't care

[1] (Detective Carl Watkins-direct)  
 [2] transpired in A room.  
 [3] Detective Mangold came back up to me  
 [4] and said he could not get in touch with the father  
 [5] and it is at that time that we both -- detective  
 [6] Mangold and I went back into A room and went back to  
 [7] take a statement from Dominic Coia, his son.  
 [8] Q. Detective Watkins, can you explain or describe  
 [9] for Judge Lerner, who obviously wasn't there that  
 [10] particular evening -- can you describe Dominic Coia  
 [11] Jr.'s demeanor, actually his emotional state as  
 [12] well?  
 [13] A. Dominic, that night, he was very anxious, Your  
 [14] Honor. He sounded very articulate to me as we were  
 [15] talking about, prior to his statement, of what he  
 [16] was looking forward in his school and work and  
 [17] things of that nature.  
 [18] Q. Detective Watkins, did you in any way detect  
 [19] that the defendant, Dominic Coia, was under the  
 [20] influence of any alcohol or drugs or controlled  
 [21] substances?  
 [22] A. No.  
 [23] Q. Up to that point in time, the brief limited  
 [24] contact that you had with him, did he appear to  
 [25] understand everything that you were saying to him?

[1] (Detective Carl Watkins-direct)  
 [2] A. Yes, he did.  
 [3] Q. When you did have a conversation in that brief  
 [4] period into his future job, school, when you guys  
 [5] had a little dialogue, did he answer appropriately  
 [6] to any questions that you were putting to him or any  
 [7] statements? Did he appear to be making any sense to  
 [8] you?  
 [9] A. Yes, he did.  
 [10] Q. At that point in time, as a result of what  
 [11] Dominic Coia had said to you, did you begin to take  
 [12] a statement from him?  
 [13] A. Yes, I did. I did.  
 [14] Q. Did you give him an opportunity to contact his  
 [15] father if he wanted to?  
 [16] A. Yes, I did.  
 [17] Q. What did he say?  
 [18] A. He didn't need to contact his father and he  
 [19] was willing to give us a statement and tell us what  
 [20] happened.  
 [21] Q. In your conversation with him -- strike that.  
 [22] He had had the opportunity to speak  
 [23] with his dad, correct?  
 [24] A. Yes, he did.  
 [25] Q. What, if anything, when you said listen, your

[1] (Detective Carl Watkins-direct)  
 [2] dad didn't want you to talk, what, if anything, did  
 [3] Dominic Coia, Jr., the defendant, say about any  
 [4] further conversations about his dad?  
 [5] A. He said he didn't need to talk to his father.  
 [6] He's willing to tell us what happened.  
 [7] Q. What did you and detective Mangold do?  
 [8] A. We went back over the paperwork that we  
 [9] originally went to when the father Nicholas was in  
 [10] the room. I went over his individual rights on the  
 [11] second page and I got into a series of questions on  
 [12] page one, a series of questions before we got into  
 [13] the actual statement.  
 [14] Q. Detective Watkins, when you originally were  
 [15] going over the defendant Dominic Coia's  
 [16] constitutional rights in the presence of his father  
 [17] and brother in this case, was there anything being  
 [18] transcribed at that point in time?  
 [19] A. No.  
 [20] Q. Was anything transcribed regarding his  
 [21] constitutional rights in waiving them after Dominic  
 [22] was willing to speak with you sometime after 12:45?  
 [23] A. Yes.  
 [24] MR. CONROY: At this time, Your Honor,  
 [25] I'll ask that this item be marked as

[1] (Detective Carl Watkins-direct)  
 [2] Commonwealth Exhibit C-1 for identification  
 [3] purposes. Counsel, I believe, has a copy. I  
 [4] have an extra copy if you need one.  
 [5] MR. MANDELL: The statement.  
 [6] THE COURT: 6:31 a.m. statement?  
 [7] MR. CONROY: Yes.  
 [8] THE COURT: We'll mark that C-1.  
 [9] MR. CONROY: Yes.  
 [10] THE COURT: So marked.  
 [11] BY MR. CONROY:  
 [12] Q. Detective Watkins, taking a look at what has  
 [13] been marked as Commonwealth Exhibit C-1 for  
 [14] identification purposes, do you recognize that  
 [15] document?  
 [16] A. Yes, I do.  
 [17] Q. What do you recognize that document to be?  
 [18] A. This is the statement of the son Dominic Coia.  
 [19] Q. By the way, detective, at some point in time  
 [20] did you become aware of -- strike that.  
 [21] Did you ask the defendant how old he  
 [22] was?  
 [23] A. Yes.  
 [24] Q. How old was he?  
 [25] A. 17.

[1] (Detective Carl Watkins-direct)  
 [2] Q. When was his 18th birthday?  
 [3] A. Would have been 10 days from this day.  
 [4] Q. 10 days shy from his 18th birthday?  
 [5] A. Yes.  
 [6] THE COURT: When you say 10 days from  
 [7] this date, 10 days from the date of the  
 [8] statement?  
 [9] THE WITNESS: 6/3. He gives us a  
 [10] birthday of 6/13 of '85.  
 [11] BY MR. CONROY:  
 [12] Q. Did you ever have any conversation with  
 [13] Dominic Coia about where he was living?  
 [14] A. Yes.  
 [15] Q. What, if anything, did the defendant Dominic  
 [16] Coia indicate to you?  
 [17] A. Dominic had said he wasn't living at home.  
 [18] His father will put him out. He was going, I  
 [19] believe, between jobs grand pop's and living in the  
 [20] street at different places where he could stay.  
 [21] Q. Actually, at the time of this statement he  
 [22] wasn't living with his dad?  
 [23] A. No.  
 [24] Q. Did he indicate how long a period of time he  
 [25] had been living on his own?

[1] (Detective Carl Watkins-direct)  
 [2] A. I believe a week. (Joshua's Grandmother's share S)  
 [3] Q. Detective, I'm going to ask you to take a look  
 [4] at what has been marked as Commonwealth exhibit C-1.  
 [5] Do you recognize that document?  
 [6] A. Yes.  
 [7] Q. Can you please go through that document and  
 [8] tell us what exactly what questions you asked  
 [9] Dominic Coia, starting with 75-331D, what  
 [10] information you provided him, what information he  
 [11] provided you, how you advised him of his  
 [12] constitutional warnings and whether the defendant  
 [13] understood them?  
 [14] A. I went through the first page, Your Honor, the  
 [15] statement of Dominic Coia, 17, white male, in  
 [16] parenthesis, I put 6/13/85.  
 [17] Q. Is that the date of birth that he gave you?  
 [18] A. Yes. The date of when this happened was  
 [19] 6/3/03, Tuesday, 1 a.m., where it occurs, the place,  
 [20] 750 Race Street, the homicide unit, room A,  
 [21] concerning the death of Jason Sweeney, 16, white  
 [22] male, in the presence of detective Carl Watkins,  
 [23] badge number 613, detective Patrick M A N G O L D,  
 [24] badge number 805. Interrogated by detective Carl  
 [25] Watkins, badge number 613. Detective Patrick

[1] (Detective Carl Watkins-direct)  
[2] Mangold, badge number 805.  
[3] Recorded by detective Carl Watkins,  
[4] badge number 613. I am detective Carl Watkins and  
[5] this is detective Mangold. We are questioning you  
[6] concerning the death of Jason Sweeney, 16, white  
[7] male.

[8] At the bottom of that page I went over  
[9] another set of rights down here at the bottom  
[10] of the 75-331 D.

[11] Q. How did you do that?

[12] A. I read each one of them to Mr. Coia.

[13] Q. Please, for the record, tell us what you read  
[14] to the defendant, the son?

[15] A. We have a duty to explain to you and to warn  
[16] you that you have the following legal rights: A,  
[17] you have a right to remain silent and do not have to  
[18] say anything at all.

[19] B, anything that you say can and will  
[20] be used against you in court.

[21] C, you have a right to talk to a  
[22] lawyer of your own choice before we ask you any  
[23] questions and also have a lawyer here with you while  
[24] we ask questions.

[25] D, if you cannot afford to hire a

[1] (Detective Carl Watkins-direct)  
[2] lawyer and you want one, we'll see that you have a  
[3] lawyer provided to you free of charge before we ask  
[4] you any questions.

[5] E, if you are willing to given us a  
[6] statement, you have a right to stop at any time you  
[7] wish.

[8] Dominic Coia, the son, signed the  
[9] bottom of it and put the time, 1:05 a.m.

[10] Q. Detective, I notice there is a line over the  
[11] photostatic copy of the statement. Do you see that  
[12] line there?

[13] A. Yes.

[14] Q. How did that get there and what was the  
[15] purpose of that?

[16] A. I put that line there, for Dominic to sign on  
[17] that line.

[18] Q. He signed under it?

[19] A. He signed under it.

[20] Q. By the way, did he sign that in your presence?

[21] A. Yes.

[22] Q. Who put the time there?

[23] A. He did.

[24] Q. It was, in fact, 1:05 a.m.?

[25] A. Yes.

[1] (Detective Carl Watkins-direct)  
[2] Q. Up to that point in time, detective, did  
[3] Dominic Coia appear to understand the rights that  
[4] you read to him?

[5] A. Yes, he did.

[6] Q. How was it that you felt comfortable that he  
[7] understood his constitutional rights?

[8] A. Asking him and I asked him, do you understand?  
[9] Yes, I specifically asked him that.

[10] Q. Detective, did you have occasion to go to the  
[11] next page, 75-331E, and fill that out and further  
[12] advise the defendant of his constitutional rights?

[13] A. Yes, I did.

[14] Q. Can you tell us how that question and answer  
[15] session went? What exactly transpired?

[16] A. Yes. I read the question. Dominic answered  
[17] it and initialed next to it.

[18] Q. What questions did you ask him and what were  
[19] his responses?

[20] A. Number one, question: Do you understand that  
[21] you have the right to keep quiet and don't have to  
[22] say anything at all? Answer: Yes. And his  
[23] initials next to it D.C.

[24] THE COURT: Who put the initials  
[25] there?

[1] (Detective Carl Watkins-direct)  
[2] THE WITNESS: Dominic Coia, the son.  
[3] Two, Question: Do you understand that  
[4] anything that you say can and will be used  
[5] against you?

[6] Answer: Yes.

[7] Initialed by Dominic Coia, the son.

[8] Question three: Do you want to remain  
[9] silent?

[10] Answer: No.

[11] Initialed by Dominic Coia, the son.

[12] Number four: Do you understand you  
[13] have the right to talk with a lawyer before we  
[14] ask you any questions?

[15] Answer: Yes.

[16] Initialed by Dominic Coia, the son.

[17] Question five: Do you understand if  
[18] you cannot afford to hire a lawyer and you want  
[19] one, we will not ask you any questions until a  
[20] lawyer is appointed for you free of charge?

[21] Answer: Yes.

[22] Initialed by Dominic Coia, the son.

[23] Six: Do you want to talk with a  
[24] lawyer at this time or have a lawyer with you  
[25] while we ask you questions?



[1] (Detective Carl Watkins-direct)  
 [2] Answer: No.  
 [3] Initialed by Dominic Coia, the son.  
 [4] Question seven: Are you willing to  
 [5] answer questions of your own free will without  
 [6] force or fear and without any threats or  
 [7] promises having being made to you.  
 [8] Answer: Yes.  
 [9] Initialed by Dominic Coia.  
 [10] The statement of Dominic Coia, 17,  
 [11] white male at he bottom. The date the son  
 [12] signs the bottom, his full name and the time  
 [13] put by the son, 1:11 a.m.  
 [14] THE COURT: His signature and the  
 [15] time, 1:11 a.m., that's in his handwriting,  
 [16] correct?  
 [17] THE WITNESS: Yes, Your Honor.  
 [18] THE COURT: That's on the last line of  
 [19] page two?  
 [20] THE WITNESS: Yes.  
 [21] BY MR. CONROY:  
 [22] Q. Continuing, detective, as a result of those  
 [23] questions, those answers and the signature that  
 [24] you've testified to Judge Lerner, again, did the  
 [25] defendant Dominic Coia appear to understand his

[1] (Detective Carl Watkins-direct)  
 [2] Q. After preparing -- I assume the bed of this  
 [3] statement occurred after the conclusion of the  
 [4] 75-331E?  
 [5] A. Yes.  
 [6] Q. Detective, read to His Honor the questions  
 [7] after the top of the page was completed. You  
 [8] indicated to him that you were questioning him  
 [9] regarding what?  
 [10] A. The death of Jason Sweeney, 16, white male, on  
 [11] Friday 5/30 of '03.  
 [12] Q. By the way, the other biographical information  
 [13] at the top of the page regarding address,  
 [14] employment, school, etcetera, who provided that to  
 [15] you?  
 [16] A. Dominic Coia the son.  
 [17] Q. What address did he give to you?  
 [18] A. 1414 Columbia Avenue. *Burden of Proof*  
 [19] Q. Is that where he said he lived?  
 [20] A. That is where his dad lived. Last know *on Judge*  
 [21] mailing address. *I can rely on my Dad*  
 [22] Q. Last known mailing address? *to hold my name but not*  
 [23] A. Yes. *to care about make responsible*  
 [24] Q. Was he able to give you a particular residence *for my mail*  
 [25] that he was living in as of this date? *but not me what*  
*used him? Good*

[1] (Detective Carl Watkins-direct)  
 [2] constitutional rights as you outlined them to him?  
 [3] A. Yes, he did.  
 [4] Q. Would I be assuming correctly that he  
 [5] understood everything based upon his responses and  
 [6] his signature?  
 [7] A. Yes.  
 [8] Q. Detective, as a result of those questions and  
 [9] answers, the defendant was willing to speak with  
 [10] you?  
 [11] A. Yes.  
 [12] Q. What, if anything, did you then do, Detective  
 [13] Watkins?  
 [14] A. Moved on to page one of the 75-483 and went  
 [15] through a series of questions at the top and then  
 [16] into the questions themselves.  
 [17] THE COURT: For the record, the 75-483  
 [18] is your investigation interview form?  
 [19] THE WITNESS: Yes, sir.  
 [20] BY MR. CONROY:  
 [21] Q. Detective, is this a summary of what the  
 [22] defendant Dominic Coia said to you or a verbatim  
 [23] account of what transpired in interview A? Is this  
 [24] a summary?  
 [25] A. This is verbatim of what his responses were.

[1] (Detective Carl Watkins-direct)  
 [2] A. No. Actually, yes. He was saying he was  
 [3] between jobs, grandpop's, over there and living in  
 [4] different places in the street. *[Handwritten scribbles]*  
 [5] Q. After completing that biographical information *[Handwritten scribbles]*  
 [6] what, if any, questions did you ask the defendant *[Handwritten scribbles]*  
 [7] and what were his responses?  
 [8] MR. MANDELL: Your Honor, if we're  
 [9] getting into the body, you already indicated  
 [10] that it's not necessary and I would agree.  
 [11] THE COURT: I would prefer, unless  
 [12] there is some reason necessary, not no read in  
 [13] the questions and answers. The statement is  
 [14] already in evidence and I'm already familiar  
 [15] with the questions and answers.  
 [16] MR. CONROY: Fine. The only question  
 [17] that I was going to get into, just so The Court  
 [18] knows, is just up to before the actual incident  
 [19] itself, there were some verbatim questions that  
 [20] I felt were maybe more germane to the motion.  
 [21] I was going to end, actually, at page three.  
 [22] Judge, if you read it, it's fine.  
 [23] THE COURT: I've read it.  
 [24] BY MR. CONROY:  
 [25] Q. Detective Watkins, this statement, The Court

[1] (Detective Carl Watkins-direct)  
 [2] has had an opportunity -- is it fair to say  
 [3] Commonwealth Exhibit C-1 is a verbatim account of  
 [4] the questions that you asked and the responses?  
 [5] A. Yes, it is.  
 [6] Q. Do you recall, detective, what time the  
 [7] statement was completed?  
 [8] A. Your Honor, on page 9 of the 75-43,  
 [9] investigative interview record, 2:30 a.m., the  
 [10] written part.  
 [11] Q. At that point in time, detective, after that  
 [12] was completed, did you and detective Mangold give  
 [13] the defendant an opportunity to review the statement  
 [14] and make any changes or any corrections that he felt  
 [15] necessary?  
 [16] A. Yes.  
 [17] Q. Did he do that?  
 [18] A. Yes.  
 [19] Q. Did he make any corrections?  
 [20] A. Yes.  
 [21] Q. Where at on the statement?  
 [22] A. Actually pointed out, on page three of the  
 [23] statement, I had put March 30th, the last question.  
 [24] I had put March 30th and Dominic had told me  
 [25] May 30th.

[1] (Detective Carl Watkins-direct)  
 [2] THE COURT: I see that.  
 [3] THE WITNESS: Your Honor, on page 60,  
 [4] I spelled Joshua's last name wrong. He pointed  
 [5] to that and next to it I have the correct  
 [6] spelling.  
 [7] BY MR. CONROY:  
 [8] Q. Both of those mistakes were pointed out to you  
 [9] by the defendant?  
 [10] A. Yes.  
 [11] Q. There is under each of them, I see, a  
 [12] notation?  
 [13] A. That's my initials. I initialed them.  
 [14] Q. After reviewing the statement did you ask  
 [15] Dominic Coia to sign the statement?  
 [16] A. Yes, I did.  
 [17] Q. Did he, in fact, do that?  
 [18] A. Yes, he did.  
 [19] Q. Of the nine page body of the statement, how  
 [20] many of those pages did he sign?  
 [21] A. Signed them all.  
 [22] Q. That was in your presence?  
 [23] A. Yes.  
 [24] Q. After that, detective, after the statement was  
 [25] signed and reviewed by the defendant, did you have

[1] (Detective Carl Watkins-direct)  
 [2] occasion to take another statement from the  
 [3] defendant?  
 [4] THE COURT: Excuse me a second. This  
 [5] is where I need to take a brief break so I can  
 [6] go upstairs and excuse myself from this meeting  
 [7] that won't be taking place.  
 [8] (Recess.)  
 [9] THE COURT: Sorry for the  
 [10] interruption. Go ahead. Mr. Coia is back in  
 [11] the room. We're ready to proceed.  
 [12] BY MR. CONROY:  
 [13] Q. If I can pickup where I left off. Detective  
 [14] Watkins, you indicated that you learned that the  
 [15] statement had been reviewed and signed by the  
 [16] defendant?  
 [17] A. Yes.  
 [18] Q. Did you have occasion to take another  
 [19] statement?  
 [20] A. Yes, I did.  
 [21] Q. Can you tell the judge the circumstances of  
 [22] that?  
 [23] A. I then read it, the Philadelphia Police  
 [24] Department Homicide Unit consent to video statement.  
 [25] Q. Did you discuss with Dominic Coia -- what, if

[1] (Detective Carl Watkins-direct)  
 [2] anything, did you discuss regarding the videotape?  
 [3] A. I explained to Dominic Coia, the son, that  
 [4] would he be willing to give us a video statement,  
 [5] video recording of his statement, and he agreed.  
 [6] Q. And after he agreed, is there any paperwork  
 [7] that you complete so that he fully understands and  
 [8] waives his right and agrees to be videotaped?  
 [9] A. Yes.  
 [10] Q. Is that part of C-1?  
 [11] A. Yes, it is.  
 [12] Q. What, if anything, does that consent to  
 [13] videotape form state? What, if anything, did you  
 [14] explain to Dominic Coia?  
 [15] A. I'll read it, Your Honor. I, Dominic Coia,  
 [16] signed it, do freely and voluntarily consent to the  
 [17] videotape and audio cassette recording of the  
 [18] interview of detective Mangold and Watkins of the  
 [19] Philadelphia Police Department Homicide Unit on 6/3  
 [20] of '03.  
 [21] Q. Did he sign that?  
 [22] A. Yes. Signed it twice and signature of  
 [23] consenting party. Dominic Coia, the son, signs it.  
 [24] He dates it 6/3 of '03 and he places the time  
 [25] 3:15 a.m.?

[1] (Detective Carl Watkins-direct)  
 [2] Q. And, by the way, did the defendant appear to  
 [3] understand what was involved in the videotaping of  
 [4] the statement?  
 [5] A. Yes.  
 [6] Q. Did you, in fact, videotape the statement?  
 [7] A. Yes, we did.  
 [8] MR. CONROY: Your Honor, The Court has  
 [9] had the opportunity to view the tapes. For  
 [10] purposes of the record, I can mark it C-2, just  
 [11] for the record.  
 [12] THE COURT: Can I say something? Why  
 [13] don't we mark the consent to videotape  
 [14] separately as C-1?  
 [15] MR. CONROY: Would you like the  
 [16] transcription as C-4?  
 [17] MR. MANDELL: I don't have a copy.  
 [18] MR. CONROY: Here it is.  
 [19] THE COURT: Yeah.  
 [20] MR. CONROY: We can mark the consent  
 [21] to videotape. That will be C-2, C-3, C-4.  
 [22] BY MR. CONROY:  
 [23] Q. Mr. Mandell, would it be fair to say that you  
 [24] have a copy of C-3, the videotape?  
 [25] MR. MANDELL: I do.

[1] (Detective Carl Watkins-direct)  
 [2] MR. CONROY: And also consent to  
 [3] videotape, C-2?  
 [4] THE COURT: If you would like to take  
 [5] a look through C-4 just to assure yourself --  
 [6] MR. MANDELL: It won't be necessary.  
 [7] THE COURT -- it is an accurate  
 [8] transcription of the videotape. The Court can  
 [9] state that I read the C-4 as I -- right after I  
 [10] watched the videotape, C-3, and certainly in my  
 [11] view it's an accurate transcription.  
 [12] MR. MANDELL: Fine for me.  
 [13] BY MR. CONROY:  
 [14] Q. Detective, would it be fair to say that the  
 [15] videotape began at approximately 3:30 a.m.?  
 [16] A. Yes.  
 [17] Q. And ended at approximately what time?  
 [18] A. 3:40 a.m.  
 [19] Q. Took about ten minutes?  
 [20] A. Yes.  
 [21] Q. The Court has had an opportunity and the  
 [22] record will reflect The Court has already stated  
 [23] Judge Lerner has had an opportunity to view the  
 [24] videotape and obviously the transcription.  
 [25] Just one further question. During the

[1] (Detective Carl Watkins-direct)  
 [2] course of the videotape, so the record is clear, you  
 [3] also asked some additional questions about the  
 [4] defendant's willingness to given this statement,  
 [5] correct?  
 [6] A. Yes, we did.  
 [7] Q. That's obviously all part of the  
 [8] transcription, correct?  
 [9] A. Yes.  
 [10] Q. That finished at 3:40. It was about  
 [11] 10 minutes?  
 [12] A. That's correct.  
 [13] Q. Detective, were there my promises made by you  
 [14] or detective Mangold in any way, shape or form to  
 [15] defendant Dominic Coia in exchange for you to give  
 [16] either the written or audiotape statement?  
 [17] A. No, there was not.  
 [18] Q. Was there any threats of any nature or any  
 [19] coercion made to or towards Dominic Coia to get him  
 [20] to give either the written or videotaped statement?  
 [21] A. No, there was not.  
 [22] Q. Was both the videotape and the written  
 [23] statement freely and voluntarily given?  
 [24] A. Yes, they were.  
 [25] Q. Did Mr. Coia appear to know everything that

[1] (Detective Carl Watkins-cross)  
 [2] was being asked of him and answer appropriately?  
 [3] A. Yes, he did.  
 [4] MR. CONROY: Judge, I don't think that  
 [5] I have anything else.  
 [6] THE COURT: Cross-examine.  
 [7] MR. MANDELL: Good afternoon,  
 [8] detective Watkins.  
 [9] THE WITNESS: Good afternoon.  
 [10] CROSS-EXAMINATION  
 [11] BY MR. MANDELL:  
 [12] Q. When was it that the defendant's father first  
 [13] arrived at homicide headquarters that you became  
 [14] aware of his presence?  
 [15] A. I became aware of Mr. Coia's presence, sir, at  
 [16] 11:45 p.m.  
 [17] Q. Do you have any recollection, knowledge or  
 [18] information as to when he might have first came into  
 [19] contact with his son, this defendant, prior to your  
 [20] coming into contact with him?  
 [21] A. No, I do not, sir.  
 [22] Q. Were you aware there was a previous interview  
 [23] conducted by the defendant with detective Burns  
 [24] which began at 11:05 p.m. and obviously ended  
 [25] sometime before your contact with him?

(1) (Detective Carl Watkins-cross)  
 (2) A. Yes, sir, I was made aware of that.  
 (3) Q. Were you made aware by detective Burns or any  
 (4) other detective as to whether or not this defendant  
 (5) had an opportunity to talk with his father or any  
 (6) other interested adult prior to that interview?  
 (7) A. I believe, sir, we were out in the waiting  
 (8) room together. I had gotten information that  
 (9) Mr. Coia had came into the homicide unit about  
 (10) 7 p.m., along with his son Nicholas, and I believe  
 (11) detectives brought Dominic and some other  
 (12) individuals in about 8:30 and I believe they were  
 (13) out in our little vestibule waiting area together.  
 (14) That's my understanding, sir.  
 (15) Q. My question was -- maybe I was a little  
 (16) confusing in posing it. Were you aware whether or  
 (17) not the defendant's father had an opportunity to  
 (18) talk to him prior to the interview with detective  
 (19) Burns?  
 (20) A. I would say if it was, sir, it would be in the  
 (21) vestibule area.  
 (22) Q. It's not customary to allow individuals who  
 (23) are suspects who are in custody to confer with  
 (24) family or interested relatives in the vestibule  
 (25) area, is it?

(1) (Detective Carl Watkins-cross)  
 (2) A. To be honest with you, sir, I don't know at  
 (3) that time, not being involved in that part of it,  
 (4) whether they were suspects at any time during the  
 (5) vestibule area at 7:00 or 8:30.  
 (6) Q. You were aware, were you not, when you spoke  
 (7) with Dominic Coia, when you had first contact with  
 (8) him, that he was a suspect?  
 (9) A. Yes.  
 (10) Q. And he had been a suspect for at least some  
 (11) period of time prior to the time of you coming into  
 (12) contact with him?  
 (13) A. The time, I'm not sure. I believe it was  
 (14) sometime after 11:00, I believe.  
 (15) Q. Sometime after your contact with him you told  
 (16) him at some point while everyone -- by everyone I  
 (17) mean the defendant, his brother, Nicholas Coia, his  
 (18) father, Dominic, who I believe has the same name and  
 (19) a different middle initial, yourself and detective  
 (20) Mangold. While you were in interview room A, the  
 (21) defendant's father said something to the effect that  
 (22) he was concerned with Nicholas but not concerned  
 (23) with this defendant: is that correct?  
 (24) A. That's correct, sir.  
 (25) Q. Did you memorialize that anywhere there in any

(1) (Detective Carl Watkins-cross)  
 (2) documentation at any time?  
 (3) A. I don't believe that I did, sir.  
 (4) Q. Do you think that is something important that  
 (5) perhaps should have been written down somewhere?  
 (6) A. Not at the time, no.  
 (7) Q. At any time?  
 (8) A. No. I think my reasoning why is because from  
 (9) the beginning, when I went into the room, Mr. Coia  
 (10) was familiar, that he was going to be sitting with  
 (11) detective Mangold, and, in this case, outside of the  
 (12) room, and that I was interviewing Dominic alone in  
 (13) the room out of his presence at that time.  
 (14) Q. Now you told us that the father of this  
 (15) defendant told you, in no uncertain terms, that he  
 (16) did not want you to talk to his son Dominic, this  
 (17) defendant, any further until he had a chance to talk  
 (18) to his brother, is that correct?  
 (19) A. Yes. Before he went any further with the  
 (20) statement, he wanted to talk with his brother,  
 (21) confer with his brother.  
 (22) Q. Did he ever mention the desire to confer or  
 (23) talk to his brother's lawyer or any lawyer?  
 (24) A. No. No, he did not, sir.  
 (25) Q. Now you did not at any time advise the father

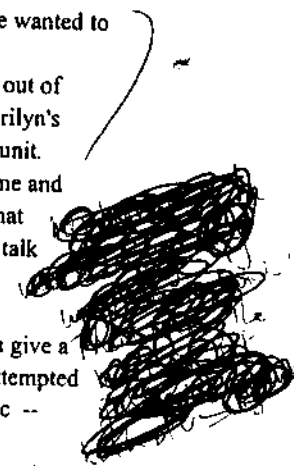
(1) (Detective Carl Watkins-cross)  
 (2) of the potential intention of conducting a videotape  
 (3) after you had conducted an oral interview, did you?  
 (4) A. That's correct, sir.  
 (5) Q. You told us that after the interview marked  
 (6) Commonwealth's exhibit C-1 was concluded,  
 (7) approximately 2:30, I think you said, in the  
 (8) morning, that you gave the defendant an opportunity  
 (9) to review it and make corrections? Did I understand  
 (10) that correctly?  
 (11) A. Yes, sir.  
 (12) Q. How did you satisfy yourself that he could  
 (13) read it?  
 (14) A. Actually, he read it along. Read it along  
 (15) with him, the first page. I asked him a few  
 (16) questions. I asked him to read the first couple  
 (17) questions that I asked.  
 (18) Q. Now I notice on page 9 of the interview, the  
 (19) interview concludes with a question, where are the  
 (20) trails that you described in an answer. There is  
 (21) nothing written down in the interview that reflects  
 (22) that, A, you gave the defendant the opportunity to  
 (23) review the interview and, B, that he, in fact, did  
 (24) so? Would that be, correct?  
 (25) A. That is correct, sir.

[1] (Detective Carl Watkins-cross)  
 [2] Q. You did indicate to us that there were two  
 [3] corrections that were made in the interview, one on  
 [4] page three and one on page six, and that you  
 [5] initialed both of them; is that correct?  
 [6] A. Yes, sir.  
 [7] Q. Am I also correct that at nowhere on those  
 [8] corrections did there appear the initials of the  
 [9] defendant Dominic Coia?  
 [10] A. No, sir, they don't.  
 [11] Q. I believe you told us that after this  
 [12] defendant -- strike that.  
 [13] You told us that the defendant had a  
 [14] discussion with you after his father had left  
 [15] regarding school and a job; is that correct?  
 [16] A. That's correct.  
 [17] Q. We agree that according to the biographical  
 [18] information in the interview, marked C-1, when it  
 [19] asks for the defendant's name, employment, slash  
 [20] school, that it says no school, unemployed; is that  
 [21] correct?  
 [22] A. That is correct, sir.  
 [23] Q. I take it he did make you aware that he was  
 [24] not attending school at that time?  
 [25] A. Yes, he did.

[1] (Detective Carl Watkins-redirect)  
 [2] Q. And, likewise, he did not have any employment?  
 [3] A. That's correct, sir.  
 [4] Q. Subsequent to your having that discussion with  
 [5] him, I believe you indicated that he then indicated  
 [6] a desire to make a statement and I believe you went  
 [7] on to tell us that detective Mangold made an attempt  
 [8] to try on reach his father; is that correct?  
 [9] A. Yes, sir.  
 [10] Q. Was that one attempt and one attempt only?  
 [11] A. At that time there was a total of two attempts  
 [12] but that was the first one, yes.  
 [13] Q. When was the second attempt made?  
 [14] A. I believe after the statement he made a second  
 [15] attempt to contact Mr. Dominic Coia, the father,  
 [16] because at that time Nicholas Coia wanted to give a  
 [17] statement.  
 [18] Q. Can we assume both were unsuccessful?  
 [19] A. Yes, sir.  
 [20] MR. MANDELL: That's all the questions  
 [21] that I have.  
 [22] MR. CONROY: One brief.  
 [23] THE COURT: Go ahead.  
 [24] REDIRECT EXAMINATION  
 [25] BY MR. CONROY:

[1] (Detective Carl Watkins-redirect)  
 [2] Q. Detective Watkins, in response to one of the  
 [3] last questions that counsel asked about your second  
 [4] attempts to contact Mr. Coia, Sr., regarding  
 [5] Nicholas Coia, why did you want to contact him at  
 [6] that time?  
 [7] A. Because if I was going to take the statement  
 [8] from Nicholas at that time, I wanted him there.  
 [9] Q. Is that what he indicated to you?  
 [10] A. That's what he indicated to me.  
 [11] Q. Were you successful in contacting Mr. Coia,  
 [12] Sr.?  
 [13] A. No, I was not.  
 [14] Q. Did you eventually take a 483 verbatim  
 [15] statement from Nicholas Coia?  
 [16] A. No, I did not.  
 [17] Q. Did Nicholas Coia want to give you a  
 [18] statement?  
 [19] A. Yes.  
 [20] Q. How did he express that?  
 [21] MR. MANDELL: I'm going to object to  
 [22] this. This has nothing to do with Dominic.  
 [23] THE COURT: Well, yes it does. It's  
 [24] directly involved with the -- if there is a  
 [25] challenge to the accuracy or the credibility of

[1] (Detective Carl Watkins-redirect)  
 [2] detective Watkin's statement early on about who  
 [3] Mr. Coia, Sr. was concerned about or who the  
 [4] detectives believe he was concerned about, I  
 [5] think this is directly on point. So the  
 [6] objection is overruled.  
 [7] BY MR. CONROY:  
 [8] Q. Detective, tell Judge Lerner how Nicky Coia  
 [9] expressed to you and how many occasions he wanted to  
 [10] give you a statement?  
 [11] A. Totally -- that night, when I came back out of  
 [12] the room, he was sitting -- we call it Ms. Marilyn's  
 [13] desk, the secretary -- inside of the homicide unit.  
 [14] While he was sitting there, he went back to me and  
 [15] said, detective Watkins, I want to tell you what  
 [16] happened. If everybody is talking, I want to talk  
 [17] to.  
 [18] I told him that I need your dad there  
 [19] because your dad wants to be there when you give a  
 [20] statement. At that time detective Mangold attempted  
 [21] to contact Mr. Dominic Coia. Again Dominic --  
 [22] Q. Nicholas?  
 [23] A. I'm sorry. Nicholas Coia again wanted to give  
 [24] a statement and told me of his involvement verbally  
 [25] in the death of Jason Sweeney.



(1) (Detective Carl Watkins-redirect)  
 (2) Q. At that point in time, as a result of what he  
 (3) told you, did you take a formal statement?  
 (4) A. No, I did not.  
 (5) Q. Why not? *Why do they want someone who's supposed to be there?*  
 (6) A. Because I wanted his father there.  
 (7) Q. You were never successful in getting him  
 (8) there?  
 (9) A. I was not.  
 (10) Q. Was a written formal statement ever taken from  
 (11) Nicholas, Nicky Coia?  
 (12) A. No.  
 (13) Q. By the way, after the dad left -- when the dad  
 (14) left about 12:30, did he ever come back that night?  
 (15) A. Not that I'm aware of.  
 (16) Q. Did he ever call that night that you are aware  
 (17) of?  
 (18) A. Not that I'm aware of.  
 (19) Q. Did anybody identifying himself as his brother  
 (20) call?  
 (21) A. No, not that I'm aware of.  
 (22) Q. Did any attorney call identifying himself on  
 (23) behalf of Dominic Coia or any of the Coias?  
 (24) A. Not that I'm aware of.  
 (25) MR. CONROY: With The Court's

(1) (Colloquy)  
 (2) indulgence, I think I'm finished.  
 (3) (Pause.)  
 (4) MR. CONROY: Thank you. Nothing  
 (5) further.  
 (6) MR. MANDELL: After that second  
 (7) attempt to reach the father, which I think you  
 (8) said was sometime after the conclusion of the  
 (9) taking of C-1, I take it there were no other  
 (10) attempts to reach him?  
 (11) THE WITNESS: No, sir.  
 (12) MR. MANDELL: That's all.  
 (13) MR. CONROY: Nothing further.  
 (14) THE COURT: Thank you very much. You  
 (15) are excused, detective Watkins.  
 (16) (Witness excused.)  
 (17) MR. CONROY: Detective Burns, on the  
 (18) original statement. I can make an offer of  
 (19) proof as to what he's going to testify to.  
 (20) THE COURT: I would like you to do  
 (21) that.  
 (22) MR. CONROY: Before he comes in --  
 (23) please keep that door shut.  
 (24) The offer of proof that I would make  
 (25) at this time for detective Burns is that he

(1) (Colloquy)  
 (2) took a statement from Dominic Coia about 11:05.  
 (3) Prior to that he took a 75-229 at approximately  
 (4) 10:55. At that time Your Honor, the  
 (5) investigation -- they had no idea who was  
 (6) involved in this. Dominic Coia gave  
 (7) information that he was at a party where Jason  
 (8) Sweeney was going to be at Friday when he  
 (9) disappeared the 30th of May.  
 (10) He was interviewed as a witness. He  
 (11) was not the focus of any investigation. He  
 (12) just wanted background information, being  
 (13) interviewed as a witness. No Miranda Warnings  
 (14) were given. The statement was taken. The  
 (15) statement you'll see, I can mark it as an  
 (16) exhibit.  
 (17) THE COURT: It needs to be marked if  
 (18) we are going to be referring to it, and it will  
 (19) be marked as C-5. That's the statement, for  
 (20) the record, dated June 2nd, 2003, time  
 (21) 11:05 p.m., correct?  
 (22) MR. CONROY: C-5. And the 75-229 can  
 (23) be marked as C-6. Taken just right before the  
 (24) statement.  
 (25) THE COURT: You have those documents,

(1) (Colloquy)  
 (2) I take it, Mr. Mandell?  
 (3) MR. MANDELL: I have the statements.  
 (4) As far as the 229 --  
 (5) MR. CONROY: I have a extra copy.  
 (6) It's already been sent.  
 (7) MR. MANDELL: I stand corrected. I do  
 (8) have it.  
 (9) MR. CONROY: Simply, detective Burns  
 (10) took the statement and actually in mid  
 (11) sentence, detective Burns would testify, that  
 (12) there was a knock on the door around 11:25,  
 (13) 11:30. There was a knock on the interview room  
 (14) door A where he was speaking with Dominic Coia.  
 (15) He stepped outside the room and it was  
 (16) at that point that detective Burns became aware  
 (17) from Lieutenant Morrin that someone had  
 (18) provided information that Dominic Coia was  
 (19) involved. The interview stopped in mid  
 (20) sentence.  
 (21) Further, Judge, detective Burns would  
 (22) also testify that, in fact, Mr. Coia was in the  
 (23) waiting room, asked if he wanted to be present  
 (24) during the interview of his son Dominic. He  
 (25) declined to be present during the interview,

[1] (Detective James Burns-direct)  
 [2] and was given the opportunity.  
 [3] And also detective Burns would testify  
 [4] that earlier that evening, at about 8:45,  
 [5] Nicholas Coia was interviewed by detective  
 [6] Booker. Mr. Coia was asked if he wanted to be  
 [7] present and sit and, in fact, he was present  
 [8] and sat, and it's made reference to that he's  
 [9] present during the course of the interview.  
 [10] And we can mark that as Commonwealth Exhibit  
 [11] C-7.

[12] **MR. MANDELL:** I don't know if we can  
 [13] stipulate to any of that.

[14] **THE COURT:** I understand. I'm not  
 [15] asking you to stipulate to it. I'm running it  
 [16] through my mind on relevance on the motion, and  
 [17] I think you should call him.

[18] **THE WITNESS:** Detective James Burns,  
 [19] B U R N S, badge 8056, assigned to the Homicide  
 [20] Division.

[21] ... Detective James Burns, having been  
 [22] first duly sworn as a witness, is examined and  
 [23] testifies as follows ...

[24] **DIRECT EXAMINATION**

[25] **BY MR. CONROY:**

[1] (Detective James Burns-direct)  
 [2] of the their coming to the homicide division was for  
 [3] what purpose?  
 [4] **A.** To be interviewed. Part of the ongoing  
 [5] investigation.  
 [6] **Q.** At that point in time was there any  
 [7] information that any of the Coias or Edward Batzig  
 [8] were involved in the death of Jason Sweeney?  
 [9] **A.** No, sir.  
 [10] **Q.** What was the information, as best as you or  
 [11] some of the other investigators of the homicide  
 [12] division knew?  
 [13] **A.** That Jason Sweeney was invited to a party,  
 [14] never made it to a party that the rest of these  
 [15] gentlemen and some females were at.  
 [16] **Q.** They were being interviewed for that purpose?  
 [17] **A.** Yes.  
 [18] **Q.** Detective, did you have occasion at some point  
 [19] that evening to interview the defendant at the bar  
 [20] of the court, Dominic Coia?  
 [21] **A.** Yes, I did.  
 [22] **Q.** Can you please state when and where it was  
 [23] that you interviewed the defendant?  
 [24] **A.** Room A. Started interviewing approximately  
 [25] 10:55 p.m., where I prepared a biographical

[1] (Detective James Burns-direct)  
 [2] **Q.** Good afternoon, detective Burns. You have  
 [3] been a member of the police department for how long?  
 [4] **A.** Approximately 15 years.  
 [5] **Q.** Been a member of the detective bureau for how  
 [6] long?  
 [7] **A.** A little over 5 years.  
 [8] **Q.** Detective, did you have occasion to become  
 [9] involved in the investigation of the death of a  
 [10] 16-year old male by the name of Jason Sweeney?  
 [11] **A.** Yes, I did.  
 [12] **Q.** How was it that you became involved?  
 [13] **A.** Assigned to detective Aaron Booker, who was a  
 [14] member of my platoon. Happened on a Saturday. On  
 [15] Monday, I, along with other members of my platoon,  
 [16] worked on the case.  
 [17] **Q.** Directing your attention specifically to  
 [18] Monday night, June 2nd of '03, did you become aware  
 [19] that evening approximately what time it was that any  
 [20] members of the Coia family arrived at the homicide  
 [21] unit?  
 [22] **A.** Yes. Approximately 7 p.m. Dominic Coia, Sr.,  
 [23] along with Nicholas Coia and Edward Batzig, arrived  
 [24] at homicide at 7 p.m.  
 [25] **Q.** At that point in time, detective, the purpose

[1] (Detective James Burns-direct)  
 [2] information chart, and started being placed on paper  
 [3] around 11:05 p.m.  
 [4] **Q.** I'm going to ask you to take a look at what  
 [5] has previously been marked as Commonwealth -- we  
 [6] have this previously marked as C-5 and C-6.  
 [7] Detective, taking a look at these documents, do you  
 [8] recognize those documents?  
 [9] **A.** Yes, I do.  
 [10] **Q.** What do you recognize them to be?  
 [11] **A.** C-5 is the 75-483 interview of Dominic Coia.  
 [12] C-6 is the 75-229, and which is the biographical  
 [13] information report.  
 [14] **Q.** By the way, when you were interviewing Dominic  
 [15] Coia, was he Mirandized? Was he advised of his  
 [16] constitutional warnings?  
 [17] **A.** No.  
 [18] **Q.** Why not?  
 [19] **A.** Because he wasn't a suspect.  
 [20] **Q.** Did you have any information from any source  
 [21] that he was involved in this?  
 [22] **A.** No, sir, not at that point.  
 [23] **Q.** Other than yourself and Dominic Coia, was  
 [24] anyone else present?  
 [25] **A.** No.

[1] (Detective James Burns-direct)  
 [2] Q. Where was his dad?  
 [3] A. Approximately 25 feet away, sitting in the  
 [4] waiting area with two sets of cushions, actually.  
 [5] I'm in A room, which is again about 25 feet south of  
 [6] him.  
 [7] Q. Did you or anyone else ask Mr. Coia, Sr.  
 [8] whether he wanted to be present during the  
 [9] interview? Was he given an opportunity?  
 [10] A. Your Honor, earlier in the night I interviewed  
 [11] Dominic's friend, Joshua Staab. Joshua was in the  
 [12] waiting room. The same day we had a double homicide  
 [13] also running.  
 [14] I was preparing some paperwork and I  
 [15] was asked by my Lieutenant if I could interview  
 [16] Dominic Coia, at which time I went over and informed  
 [17] Mr. Dominic Coia, Sr. that I wanted to take an  
 [18] interview of his son, which he said was fine.  
 [19] I asked if he wanted to be present and  
 [20] he said no, go ahead. Just go interview him.  
 [21] Q. As a result of that, did you begin your  
 [22] interview at 11:05 as documented?  
 [23] A. Yes, sir.  
 [24] Q. Just for the record, it seems to be a two page  
 [25] hand written statement?

*Oh, he wasn't concerned, by your own admission until we were suspects. Big difference, but you never asked him*

[1] (Detective James Burns-direct)  
 [2] A. Yes.  
 [3] Q. Can you tell us the circumstances under which  
 [4] that statement ended?  
 [5] A. Page two, at which time Lieutenant Morrin  
 [6] knocked on the door, asked me to come out. I went  
 [7] out and I was informed that the two Coia brothers,  
 [8] along with Edward Batzig were the three males  
 [9] involved in this.  
 [10] Q. As a result of that, detective, what, if  
 [11] anything, did you then do?  
 [12] A. I was then, as directed by their attorney,  
 [13] because I interviewed Joshua Staab, went back and  
 [14] reinterviewed Joshua.  
 [15] Q. Just so it's clear, it indicates on page two  
 [16] that the last question -- it almost stops in mid  
 [17] question?  
 [18] THE COURT: Not the question.  
 [19] MR. CONROY: Answer.  
 [20] THE COURT: As to the answer.  
 [21] MR. CONROY: I'm sorry. The answer  
 [22] stops in mid sentence. Why was it?  
 [23] THE WITNESS: Again, I was writing and  
 [24] Lieutenant Morrin knocked on the door.  
 [25] BY MR. CONROY:

[1] (Detective James Burns-direct)  
 [2] Q. All questioning ceased at that time?  
 [3] A. Yes.  
 [4] Q. By the way, you indicated that Dominic Coia,  
 [5] Sr. did not wish to be present when his son Dominic  
 [6] was interviewed. Were you aware of an interview a  
 [7] little earlier in the evening by detective Booker?  
 [8] A. Yes. There was other females down there. I  
 [9] know Nicholas Coia was interviewed, yes.  
 [10] MR. CONROY: We'll mark this for the  
 [11] next Commonwealth Exhibit. It will be C-7. Is  
 [12] it C-8?  
 [13] THE COURT: No. Seven. You were  
 [14] right the first time.  
 [15] BY MR. CONROY:  
 [16] Q. Taking a look at the interview, detective, did  
 [17] you review that interview?  
 [18] A. Yes. Interview of Nicholas Coia taken by  
 [19] detective Booker.  
 [20] Q. What time that was interview taken?  
 [21] A. 8:45 p.m.  
 [22] Q. Does it indicate anywhere in the first line as  
 [23] to whether or not Dominic Coia, Sr. was present at  
 [24] the time of this interview?  
 [25] A. Yes, it does. Question: Is your father

[1] (Detective James Burns-cross)  
 [2] Dominic Coia present at this time during this  
 [3] interview? Answer: Yes.  
 [4] MR. CONROY: Judge, I don't know if I  
 [5] have anymore questions of the witness at this  
 [6] time. If I can have one moment.  
 [7] (Pause.)  
 [8] MR. CONROY: I have nothing further.  
 [9] MR. MANDELL: May I just briefly?  
 [10] THE COURT: Certainly.  
 [11] CROSS-EXAMINATION  
 [12] BY MR. MANDELL:  
 [13] Q. You told us that the defendant's father did  
 [14] not wish to be present during your interview with  
 [15] his son, this defendant. Did you memorialize that  
 [16] anywhere, either in the statement or anywhere else?  
 [17] A. No, sir. Just verbal.  
 [18] Q. On the 75-229 -- I correct that. You noted  
 [19] that the defendant Dominic Coia was unemployed?  
 [20] A. Correct.  
 [21] Q. And on the reverse side, where it indicates  
 [22] education, that he had been expelled from the  
 [23] Franklin Learning Center, 10th grade?  
 [24] A. Correct.  
 [25] MR. MANDELL: Thank you. That's all



[1] (Detective James Burns-redirect)  
 [2] that I have.  
 [3] REDIRECT EXAMINATION  
 [4] BY MR. CONROY:  
 [5] Q. If I may, do you know how Dominic Coia got to  
 [6] the homicide division?  
 [7] A. Myself and detective Kenneth Roster  
 [8] (phonetically) picked Dominic up and a female by the  
 [9] name of Jessica Wildonger.  
 [10] Q. Where did you pick him up?  
 [11] A. 1117 C R E A S E.  
 [12] Q. Dominic's grandfather?  
 [13] A. Yes.  
 [14] MR. CONROY: Do you have any  
 [15] questions?  
 [16] THE COURT: Do you have any re-cross?  
 [17] MR. MANDELL: No.  
 [18] THE COURT: Detective Burns, thank  
 [19] you.  
 [20] (Witness excused.)  
 [21] THE COURT: You are resting now on the  
 [22] motion with the admission of C-1 through C-7,  
 [23] correct?  
 [24] MR. CONROY: Yes.  
 [25] THE COURT: Do you have any objection

[1] (Detective James Burns-redirect)  
 [2] to the exhibits?  
 [3] C-1 through C-7 are admitted. The  
 [4] Commonwealth rests on the motion.  
 [5] You have a defense witness?  
 [6] MR. MANDELL: Just his father, who  
 [7] will be about as brief as detective Burns.  
 [8] THE COURT: If he'll be as brief as  
 [9] detective Burns, I would just assume do this.  
 [10] Then we'll break. Then I'll bring you back  
 [11] after I give The Court staff a chance to get a  
 [12] brief lunch, and I get a chance to perform this  
 [13] wedding, and I'll hear any argument that you  
 [14] want to make and rule on the motion. I also  
 [15] want to set a time or a date. This is off the  
 [16] record.  
 [17] (Off the record discussion.)  
 [18] MR. MANDELL: With your permission, we  
 [19] would call Dominic Coia; that is, the father of  
 [20] the defendant, not the defendant itself.  
 [21] THE WITNESS: Dominic Carl Coia,  
 [22] C O I A.  
 [23] ... Dominic Coia, having been first  
 [24] duly sworn as a witness, is examined and  
 [25] testifies as follows...

[1] (Dominic Coia-direct)  
 [2] DIRECT EXAMINATION  
 [3] BY MR. MANDELL:  
 [4] Q. Good afternoon, Mr. Coia. Mr. Coia, do you  
 [5] know this gentleman seated next to me?  
 [6] A. He's my son.  
 [7] Q. I want to draw your attention, if I can, back  
 [8] to Monday, June the Second of 2003, and ask you if  
 [9] you had occasion to come into contact with the  
 [10] police or some police detectives that day?  
 [11] A. Yes, around 5:30 they came to my house.  
 [12] THE COURT: P.m. or a.m.?  
 [13] THE WITNESS: P.m.  
 [14] BY MR. MANDELL:  
 [15] Q. Was anyone at home with you at that time?  
 [16] A. Me and my other son, Nicky.  
 [17] Q. As a result of the discussions that you had  
 [18] with detectives at that time, did you have occasion  
 [19] to go somewhere?  
 [20] A. Say that again.  
 [21] Q. After you spoke with the detectives, they told  
 [22] you why they were there. Did you have occasion to  
 [23] go somewhere?  
 [24] A. I said yeah, I'll follow them. They wanted to  
 [25] talk to my son.

[1] (Dominic Coia-direct)  
 [2] Q. Where did you go?  
 [3] A. To the police station, Roundhouse.  
 [4] Q. 8th and Race?  
 [5] A. Yes.  
 [6] Q. Did they ask you anything about your son  
 [7] Dominic when they came to the house?  
 [8] A. No.  
 [9] Q. When you got down to the Police Administration  
 [10] Building, did you have occasion at some point to  
 [11] come into contact with your son Dominic?  
 [12] A. Yeah. About 2 hours later, around eight or  
 [13] 8:30, I saw him.  
 [14] Q. Where was it that you saw him in the building?  
 [15] A. He was in a room. I was like in the waiting  
 [16] room. He was in another room.  
 [17] Q. In Homicide?  
 [18] A. I guess.  
 [19] Q. When you saw him the first time that you saw  
 [20] him, did you have an opportunity to talk to him?  
 [21] A. Not really. Not too much.  
 [22] Q. Did you later have an opportunity to talk with  
 [23] him?  
 [24] A. A little bit -- or after midnight.  
 [25] Q. When you had the opportunity to talk to him

[1] (Dominic Coia-direct)  
 [2] later at night, before talking with him, or while  
 [3] you were talking to him, did the detectives advise  
 [4] you that they were going to charge him with  
 [5] something?  
 [6] A. Yeah.  
 [7] Q. What did the detectives tell you that they  
 [8] wanted to do with regards to your son?  
 [9] A. My son Nicholas?  
 [10] Q. I'm only talking about Dominic for the moment.  
 [11] I'll get to Nicholas if necessary.  
 [12] A. They said they have enough to keep him, to  
 [13] charge him with murder.  
 [14] Q. Did they indicate that they wanted to talk to  
 [15] him?  
 [16] A. No.  
 [17] BY THE COURT:  
 [18] Q. Excuse me a second. If I recall, first of  
 [19] all, you said the officers got to your house around  
 [20] 5:30 p.m. on June 2nd. If you recall, about what  
 [21] time was it when you got to the Roundhouse.  
 [22] A. I followed them. A half hour  
 [23] Q. Was that about 6:00?  
 [24] A. Yes  
 [25] Q. If you recall, what time was it when you were

[1] (Dominic Coia-direct)  
 [2] told by police officials that they intended to  
 [3] charge your son Dominic with murder?  
 [4] A. Midnight.  
 [5] THE COURT: Go ahead. I'm sorry,  
 [6] Mr. Mandell.  
 [7] BY MR. MANDELL:  
 [8] Q. Did they indicate to you that they wanted to  
 [9] interview your son concerning the killing?  
 [10] A. I don't think so, no.  
 [11] Q. Do you remember having a conversation with  
 [12] Detective Watkins?  
 [13] A. I don't remember their names. I just remember  
 [14] their faces.  
 [15] Q. Do you remember, was there a discussion with  
 [16] the detective that we encountered in the hallway  
 [17] during the break that occurred a little while ago?  
 [18] A. Yeah.  
 [19] Q. Did that detective indicate to you that he  
 [20] wanted to take a statement from your son Dominic?  
 [21] A. They were both together. When I left you  
 [22] mean?  
 [23] Q. Before you left.  
 [24] A. They wanted to take a statement.  
 [25] Q. That's what I asked you, and that's what they

[1] (Dominic Coia-direct)  
 [2] told you, correct?  
 [3] A. Yeah.  
 [4] Q. What did you tell them in regard to their  
 [5] wishes to interview your son Dominic?  
 [6] A. I was going to stop and wait until I talk to  
 [7] my brother about seeing a lawyer.  
 [8] Q. I want you, as best as you can remember, tell  
 [9] His Honor exactly what you told the detectives at  
 [10] that time?  
 [11] A. I just stopped the interview that I was having  
 [12] and I said I wanted to talk to my brother about  
 [13] getting a lawyer. They said he had enough to charge  
 [14] him with murder. I had to get out of there. I  
 [15] wasn't feeling too good.  
 [16] Q. When you specifically told that to the  
 [17] detective, did you specifically tell the detective  
 [18] that you wanted to have contact with a lawyer,  
 [19] whoever that lawyer may have been?  
 [20] MR. CONROY: Objection.  
 [21] THE WITNESS: No. I didn't give no  
 [22] name.  
 [23] BY MR. MANDELL:  
 [24] Q. I didn't ask if you used a name. Did you use  
 [25] the word lawyer or attorney?

~~(Handwritten scribbles)~~

[1] (Dominic Coia-direct)  
 [2] A. I told it to my sons when they were there.  
 [3] Q. Did you tell the detective that they were not  
 [4] to interview your son Dominic any further until you  
 [5] did this?  
 [6] A. Right.  
 [7] Q. Do you recall what time it was that you left  
 [8] the Police Administration Building?  
 [9] A. Had to be around 12:30.  
 [10] Q. Where did you go?  
 [11] A. Went home.  
 [12] Q. Before you left, while you were in that room  
 [13] together with the detectives and both of your sons,  
 [14] did you ever tell the detectives that you were only  
 [15] interested in Nicholas, that you didn't care  
 [16] anything at all about your son Dominic?  
 [17] A. No, sir.  
 [18] Q. Did you ever get any phone calls from the  
 [19] detectives after you left about 12:30 that night or  
 [20] that morning?  
 [21] A. I called them the next day. They said that I  
 [22] would have to sign something to -- a consent to  
 [23] juvenile home. I called them a couple of times.  
 [24] They said it wasn't ready yet.  
 [25] Q. Did you ever call Homicide?

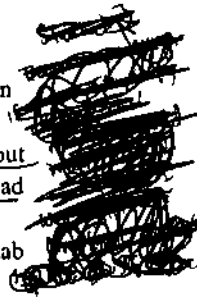
(1) (Dominic Coia-direct)  
 (2) A. That was the number that I was calling.  
 (3) Q. What time?  
 (4) A. The next day, a couple of times, maybe around  
 (5) ten, 12, two.  
 (6) Q. Ten, 12, two. Are we talking morning or  
 (7) afternoon?  
 (8) A. In the morning, afternoon yeah.  
 (9) Q. Did anyone ever tell you that they had been  
 (10) charged with murder?  
 (11) A. No.  
 (12) Q. Going back to when you were down at the Police  
 (13) Administration Building, do you recall being told by  
 (14) a detective earlier than midnight, sometime around  
 (15) 11:00 or so, that he wanted to interview your son  
 (16) Dominic, to see if you wanted to be present?  
 (17) A. I think so.  
 (18) Q. What did you tell him?  
 (19) A. I think I was sitting next to him when they  
 (20) were interviewed. There was a couple of interviews  
 (21) there.  
 (22) Q. Excuse me?  
 (23) A. I know there was a couple of interviews.  
 (24) Q. Before you were ever made aware that Dominic  
 (25) was going to be charged with murder, did any

(1) (Dominic Coia-direct)  
 (2) detective ever tell you that he wanted to interview  
 (3) Dominic?  
 (4) A. Oh, no, no, no.  
 (5) Q. I'm sorry.  
 (6) A. No.  
 (7) Q. Did you ever tell any detective that you  
 (8) didn't want to be present when Dominic was  
 (9) interviewed? This is before they had been charged  
 (10) with murder?  
 (11) A. No.  
 (12) Q. Had you been told that, would you have gone to  
 (13) sit in with the detectives?  
 (14) A. Yes.  
 (15) MR. MANDELL: Thank you. That's all  
 (16) the questions that I have.  
 (17) THE COURT: Before you cross-examine,  
 (18) I have a couple of questions that I would like  
 (19) to ask.  
 (20) BY THE COURT:  
 (21) Q. Mr. Coia, you left the Roundhouse sometime  
 (22) after midnight, early on June 3rd?  
 (23) A. Correct.  
 (24) Q. Where did you go?  
 (25) A. Home.

(1) (Dominic Coia-direct)  
 (2) Q. How long did it take you to get home?  
 (3) A. 20 minutes.  
 (4) Q. Do you have a telephone at home?  
 (5) A. Yes.  
 (6) Q. Do you know whether you had given any of the  
 (7) detectives or police officers your home telephone  
 (8) number?  
 (9) A. I think they got it. I'm not sure.  
 (10) Q. Well, let me ask you this: Is your home  
 (11) telephone number -- well, I don't want to put your  
 (12) home telephone number on the record.  
 (13) Let me show you an exhibit marked C-5  
 (14) and point you to a telephone number that is over  
 (15) near the upper right hand corner. Do you see where  
 (16) I'm pointing?  
 (17) A. Yeah.  
 (18) Q. Is that your accurate home telephone number?  
 (19) A. Yes.  
 (20) THE COURT: The record should indicate  
 (21) that's the telephone number that's on C-5,  
 (22) which was the original non suspect interview  
 (23) that detective Burns took.  
 (24) BY THE COURT:  
 (25) Q. Now for how long were you home before you left

(1) (Dominic Coia-direct)  
 (2) your house again?  
 (3) A. About two, 2:30, three. Then I went to work.  
 (4) Q. About 2:30 or three in the As far as  
 (5) you know, you were home then or 1:30 a.m. on  
 (6) the 3rd of June?  
 (7) A. Yes.  
 (8) Q. As far as you know, was your telephone  
 (9) working?  
 (10) A. Yes.  
 (11) Q. Did you hear it ring at any time during that  
 (12) period?  
 (13) A. No.  
 (14) Q. Was Dominic living with you at the time of  
 (15) this incident?  
 (16) A. Yes.  
 (17) Q. Dominic was living at your house with you on  
 (18) June 2nd?  
 (19) A. Yes.  
 (20) Q. If Dominic were to have said to anybody, as of  
 (21) June 2nd or June 3rd, that he wasn't living with you  
 (22) because he had been kicked out of the house, that  
 (23) wouldn't be true; is that your testimony?  
 (24) A. Yes.  
 (25) THE COURT: I have no further

[1] (Dominic Coia-cross)  
 [2] questions. Go ahead.  
 [3] CROSS-EXAMINATION  
 [4] **BY MR. CONROY:**  
 [5] Q. Mr. Coia, your son Dominic was how old then?  
 [6] A. 17.  
 [7] Q. When was his 18th birthday?  
 [8] A. Maybe 2 weeks later.  
 [9] Q. Did you ever tell him that at his 18th  
 [10] birthday he would have to move out?  
 [11] A. Yeah. I told him his whole life.  
 [12] Q. At 18 he would either have to move out or get  
 [13] a job?  
 [14] A. Yes.  
 [15] Q. You knew Joshua Staab?  
 [16] A. Yes.  
 [17] Q. He was present that evening in the homicide  
 [18] unit? You saw him there?  
 [19] A. I saw him there once or twice.  
 [20] Q. He told the homicide detective that your son  
 [21] Dominic was staying there?  
 [22] A. He might have stayed there a night or two but  
 [23] he didn't move out, because everything that he had  
 [24] was there.  
 [25] Q. Let me ask you this: You knew Joshua Staab



[1] (Dominic Coia-cross)  
 [2] and he was present. Did he mention that Dominic was  
 [3] staying with him, that he decided to move out before  
 [4] his 18th birthday?  
 [5] A. No.  
 [6] Q. Were you aware that he told that to Homicide  
 [7] that night?  
 [8] A. Yes.  
 [9] Q. You are aware that Joshua had told Homicide  
 [10] detectives that your son Dominic was staying with  
 [11] him and had moved out?  
 [12] A. Yeah.  
 [13] Q. About how many days or weeks prior to June 2nd  
 [14] had Dominic, your son, stayed out of the home?  
 [15] A. I seen him there every day. So if he wasn't  
 [16] sleeping there, he was in the household.  
 [17] Q. You indicated that when you arrived at  
 [18] Homicide -- you indicated about 6:00?  
 [19] A. Yeah, in the evening.  
 [20] Q. And you were there with your son Nicholas,  
 [21] correct?  
 [22] A. Yeah.  
 [23] Q. You took him down to the Homicide Division?  
 [24] A. Yeah.  
 [25] Q. Was your son Dominic home at that time?

[1] (Dominic Coia-cross)  
 [2] A. No.  
 [3] Q. Do you know where he was?  
 [4] A. Probably with Josh. He's always in and out.  
 [5] Q. You followed your son Nicholas down to  
 [6] Homicide division?  
 [7] A. Yes.  
 [8] Q. At any point in time did anyone indicate to  
 [9] you that any of your sons were involved in this or  
 [10] suspects?  
 [11] A. No.  
 [12] Q. What was your indication of the status of that  
 [13] at that time?  
 [14] A. About four-thirty, 5:00 I seen the news and  
 [15] saw a boy named Sweeney and I called home and I  
 [16] asked Nicky, is that Paul Sweeney's son? And he  
 [17] said, yeah. The police are coming over and want to  
 [18] talk to all of his friends. And I said, I'll come  
 [19] home and go over with you. I didn't see anything on  
 [20] the weekend. Didn't know nothing.  
 [21] Q. And the detectives wanted to talk to your son  
 [22] because at that point in time they were at the  
 [23] party?  
 [24] A. Yeah, or something like that. It was real  
 [25] quick.

[1] (Dominic Coia-cross)  
 [2] Q. You went down to the Homicide division. You  
 [3] were sitting with your son Nicholas, correct?  
 [4] A. Off and on when he interviewed. With a bunch  
 [5] of kids off and on.  
 [6] Q. At some point, 8:45 that evening, they  
 [7] interviewed Nicholas, correct?  
 [8] A. Yes.  
 [9] Q. Detective Burns?  
 [10] A. Yes.  
 [11] Q. Is that a yes?  
 [12] A. Yes.  
 [13] Q. Did they ask you whether or not you wanted to  
 [14] be present?  
 [15] A. I was present with one of the interviews.  
 [16] Q. They asked you if you wanted to be present?  
 [17] A. Yes.  
 [18] Q. And you said you wanted to be present?  
 [19] A. Yes.  
 [20] Q. And that's documented in the interview that  
 [21] you were present?  
 [22] **THE COURT:** The interview with  
 [23] Nicholas?  
 [24] **THE WITNESS:** Yes. The earlier one.  
 [25] **MR. CONROY:** Yes.

[1] (Dominic Coia-cross)  
 [2] BY MR. CONROY:  
 [3] Q. My question: The detectives asked you if you  
 [4] wanted to sit in on that interview and you elected  
 [5] to, correct?  
 [6] A. Yes.  
 [7] Q. Was there any animosity or problems between  
 [8] you or any of the Homicide detectives?  
 [9] A. No. We all got along pretty good  
 [10] Q. Actually, shortly before that interview, 8:45,  
 [11] shortly that evening, before 8:30, the other son  
 [12] arrived?  
 [13] A. Dominic. I don't remember the time he popped  
 [14] in.  
 [15] Q. There with Joshua and Jessica Wildonger. Were  
 [16] they all present?  
 [17] A. Yeah. I'm not sure of the girls. There was a  
 [18] couple of girls there.  
 [19] Q. But eventually you saw your son Dominic there?  
 [20] A. Yes.  
 [21] Q. You had a chance to talk to them right there  
 [22] if you wanted to, correct?  
 [23] A. He was in the back room.  
 [24] Q. At some point you are all in homicide, it's  
 [25] not a big area, you conversed with them?

[1] (Dominic Coia-cross)  
 [2] A. I can't walk in the office. There is a  
 [3] waiting room. I waved to them. That was all.  
 [4] Q. Did you at any time express a desire to speak  
 [5] with them?  
 [6] A. Might have talked to them. Right then I don't  
 [7] know anything was going on.  
 [8] Q. No major problems going on?  
 [9] A. No -- yeah.  
 [10] Q. Just interviewing Dominic about what he knew  
 [11] about Jason Sweaney?  
 [12] A. Yes.  
 [13] Q. Did Dominic express a desire at that point to  
 [14] speak to you that you know of?  
 [15] A. Might have said a few things passing by.  
 [16] Q. There were a bunch of witnesses up there, a  
 [17] whole lot of people running around, about 11:00 they  
 [18] wanted to interview Dominic, did they not?  
 [19] A. I don't know the time. I was sitting there  
 [20] all night.  
 [21] Q. At any point in time, when you were present  
 [22] when Nicky was being viewed, and later that evening  
 [23] when they interviewed Dominic, there was no  
 [24] animosity between you and any of the detectives?  
 [25] A. No.

[1] (Dominic Coia-cross)  
 [2] Q. If you wanted to you, could have sat in on the  
 [3] interview with Dominic, correct?  
 [4] MR. MANDELL: Objection.  
 [5] THE COURT: Sustained. I'll sustain  
 [6] the objection to the form of the question and  
 [7] strike the answer.  
 [8] MR. CONROY: Strike that.  
 [9] BY MR. CONROY:  
 [10] Q. Mr. Coia, the detectives asked you whether or  
 [11] not you wanted to be present when Dominic was  
 [12] originally interviewed, correct?  
 [13] A. Yes. And I probably said yes, right?  
 [14] Q. I wasn't there.  
 [15] A. They asked me. I said yes.  
 [16] Q. You said yes?  
 [17] A. If they asked me, I don't remember. If they  
 [18] asked me, I would have said yes.  
 [19] THE COURT: Wait a minute. Let me  
 [20] stop you right here. Is it your testimony,  
 [21] Mr. Coia, that you remember the detectives  
 [22] asking you specifically whether you wanted to  
 [23] sit in on your son Nicky's interview? You  
 [24] remember them asking you that, right?  
 [25] THE WITNESS: Yes.

[1] (Dominic Coia-cross)  
 [2] THE COURT: And you said yes, correct,  
 [3] and in fact, you sat in that interview,  
 [4] correct?  
 [5] THE WITNESS: The first one, yeah.  
 [6] THE COURT: Now it's your testimony  
 [7] that you don't remember whether they asked you  
 [8] if you wanted to sit in on Dominick's  
 [9] interview? That your testimony?  
 [10] THE WITNESS: I guess. I don't know  
 [11] if they got to him yet.  
 [12] THE COURT: That's not my question.  
 [13] THE WITNESS: If they asked me, I  
 [14] would have said yes.  
 [15] THE COURT: That's was not my  
 [16] question. Would you mind listening to my  
 [17] question and trying to answer it. I understand  
 [18] what you are going through, but you are under  
 [19] oath and you have to answer questions as  
 [20] truthfully as you can. Do you understand that?  
 [21] THE WITNESS: Yes.  
 [22] THE COURT: Is it your testimony, as  
 [23] you sit here today, you do or you don't have a  
 [24] recollection about whether any detectives  
 [25] specifically asked you whether or not you want

*[Handwritten notes and scribbles on page 80]*  
 Asking...  
 Now it's your testimony...  
 That's not my question...  
 If they asked me, I would have said yes...  
 That's was not my question...  
 Would you mind listening to my question...  
 Is it your testimony...  
 you sit here today...  
 recollection about whether any detectives...  
 specifically asked you whether or not you want

(1) (Dominic Coia-cross)  
 (2) to sit in on Dominic's interview?  
 (3) **THE WITNESS:** I don't remember.  
 (4) **THE COURT:** That's your testimony?  
 (5) **THE WITNESS:** Yeah.  
 (6) **BY MR. CONROY:**  
 (7) **Q.** Mr. Coia, at some point in time later that  
 (8) evening you were in the hallway. I'm going --  
 (9) around midnight you were with your son Dominic,  
 (10) correct? Strike that.  
 (11) You were with your son Nicholas,  
 (12) basically, in the open area of Homicide, correct,  
 (13) around midnight?  
 (14) **A.** Yeah.  
 (15) **Q.** It was at that time that detective Booker came  
 (16) up to you around midnight or shortly around midnight  
 (17) and said, listen, we need to speak to you and your  
 (18) son, we believe they are involved in this incident,  
 (19) this death of Jason Sweeney, correct?  
 (20) **A.** He said I want Nicholas to tell you what we  
 (21) just found out from this girl.  
 (22) **Q.** What did Nicholas say?  
 (23) **A.** I don't know. I just look at him and said,  
 (24) you were there? And he just looked away and I asked  
 (25) to see my other son.

(1) (Dominic Coia-cross)  
 (2) **Q.** Did the detectives allow you to do that? *Then*  
 (3) **A.** After a couple of minutes. First they said  
 (4) no, stay with Nicky. It would be better. He was  
 (5) the least involved or something, and I said I want  
 (6) to see both of them together or else I'm not giving  
 (7) no statements. Right there I was in shock.  
 (8) **Q.** Did they give you an opportunity to meet with  
 (9) your sons?  
 (10) **A.** Yeah.  
 (11) **Q.** Where did they allow you to meet your sons?  
 (12) **A.** Went to some room on the right-hand side for  
 (13) like a minute or two.  
 (14) **Q.** Who was in the room?  
 (15) **A.** The detectives were there and left me and  
 (16) Nicky alone.  
 (17) **Q.** Meaning you and your son Dominic. How long  
 (18) did they let you stay?  
 (19) **A.** A minute or two and then they walked back in.  
 (20) **Q.** That was it?  
 (21) **A.** Yeah.  
 (22) **Q.** At that point in time, before you went into  
 (23) the room, you realized at that point in time your  
 (24) sons may very well have been involved in this  
 (25) Homicide, correct?

(1) (Dominic Coia-cross)  
 (2) **A.** That's what I --  
 (3) **Q.** Did you speak with your sons?  
 (4) **A.** A couple of minutes.  
 (5) **Q.** What did they say?  
 (6) **MR. MANDELL:** Objection. If he's  
 (7) asking in terms of whether they wanted to talk  
 (8) to detectives, but in terms of content or any  
 (9) potential involvement, I don't think that it's  
 (10) appropriate at this time.  
 (11) **THE COURT:** I'm not sure whether it  
 (12) is. I don't think that it's necessary for the  
 (13) hearing and I'm going to sustain the objection.  
 (14) **MR. CONROY:** Maybe I can rephrase in a  
 (15) general sense. It may become relevant to what  
 (16) I'll argue at some point later.  
 (17) **BY MR. CONROY:**  
 (18) **Q.** Mr. Coia, after that period of time that you  
 (19) spoke with your sons -- let me ask you this: After  
 (20) speaking with Nicholas and Dominic -- strike that.  
 (21) I'll withdraw that question, Judge.  
 (22) **THE COURT:** Thank you.  
 (23) **BY MR. CONROY:**  
 (24) **Q.** You did have an opportunity to speak with your  
 (25) sons, would it be fair to say?

(1) (Dominic Coia-cross)  
 (2) **A.** Real short. *(As opposed to do what he says)*  
 (3) **Q.** At that point in time detectives came into the  
 (4) room? That's a yes?  
 (5) **A.** Yes.  
 (6) **Q.** What happened at that point? You indicated  
 (7) that you didn't feel well?  
 (8) **A.** No, I wasn't feeling well. They indicated  
 (9) they wanted to get a statement from Nicholas.  
 (10) **Q.** I believe your testimony on direct examination  
 (11) is that you wanted to talk to your brother about  
 (12) seeing a lawyer?  
 (13) **A.** Yeah. His lawyer, my brother's lawyer. We  
 (14) started first and I was shaking so much. I'd better  
 (15) stop now. I was really shaking bad. I had to go  
 (16) out, get some air.  
 (17) **Q.** Just so it's clear for the record, you said  
 (18) you wanted to talk on the record?  
 (19) **A.** I said both of them don't talk to no one until  
 (20) I talk to my brother about getting a lawyer. They  
 (21) told me they had enough to charge them, and call  
 (22) them tomorrow.  
 (23) **Q.** You left the Homicide Unit?  
 (24) **A.** Yes.  
 (25) **Q.** You were upset at that time?

[1] (Dominic Coia-cross)  
 [2] A. Yes.  
 [3] Q. It was about 12:30 that you left?  
 [4] A. Somewhere around there.  
 [5] Q. Your next contact with the homicide unit is  
 [6] when, ten the next morning?  
 [7] A. I called the number and they said I had to  
 [8] sign something to go to juvenile. They said it  
 [9] wasn't ready.  
 [10] Q. About 10:30?  
 [11] A. About 10:30.  
 [12] Q. You were at home?  
 [13] A. At home.  
 [14] Q. What time did you go to work?  
 [15] A. Around three in the morning.  
 [16] Q. Court's indulgence.  
 [17] At any point, when you got home, did  
 [18] you ever call your brother?  
 [19] A. I called him in the morning.  
 [20] Q. About what time?  
 [21] A. 10:00 maybe.  
 [22] Q. Did you talk to him?  
 [23] A. Yeah.  
 [24] Q. As a result of speaking with him, did you call  
 [25] a lawyer?

[1] (Dominic Coia-cross)  
 [2] A. Not yet. Not that day, no.  
 [3] Q. When was the day that you called a lawyer?  
 [4] A. Once they got charged as adults, I couldn't  
 [5] even talk to them for the next 7 days. They go to  
 [6] whatever they go. I don't know anything, except  
 [7] what I read in the paper the next few days.  
 [8] **MR. CONROY:** Court's indulgence, Your  
 [9] Honor.  
 [10] (Pause.)  
 [11] **BY MR. CONROY:**  
 [12] Q. Before you left that evening -- I understand  
 [13] you were upset -- did the detectives ever give you a  
 [14] chance to use the phone if you wanted to use the  
 [15] phone?  
 [16] A. No. They just told me that they had enough to  
 [17] charge them. I went home.  
 [18] Q. They didn't tell you that you had to leave,  
 [19] did they? Why did you leave?  
 [20] A. I think they told me that I could leave. They  
 [21] couldn't do no more. I said no statement. They  
 [22] said we have to hold them. They are not coming home  
 [23] with me.  
 [24] Q. You never went back to the Police  
 [25] Administration Building at any point, the Roundhouse

*They said he has  
GIVE, they couldn't  
do more*

[1] (Dominic Coia-cross)  
 [2] that night; is that correct?  
 [3] A. No.  
 [4] **MR. CONROY:** I have nothing further,  
 [5] Judge.  
 [6] **THE COURT:** Do you have any redirect?  
 [7] **MR. MANDELL:** Not unless The Court has  
 [8] any questions.  
 [9] **THE COURT:** Let me ask you one  
 [10] question to go over something.  
 [11] **BY THE COURT:**  
 [12] Q. Do I understand you to say, before you left  
 [13] the police administration building in the early  
 [14] morning hours of June 3rd, that you told both of  
 [15] your sons that you didn't want them to make any  
 [16] statements until after you had spoken to your  
 [17] brother?  
 [18] A. Yeah.  
 [19] Q. You told them, they were both together in one  
 [20] room at the time?  
 [21] A. Yes.  
 [22] Q. You told them both that?  
 [23] A. Yes.  
 [24] Q. You said that you saw your son Dominic at the  
 [25] police administration building about eight or

[1] (Colloquy)  
 [2] 8:30 p.m. the evening of June 2nd, correct, a couple  
 [3] of hours after you got there with Nicholas, right?  
 [4] A. Yes.  
 [5] Q. Prior to that time, when was the last time  
 [6] that you had seen Dominic?  
 [7] A. That was a Monday. I probably saw him Sunday.  
 [8] Q. Did you or didn't you.  
 [9] A. Yeah. I'm pretty sure. I was on the couch.  
 [10] He was in and out, up to his room, back down.  
 [11] **THE COURT:** I have no further  
 [12] questions. Do you have any further questions?  
 [13] **MR. MANDELL:** No.  
 [14] **THE COURT:** You are excused, sir.  
 [15] (Witness excused.)  
 [16] **MR. MANDELL:** I'm going to make a  
 [17] request at this time that is this: I know you  
 [18] have a schedule commitment that's going to take  
 [19] you away. My problem is, because of the  
 [20] weather this morning, I had to drive my wife to  
 [21] work and I have to pick her up.  
 [22] She's a teacher and I have to pick her  
 [23] up in the northeast at 3:00. If you don't  
 [24] mind -- it's difficult -- if The Court would  
 [25] allow me, I would like to offer argument on

(1) (Colloquy)  
 (2) either Monday or Tuesday.  
 (3) **THE COURT:** No. I'm sorry,  
 (4) Mr. Mandell. I'm absolutely determined to  
 (5) finish this hearing today.  
 (6) For the court reporter, do you want  
 (7) the argument recorded?  
 (8) **MR. MANDELL:** No. It's not necessary  
 (9) if you are planning on doing it now.  
 (10) **THE COURT:** You can just sit there and  
 (11) start.  
 (12) Are you resting?  
 (13) **MR. MANDELL:** Yes. I don't believe  
 (14) that I offered any exhibits. I don't have any  
 (15) of them.  
 (16) **THE COURT:** You can have the witnesses  
 (17) come in for the argument on the decision and  
 (18) the decision.  
 (19) (Mr. Mandell presents argument.)  
 (20) (Mr. Conroy presents argument.)  
 (21) **THE COURT:** There are two sets of  
 (22) findings that The Court needs to make in  
 (23) connection with this motion and on the basis of  
 (24) the testimony that I've heard. One set of  
 (25) findings, although it's quite clear to me,

(1) (Colloquy)  
 (2) having seen the witnesses, hearing the  
 (3) witnesses under direct examination, and also  
 (4) having the benefit of the statements, is some  
 (5) what painful, frankly, for me to make clear on  
 (6) the record. That is, in terms of credibility,  
 (7) I believe the testimony of the police officers  
 (8) and I utterly disbelieve the testimony of  
 (9) Dominic Coia, Sr. in several critical respects.  
 (10) First of all, Mr. Coia, Sr. testified  
 (11) that his son was still living in his house at  
 (12) the time of the murder and at the time of these  
 (13) interviews. That is belied by Dominic Coia's  
 (14) own statements on page nine of C-1 where he's  
 (15) asked -- and I quote -- Dominic, you just  
 (16) stated to us that you've been living on your  
 (17) own for the last 4 days. What do you mean by  
 (18) that? Answer: My dad told me that I had to  
 (19) leave on the 13th, my 18th birthday. So I left  
 (20) early. I was on my own 44 days.  
 (21) **Question:** When did you leave your  
 (22) dad's house?  
 (23) **Answer:** 2 weeks ago is when he told  
 (24) me that. I left Wednesday, the Wednesday that  
 (25) just passed. Closed quotes.

(1) (Colloquy)  
 (2) There would have been no reason for  
 (3) the defendant to be lying about that. There is  
 (4) nothing inculpatory with regard to the  
 (5) testimony about that, and I think what I saw  
 (6) here today is a father who feels some what  
 (7) responsible for something he bears no  
 (8) responsibility for, because he took an action  
 (9) which he believed led his son to leave his  
 (10) house and possibly contribute to this.  
 (11) I understand it but it doesn't make it  
 (12) believable. Especially, it doesn't make it  
 (13) believable, in light of all of the other facts  
 (14) and circumstances. The father remembers that  
 (15) he was specifically asked whether he wanted to  
 (16) sit in when Nicholas Coia is interviewed, and  
 (17) he said that he did, and it's uncontradicted  
 (18) that he did sit in on that interview.  
 (19) Later on, when Nicholas Coia wanted to  
 (20) be interviewed again to give what was probably  
 (21) going to be a more accurate, more truthful  
 (22) account, the detectives respected what Dominic  
 (23) Coia, Sr. had said about not wanting Nicholas  
 (24) questioned until he had a chance to talk to his  
 (25) brother, and they refused to do a subsequent

*let's not  
 let the  
 witness  
 know  
 that  
 he  
 did  
 sit  
 in  
 on  
 that  
 interview*

(1) (Colloquy)  
 (2) interview of Nicholas Coia, even though  
 (3) Nicholas Coia had requested that a subsequent  
 (4) interview be taken.  
 (5) It's incredible to me that Dominic  
 (6) Coia, Sr. would specifically remember having  
 (7) been asked whether or not he wanted to sit on  
 (8) Nicholas Coia's interview and that he wouldn't  
 (9) remember whether or not he was specifically  
 (10) asked whether or not he wanted to sit in on  
 (11) Dominic Coia's interview.  
 (12) So I accept as credible the testimony  
 (13) by detective Burns and detective Watkins that,  
 (14) in fact, he was asked about both of his sons,  
 (15) and he made a conscience decision, which he now  
 (16) understandably regrets that he did, have more  
 (17) concerns about his younger son, Nicholas Coia,  
 (18) and was given the opportunity to sit in on both  
 (19) of the interviews, chose to sit on Nicholas  
 (20) Coia's interviews, and was permitted to sit in  
 (21) on Nicholas Coia's interview, and I find that  
 (22) he was also given the opportunity to sit in on  
 (23) Dominic Coia's interview, and he chose not to.  
 (24) I also believe the testimony of the  
 (25) detectives about Dominic Coia's, Sr.'s



(1) (Colloquy)  
(2) demonstrated difference in attitude towards his  
(3) two sons in the moments before he left the  
(4) Roundhouse, and Dominic Coia was fully  
(5) interviewed and gave the statement marked C-1  
(6) and admitted as C-1, and then subsequently gave  
(7) the videotape statement.

(8) I think that testimony is credible and  
(9) one of the reasons why I think it is credible,  
(10) even though it was never memorialized, is  
(11) because it's absolutely consistent with Dominic  
(12) Coia's previous behavior, and the police  
(13) officers' -- the detectives' behavior in  
(14) response to what Dominic Coia said.

(15) The reason that they treated Nicholas  
(16) Coia's desire to give a statement different  
(17) than they treated Dominic Coia's expressed  
(18) desire to give a statement is because the  
(19) father had made them aware that he had a  
(20) different view with regard to taking a  
(21) statement from either of his two sons, and the  
(22) detectives, by their demonstrated conduct,  
(23) respected that view.

(24) That to me, those surrounding  
(25) circumstances, clearly make the Commonwealth's

*was not memorialized if it happened*  
*like that not the way they did*

(1) (Colloquy)  
(2) testimony, as to the circumstances under which  
(3) the statements were taken, credible and Dominic  
(4) Coia's, Sr.'s testimony here today  
(5) significantly incredible. Now, as matter of  
(6) law, with regard to the totality of the  
(7) circumstances, it is absolutely clear to me  
(8) that Dominic Coia, who was just 10 days shy of  
(9) his 18th birthday when he gave this statement,  
(10) had the intellectual capacity, the ability and  
(11) the willingness to make a free and voluntary  
(12) decision on his own about whether or not he  
(13) wanted on give a statement.

(14) At the beginning of C-1 he was  
(15) reminded of his father's admonition and his  
(16) father's wishes. He gave every impression to  
(17) the police officers that he was clear and sound  
(18) of mind, that he was not under the influence of  
(19) drugs or alcohol, that he was completely able  
(20) to make a free and voluntary decision, and he  
(21) did make a free and voluntary decision, with no  
(22) coercion whatsoever, to disregard anything that  
(23) his father may even have suggested about not  
(24) giving a statement.

(25) He insisted that he wanted to give a

(1) (Colloquy)  
(2) full and complete statement. He gave a full  
(3) and complete statement, which has been  
(4) introduced as C-1. I find the statement to be  
(5) legally taken, voluntary and admissible.

(6) I make the same findings with regard  
(7) to the videotaped statement. Dominic Coia,  
(8) having demonstrated that he was completely  
(9) capable of making a knowing and voluntary  
(10) decision to waive his Miranda rights and waive  
(11) his rights against self-incrimination, made a  
(12) similar knowing, voluntary and -- made a  
(13) knowing and voluntary decision to give a  
(14) videotaped statement after he had given C-1,  
(15) the written statement.

(16) He had the right to do that under the  
(17) law, and that statement also is admissible. So  
(18) for all of those reasons, the defense motion to  
(19) suppress the written statements and the  
(20) videotape statement is denied.

(21) (Hearing concluded.)  
(22)  
(23)  
(24)  
(25)

CERTIFICATION

I HEREBY CERTIFY THAT THE PROCEEDINGS  
AND EVIDENCE ARE CONTAINED FULLY AND ACCURATELY IN  
THE NOTES TAKEN BY ME ON THE TRIAL OF THE ABOVE  
CAUSE, AND THIS COPY IS A CORRECT TRANSCRIPT OF THE  
SAME.

VINCENT O. DIGIROLAMO  
OFFICIAL COURT REPORTER.  
(215) 683-8034

(THE FOREGOING CERTIFICATION OF THIS  
TRANSCRIPT DOES NOT APPLY TO ANY REPRODUCTION OF THE  
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AND/OR SUPERVISION OF THE CERTIFYING REPORTER.)

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Lawyer's Notes

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[1] A. This is an outgoing call to the  
 [2] number 267-207-1853.  
 [3] Q. Who I have listed as who?  
 [4] A. Paul Sweeney.  
 [5] Q. That call lasted for how long?  
 [6] A. 32 seconds.  
 [7] Q. I know the next call is listed as  
 [8] 3:11?  
 [9] A. Correct 3:11.53 p.m.  
 [10] Q. And that was an incoming or outgoing?  
 [11] A. That was an incoming call. There is  
 [12] no information label for that call.  
 [13] Q. And that lasted how long?  
 [14] A. For five seconds.  
 [15] Q. The next call on that cell phone, the  
 [16] Sweeney cell phone?  
 [17] A. The next call was on the same date,  
 [18] two minutes later, at 3:13.28. It was an  
 [19] outgoing call to number 215-423-5078, which is  
 [20] labeled at Eddie Batzig, and was for 19 seconds.  
 [21] Q. The next call after that?  
 [22] A. Next call is the same day,  
 [23] 3:18.07 p.m. It is an outgoing call again to  
 [24] Eddie Batzig. The number is 215-423-5078,  
 [25] duration of 59 seconds.

[1] Q. Okay. And the next call after that  
 [2] 3:18 call is when?  
 [3] A. The next call is at 4:08.04 p.m.  
 [4] Q. About 50 minutes later?  
 [5] A. Correct.  
 [6] Q. And that is to whom?  
 [7] A. That is an outgoing call again to  
 [8] 215-423-5078, Eddie Batzig, and duration was one  
 [9] minute and 14 seconds.  
 [10] Q. Now, after that 4:08 call, the next  
 [11] call is incoming or outgoing?  
 [12] A. The next call is an incoming call and  
 [13] that was at 4:31.28 p.m.  
 [14] Q. And that is an incoming call?  
 [15] A. That's correct.  
 [16] Q. And that lasted for how long?  
 [17] A. That call lasted for 30 seconds.  
 [18] Q. Now, you indicated that at 4:08 there  
 [19] was an outgoing call on the Sweeney cell phone  
 [20] to the Batzig residence that lasted one minute  
 [21] 14 seconds, correct?  
 [22] A. Correct.  
 [23] Q. When is the next -- after that 4:08  
 [24] call, when is the next outgoing call on the  
 [25] Sweeney cell phone?

[1] A. The next outgoing call is at  
 [2] 5:23 p.m. It is to again the number  
 [3] 215-423-5078, Eddie Batzig, and the duration of  
 [4] that call is 19 seconds.  
 [5] Q. Okay. And so from 4:08 we don't have  
 [6] an outgoing call until 5:23; would that be fair  
 [7] to say?  
 [8] A. That's correct.  
 [9] Q. The next call on the Sweeney cell  
 [10] phone is what time?  
 [11] A. The next call is at 5:23.45. Again  
 [12] it is the number 215-423-5078, Eddie Batzig, and  
 [13] that 14 seconds.  
 [14] Q. Okay. After this 5:23 call, the next  
 [15] call on that phone?  
 [16] A. Is at 5:44.38 p.m. and again the  
 [17] number is 215-423-5078, Eddie Batzig, and the  
 [18] duration of that call is 12 seconds.  
 [19] Q. Okay. And I have that listed as the  
 [20] hard line, the house line; is that correct?  
 [21] A. That's correct, in all cases, yes.  
 [22] Q. The next outgoing call is what time  
 [23] and to whom?  
 [24] A. The next outgoing call is at  
 [25] 5:45.16 p.m. This one is to 215-423-9356. You

[1] have it labeled as Justina Morley.  
 [2] Q. To the house, to the hard line?  
 [3] A. To the house line, that is correct.  
 [4] And that lasted for eight seconds.  
 [5] Q. And the next call after that the time  
 [6] and to whom?  
 [7] A. The next call is at 5:45.30 p.m. It  
 [8] is an outgoing call, again to Justina Morley.  
 [9] The number is 215-423-9356, which is the house  
 [10] line. That lasted for three seconds.  
 [11] Q. And the next call?  
 [12] A. And the next call is at 5:46.05 p.m.  
 [13] Outgoing call, again Justina Morley's number  
 [14] again is 215-423-9356, which is the house line.  
 [15] That one lasted for 26 seconds.  
 [16] Q. And the next outgoing call?  
 [17] A. The next outgoing call is at  
 [18] 5:49.30 p.m. That is an outgoing call to  
 [19] 215-913-1028. You have it labeled as Courtney  
 [20] McNalley, and that lasted for 27 seconds.  
 [21] Q. And that is -- is that the last  
 [22] outgoing call on that cell phone?  
 [23] A. Yes.  
 [24] Q. When is the next call on that cell  
 [25] phone -- when is the next call listed, per your

[1] records?

[2] **A.** The next call appears at  
[3] 9:59.01 p.m., on the same day, and it is an  
[4] incoming call.

[5] **Q.** And that is for how long?

[6] **A.** The duration of that was three  
[7] seconds.

[8] **Q.** The next call on that cell phone?

[9] **A.** The next was at 11:52.04 p.m. on the  
[10] same day. It is also an incoming call. The  
[11] duration was eight seconds.

[12] **Q.** And the next call, Mr. Frysztacki?

[13] **A.** Was at 11:16.22, a.m. on the  
[14] following day, May 31st. It is an incoming  
[15] call, lasted nine seconds.

[16] **Q.** And the final call that we have on  
[17] our enlargement?

[18] **A.** The last call was again on May 31st  
[19] at four o'clock p.m. It is an incoming call,  
[20] for a duration of 11 seconds.

[21] **Q.** So, it would be fair to say, would it  
[22] not, that after the 5:49 outgoing call, about  
[23] ten of six, that would be the last outgoing call  
[24] on that cell phone?

[25] **A.** Yes.

[1] **Q.** Okay. And, again, not to belabor the  
[2] point, but this enlargement would be an accurate  
[3] representation -- accepting the person and  
[4] residence and the type, would be an accurate  
[5] representation of the records you brought with  
[6] you to Court today?

[7] **A.** Yes, it would.

[8] **MR. CONROY:** Okay. Your Honor,  
[9] Court's indulgence, I think I'm  
[10] finished.

[11] **THE COURT:** All right. Very  
[12] good.

[13] **MR. CONROY:** Mr. Frysztacki, I  
[14] have no further questions. Thank  
[15] you.

[16] **THE COURT:** Very good.

[17] Any questions, Mr. Bookman?

[18] **MR. BOOKMAN:** No.

[19] **THE COURT:** Miss McDermott?

[20] **MS. McDERMOTT:** No, thank you.

[21] **THE COURT:** Mr. Mandell?

[22] **MR. MANDELL:** I have no  
[23] questions either.

[24] **THE COURT:** Mr. Frysztacki,  
[25] thank you for coming in. I

[1] appreciate it.

[2] **MR. CONROY:** Your Honor, the  
[3] Commonwealth would next call  
[4] Detective Carl Watkins.

[5] **THE COURT:** Detective Carl  
[6] Watkins please.

[7] **THE COURT OFFICER:** Please  
[8] remain standing. Raise your right  
[9] hand, place your left hand on the  
[10] Bible.

[11] In a loud clear voice, state  
[12] your full name, spell your last name,  
[13] state your badge number.

[14] **THE WITNESS:** Detective Carl  
[15] Watkins, W-A-T-K-I-N-S, Badge Number  
[16] 613 Homicide Unit.

[17] ---  
[18] **DETECTIVE CARL WATKINS,** having  
[19] been first sworn or affirmed, was  
[20] examined and testified as follows:

[21] ---  
[22] **THE COURT OFFICER:** Have a seat,  
[23] sir.

[24] **THE COURT:** Detective Watkins,  
[25] good afternoon.

[1] **THE WITNESS:** Good afternoon,  
[2] Your Honor.

[3] **THE COURT:** All right,  
[4] Mr. Conroy, are you ready?

[5] **MR. CONROY:** Indeed we are, Your  
[6] Honor.

[7] ---  
[8] **DIRECT EXAMINATION**

[9] ---  
[10] **BY MR. CONROY:**

[11] **Q.** Good afternoon, Detectives Watkins.

[12] **A.** Good afternoon.

[13] **Q.** Detective Watkins, you are employed  
[14] by whom?

[15] **A.** By the Philadelphia Police  
[16] Department.

[17] **Q.** And you have been a member of the  
[18] Philadelphia Police Department for how long,  
[19] sir?

[20] **A.** 16 years.

[21] **Q.** Your current assignment is where?

[22] **A.** I'm assigned at the Homicide Unit.

[23] **Q.** Okay. And you have been a member of  
[24] the Detective Bureau for how long, detective?

[25] **A.** A little over ten years now.

[1] Q. Detective Watkins, did you have  
[2] occasion to become involved in the investigation  
[3] of the death of 16 year-old Jason Sweeney?

[4] A. Yes, I did.

[5] Q. When was it, Detective Watkins, and  
[6] how was it that you became involved in that  
[7] investigation?

[8] A. Detective Mangold and I, who is my  
[9] partner, we became involved in the job on June  
[10] the 2nd at 11:45 p.m. after having a

[11] conversation with Lieutenant Mike Morrin.  
[12] Q. And, Detective Watkins, if I may, you  
[13] had this conversation and became involved in the  
[14] investigation of Jason Sweeney's death while you  
[15] were at the Homicide Division?

[16] A. That's correct.

[17] Q. And would it be fair to say that you  
[18] became involved in the investigation in the  
[19] evening hours of the Monday, the 2nd of May of  
[20] 2003?

[21] A. Yes.

[22] Q. Okay. Detective Watkins, do you  
[23] recall what tour of duty, what hours you were  
[24] working that particular evening?

[25] A. Yes, on that day I was working the

[1] day work tour, which is eight to four,

[2] eight a.m. to four p.m.

[3] Q. During the course of the  
[4] investigation, Detective Watkins, did you have  
[5] occasion to come in contact with anyone that you  
[6] had a chance to speak to about Jason's death?

[7] A. Yes, I did.

[8] Q. Who would that be?

[9] A. Mr. Dominic Coia, Mr. Nicholas Coia.

[10] Q. Okay. Detective, I want to talk  
[11] about first Dominic Coia.

[12] When was it and where was it  
[13] that you first came in contact with Dominic  
[14] Coia?

[15] A. It was around midnight, the 2nd going  
[16] into the 3rd, and it was in the Homicide Unit in  
[17] room A.

[18] Q. And had you received certain  
[19] information from Lieutenant Morrin regarding the  
[20] investigation?

[21] A. Yes, I did.

[22] Q. And, as a result of receiving that  
[23] information, what, if anything, did you then do,  
[24] Detective Watkins?

[25] A. Detective Mangold and I went into

[1] room A. In room A was Dominic Coia, Jr.,  
[2] Nicholas Coia, and the father Mr. Dominic Coia,  
[3] Sr.

[4] Q. Okay. Just tell us what happened,  
[5] Detective Watkins. While you were up in the  
[6] Homicide Division with the two Coia Brothers and  
[7] their father, tell us what happened, what  
[8] conversation, what, if anything, went on?

[9] A. Inside of that room, after we  
[10] conferred with Lieutenant Morrin, there was an  
[11] understanding that I was going to interview  
[12] Mr. Dominic Coia, Jr. inside of room A.

[13] My partner, Detective Mangold,  
[14] would be interviewing Nicholas Coia along with  
[15] the father in another location in the Homicide  
[16] Unit.

[17] Q. Okay. Did, in fact, you have a  
[18] chance to speak with Dominic Coia, Jr.?

[19] A. Yes.

[20] Q. Did you eventually take a written  
[21] statement from him?

[22] A. Yes, I did.

[23] Q. Tell us how that eventually came to  
[24] be, detective.

[25] A. As we went over the paperwork -- we

[1] were going over the paperwork with the father.  
[2] He at that time didn't want us to speak with  
[3] either one of the sons until he conferred with  
[4] his brother.

[5] Q. Okay. And as a result of that, what,  
[6] if anything, did you then do?

[7] A. We stopped from that room and that  
[8] was around 12:30 a.m. that morning.

[9] Q. What, if anything, did Dominic Coia's  
[10] father do at that point in time?

[11] A. He left. He left the Homicide Unit.

[12] Q. What happened during the course of  
[13] that evening, Detective Watkins? Do you  
[14] eventually speak with either of the Coia sons?

[15] A. Yes.

[16] Q. Tell the Ladies and Gentlemen of the  
[17] Jury, who obviously weren't there, give us the  
[18] circumstances of exactly what happened.

[19] A. At 12:45 a.m. Dominic Coia, who was  
[20] still inside of room A, knocked on the door and  
[21] asked for a cigarette. At that time there were  
[22] cigarettes off to the side counter there. I  
[23] went in and gave him a Marlboro 100, and I lit  
[24] the cigarette for him.

[25] At that time he start talking

[1] to me about what his plans were. I sat down. I  
[2] started to talk to him. He was talking to me  
[3] about going back to school, and he was hoping to  
[4] find a job.

[5] As the conversation was going  
[6] on about that, he said I want to talk to you  
[7] about Jason Sweeney.

[8] Q. And what, if anything, Detective  
[9] Watkins, did you then do as a result of his  
[10] willingness to speak to you?

[11] A. I informed him that I would try to  
[12] get in touch with his father again to let his  
[13] father know that he again wanted to speak with  
[14] us about it.

[15] I conferred with Lieutenant  
[16] Morrin, and I conferred with my partner,  
[17] Detective Mangold, who attempted to contact  
[18] Mr. Coia, and I went back into room A.

[19] Q. Tell us, Detective Watkins, what  
[20] exactly happened. What conversation did you  
[21] have with Dominic Coia about his father and  
[22] where he was living, and why he wanted to speak  
[23] with you?

[24] A. I informed him of -- telling him  
[25] about what his father had just told us in the

[1] room, and he was telling me he no longer lives  
[2] with his father, and when he was -- when he  
[3] would turn 18, he was to leave the house, but he  
[4] left early.

[5] Matter of fact, this was about, <sup>?</sup>  
[6] I believe, ten days before his 18th birthday.  
[7] So he was out of the house at that time, what he  
[8] told us.

[9] Q. Did he tell say where he was living? <sup>Mr. Mandell</sup>  
[10] A. He was living with a grandpop. He  
[11] said he was living on the street, from house to  
[12] house.

[13] Q. Do you remember exactly who he was  
[14] living with, anyone on Crease Street in  
[15] particular?

[16] A. I believe --  
[17] MR. MANDELL: Objection, Your  
[18] Honor.

[19] THE COURT: Sustained.  
[20] Rephrase.

[21] BY MR. CONROY:

[22] Q. Who, if anyone, did he say he was  
[23] living with?

[24] A. Josh Staab.

[25] Q. Detective Watkins, tell us what, if

[1] any, questions -- or strike that.

[2] MR. CONROY: I'm going to ask  
[3] that you take a look at what has been  
[4] marked as Commonwealth Exhibit -- it  
[5] will be marked as C-53, Your Honor.

[6] THE COURT: Very good.

[7] ---  
[8] (C-53 marked for  
[9] identification.)

[10] ---  
[11] THE COURT OFFICER: Your Honor,  
[12] Commonwealth Exhibit C-53 has been so  
[13] mark.

[14] THE COURT: Excellent, thank  
[15] you.

[16] Are you ready?

[17] MR. CONROY: Yes, sir.

[18] THE COURT: Close or ready?

[19] MR. CONROY: Close.

[20] THE COURT: Let me know.

[21] MR. CONROY: Yes, absolutely,  
[22] Your Honor.

[23] THE COURT OFFICER: May I, Your  
[24] Honor?

[25] THE COURT: You may. Thank you.

[1] MS. McDERMOTT: Your Honor, will  
[2] you be giving the same instruction?

[3] THE COURT: I'm going to give it  
[4] at the point he's ready to go into  
[5] this issue, but absolutely, yes.

[6] BY MR. CONROY:

[7] Q. Detective Watkins, do you recognize  
[8] what has been marked as Commonwealth Exhibit  
[9] C-53?

[10] A. Yes, I do.

[11] Q. What do you recognize it to be?

[12] A. This is the written statement of  
[13] Mr. Dominic Coia.

[14] Q. Okay. And, Detective Watkins, you  
[15] indicated that Dominic Coia's father wanted to  
[16] speak with his brother first, correct? <sup>]</sup>

[17] A. That's correct.

[18] Q. Did you respect his wishes?

[19] A. Yes, I did. <sup>← ?</sup>

[20] Q. And just so it is clear, how was it  
[21] -- what was it that brought you to take a formal  
[22] written statement?

[23] Tell the Ladies and Gentlemen  
[24] of the Jury exactly how that transpired.

[25] A. While we were still in the room

[1] Dominic Coia wanted to give a statement.  
[2] Q. Okay. And did you take a statement  
[3] from him?

[4] A. Yes, I did.

[5] Q. And did you question him about what  
[6] his father had wanted him to do?

[7] A. Yes, I did.

[8] MR. CONROY: At this time, Your  
[9] Honor, I think it would be  
[10] appropriate.

[11] THE COURT: Very good.

[12] All right. Ladies and  
[13] Gentlemen, Detective Watkins is  
[14] getting ready to discuss with you an  
[15] interview that he conducted with  
[16] Dominic Coia.

[17] This evidence, if accepted  
[18] by you, is to be used only as against  
[19] Dominic Coia.

[20] I remind you there are three  
[21] citizens on trial, and you will have  
[22] to evaluate the evidence against each  
[23] one of them. Some of the evidence is  
[24] unique. This evidence is unique. It  
[25] must be used only against or on

*(makes full list to)*

[1] behalf of Dominic Coia, all right?

[2] Very good.

[3] MR. CONROY: Thank you.

[4] BY MR. CONROY:

[5] Q. Detective Watkins, taking a look at  
[6] what has been marked as Commonwealth Exhibit  
[7] C-53, do you recognize that document?

[8] A. Yes, I do.

[9] Q. And what do you recognize it to be,  
[10] detective?

[11] A. This is the written statement of  
[12] Dominic Coia.

[13] Q. I'm going to ask you to focus first  
[14] on the first two cover pages of that statement.

[15] What, if anything - what, if  
[16] any, rights did you apprise Dominic Coia of?

[17] What did you inform him of  
[18] before taking a written statement?

[19] A. On the first page on the cover sheet,  
[20] which is a 75-331D, you will notice there is the  
[21] name, the Detectives Watkins and Mangold, and at  
[22] the bottom of this page there are certain rights  
[23] here.

[24] Q. Okay. I want you to tell the Ladies  
[25] and Gentlemen of the Jury, first off, did you

[1] advise Dominic Coia of his constitutional  
[2] rights?

[3] A. Yes, I did.

[4] Q. And, Detective Watkins, how was it  
[5] that you advised him of his rights?

[6] How did you explain them to  
[7] him, and tell us exactly what you did?

[8] A. The first time I advised him his  
[9] rights were in the presence of his father and  
[10] brother. And that was the first time after 12  
[11] o'clock that night.

[12] Q. Okay. And just so that things are in  
[13] proper perspective time order, would it be fair  
[14] to say that shortly after midnight you had  
[15] information that Dominic Coia, Jr. and his  
[16] brother, Nicholas, were involved in Jason's  
[17] death.

[18] A. Yes.

[19] Q. As a result of that, did you advise  
[20] them and their father of their rights?

[21] A. Yes.

[22] Q. How did you do that, Detective  
[23] Watkins?

[24] A. While -- while inside of room A, I  
[25] went over the first two cover sheets, the

[1] 75-331D, which is this one here. I then advised  
[2] the father of the rights on this page. I then  
[3] went over to each one of them, and read each of  
[4] the rights, which are on 75-331E on this page  
[5] here.

[6] Q. Now, I believe that you indicate --  
[7] at that point in time did Dominic Coia -- did he  
[8] understand his rights?

[9] A. Yes.

[10] Q. Did he appear to be -- did he appear  
[11] to you to be under the influence of either drugs  
[12] or alcohol to the extent -- strike that.

[13] Did he appear to you to be  
[14] under the influence of either drugs or alcohol?

[15] A. No.

[16] Q. Did he appear to understand  
[17] everything that you were saying to him?

[18] A. Yes, he did.

[19] Q. When you asked him a question, did he  
[20] respond appropriately? And by that when you  
[21] asked him his name, did he give you his name?

[22] A. Yes.

[23] Q. When you asked him his address, did  
[24] he give you his address?

[25] A. Yes, he did.

[1] Q. Did he give you his home phone  
[2] number?  
[3] A. Yes, he did.  
[4] Q. Detective, you indicated that -- I  
[5] think your testimony was that Dominic Coia, Sr.,  
[6] the father, wanted to talk to his brother. He  
[7] left homicide.  
[8] A. That's correct.  
[9] Q. Do you remember approximately what  
[10] time it was that he left homicide?  
[11] A. I believe it was 12:30 a.m.  
[12] Q. You testified you went into the room  
[13] and Dominic Coia, Jr., the defendant, at the end  
[14] wanted to speak to you --  
[15] A. That's correct.  
[16] Q. He indicated a willingness to discuss  
[17] Jason's death with you; is that correct?  
[18] A. Yes, he did.  
[19] Q. Before taking any written statement,  
[20] what, if anything, did you do?  
[21] A. I again went over the pages and read  
[22] him his rights again.  
[23] Q. And I want you to tell the Ladies and  
[24] Gentlemen of the Jury what rights you advised  
[25] Dominic Coia of at that time. Read them

*Using my answer  
+ please number  
the statements as  
I've done*

[1] slowly. Tell us what rights -- what, if  
[2] anything, you said to him.  
[3] A. Question: Do you understand you have  
[4] the right to keep quiet and do not have to say  
[5] anything at all?  
[6] Answer: Yes.  
[7] Question: Do you understand  
[8] that anything you say can and will be used  
[9] against you?  
[10] Answer: Yes.  
[11] Question three: Do you want to  
[12] remain silent?  
[13] Answer: No.  
[14] Question four: Do you  
[15] understand you have the right to talk with a  
[16] lawyer before we ask you any questions?  
[17] Answer: Yes.  
[18] Question five: Do you  
[19] understand that if you cannot afford to hire a  
[20] lawyer and you want one, we will not ask you any  
[21] questions until a lawyer is appointed for you  
[22] free of charge?  
[23] Answer: Yes.  
[24] Question six: Do you want to  
[25] talk with a lawyer at this time, or to have a

[1] lawyer with you while we ask you questions?  
[2] Answer: No.  
[3] Question seven: Are you  
[4] willing to answer questions of your own free  
[5] will without force or fear and without any  
[6] threats or promises having been made to you?  
[7] Answer: Yes.  
[8] Q. And, after being advised of those  
[9] rights, did Dominic Coia in any way acknowledge  
[10] those rights, that he understood those rights?  
[11] A. Yes, he did.  
[12] Q. And in what way? Who filled in the  
[13] answers, who initialed them, who signed the  
[14] page, et cetera?  
[15] A. I filled the answers. He initialed  
[16] after each of the answers, and then he signed  
[17] the bottom of the page and placed a time next to  
[18] it.  
[19] Q. Can you indicate for the Ladies and  
[20] Gentlemen of the Jury where it was?  
[21] A. (Indicating.)  
[22] Q. And the time that he indicated?  
[23] A. 1:11 a.m.  
[24] Q. Okay. So he initialed and signed?  
[25] A. Yes.

[1] Q. By the way, if I may back up  
[2] originally to the first page, the first time you  
[3] warned him, right before this, did you provide  
[4] him with additional warnings before even having  
[5] that page signed?  
[6] A. Yes, I did.  
[7] Q. And if I may, detective, what, if  
[8] anything, at that time did you tell Dominic?  
[9] What is it that he wanted to talk about? What  
[10] is it that you were discussing?  
[11] A. The death of Jason Sweeney.  
[12] Q. Okay. And what rights did you advise  
[13] him of, again, before taking any statement from  
[14] him?  
[15] A. A, you have a right to remain silent  
[16] and do not have to say anything at all.  
[17] B, anything you say can and  
[18] will be used against you in Court.  
[19] C, you have a right to talk to  
[20] a lawyer of your own choice before we ask you  
[21] any questions, and also have a lawyer here with  
[22] you while we ask questions.  
[23] D, if you cannot afford to hire  
[24] a lawyer and you want one, we will see that you  
[25] have a lawyer provided to you free of charge



[1] before we ask you any questions.  
 [2] E, if you are willing to give  
 [3] us a statement, you have a right to stop any  
 [4] time you wish.  
 [5] Q. And did the defendant, after being  
 [6] advised of those rights – again, Detective  
 [7] Watkins, they were given right before the  
 [8] previous warnings that you have just testified  
 [9] to, correct?  
 [10] A. That's correct.  
 [11] Q. And did the defendant, Dominic Coia,  
 [12] appear to understand his rights?  
 [13] A. Yes, he did.  
 [14] Q. Detective Watkins, did he acknowledge  
 [15] that he understood these rights?  
 [16] A. Yes, he did.  
 [17] Q. How did he do that?  
 [18] A. Again, he signed at the bottom and  
 [19] put the time next to his signature.  
 [20] Q. And the time was?  
 [21] A. 1:05 a.m.  
 [22] Q. After you advised Dominic Coia, Jr.  
 [23] of all of the respective constitutional rights  
 [24] that you have told the Ladies and Gentlemen of  
 [25] the Jury, was he willing to talk with you,

[1] Detectives Watkins?  
 [2] A. Yes, he was.  
 [3] Q. And when he spoke to you, did you  
 [4] memorialize this statement that you took?  
 [5] A. Yes, I did.  
 [6] Q. Was it – did you write down a  
 [7] summary of what he said or was it a verbatim  
 [8] account?  
 [9] A. It was a verbatim statement.  
 [10] Q. How did you do it? Was it question  
 [11] and answer?  
 [12] A. Question and answer.  
 [13] Q. Okay. Detective, I'm going to ask  
 [14] you to refer now to the actual taking of the  
 [15] statement. Taking a look at that. I want you  
 [16] to refer to the body of the statement. And can  
 [17] you read the question that you asked of Dominic  
 [18] Coia and what, if any, response he gave to you?  
 [19] A. Question: Dominic, earlier on 6-3-03  
 [20] at 12:05 a.m. Detective Mangold and I were in  
 [21] the same room, room A, with you, and your  
 [22] father; is that correct?  
 [23] Answer: Yes.  
 [24] Question: Dominic, at that  
 [25] time your father stated that he didn't want you

[1] to talk until he talked to his brother; is that  
 [2] correct?  
 [3] Answer: Yes.  
 [4] Yes: Dominic, at about  
 [5] 12:45 a.m. I gave you a cigarette, Marlboro 100,  
 [6] and while we were talking about you going to  
 [7] school and working, you told me that you wanted  
 [8] to tell me what happened; is that correct?  
 [9] Answer: Yes.  
 [10] Question: Dominic, do you  
 [11] fully understand that you do not have to talk to  
 [12] us at all about what happened to Jason Sweeney?  
 [13] Answer: Yes.  
 [14] Question: Dominic, are you  
 [15] willing to talk with us about what happened to  
 [16] Jason Sweeney without your father present?  
 [17] Answer: Yes.  
 [18] Dominic, did I or Detective  
 [19] Mangold force you or promise you anything to  
 [20] give your statement?  
 [21] Answer: No.  
 [22] Question: Do you fully  
 [23] understand your rights as I read them to you?  
 [24] Answer: Yes. Absolutely.  
 [25] Question: Dominic, can we get

[1] you anything before we begin?  
 [2] Answer: I would like a soda.  
 [3] He was given a Sprite soda,  
 [4] 1:27 a.m.  
 [5] Question: Dominic, how far did  
 [6] you go in school?  
 [7] Answer: Tenth grade.  
 [8] Question: Do you read, write,  
 [9] and understand the English language?  
 [10] Answer: Yes.  
 [11] Question: Are you presently  
 [12] under the influence of any alcohol or drugs?  
 [13] Answer: No.  
 [14] Question: Dominic, in your own  
 [15] words, tell me what you know about the death of  
 [16] Jason Sweeney.  
 [17] Answer: On Friday, May 30th, I  
 [18] was sitting in April's house with Tina. April  
 [19] gave me an ultimatum to either go with her or  
 [20] Tina. I left with Tina.  
 [21] Me and Tina went to another  
 [22] person's house. We hung out in the basement.  
 [23] We must have listened to Helter Skelter about 42  
 [24] times.  
 [25] During this time in the

[1] basement, another person and Tina were trying to  
[2] reach Sweeney. They reached him, and Sweeney  
[3] said he was still at work.

[4] At about 4:30 or five, Sweeney  
[5] called and said he was out of the shower. I'm  
[6] pretty sure Tina was talking to Sweeney.

[7] Tina went to go meet Sweeney.  
[8] Me and the others went to an area we call the  
[9] trails. We stayed in the bushes, putting on  
[10] latex gloves, waiting for Tina to bring Sweeney  
[11] up to the trails.

[12] We then saw Tina and Sweeney  
[13] walking up the trails. That is when we put on  
[14] the gloves. Then we didn't know where they  
[15] went. We couldn't find them at all.

[16] See, we were hiding in the  
[17] bushes putting on the gloves and we lost sight  
[18] of Tina and Sweeney.

[19] We then went to Josh's  
[20] grandpop's to use his phone, because we knew  
[21] Tina had a cell phone. We started to drink Rock  
[22] and Rye when we went to Josh's grandpop's.

[23] I don't remember who got Tina  
[24] on the phone, but she was mad saying we bitched  
[25] out and that we ditched her. It was a mutual

[1] decision, but we told Tina to get Sweeney back  
[2] up the trails.

[3] Unfortunately, Sweeney was  
[4] foolish to go back up the trails with Tina.

[5] Me and the others rushed back  
[6] up the trails, and we sat in the bushes  
[7] waiting.

[8] One person decided they were  
[9] going to hit Sweeney first.

[10] When we finally seen Sweeney  
[11] and Tina. Tina had her pants off. We then got  
[12] up our courage to do what we did. When we came  
[13] out of the bushes, Sweeney said: What are you  
[14] guys doing up here? I looked down at Tina and  
[15] told her I knew she had skinny legs.

[16] A person counting down to one;  
[17] three, two, one, and hit Sweeney in the face  
[18] with a hatchet. And I followed up with a  
[19] brick. Sweeney was like in a daze or like a  
[20] stupor.

[21] Me and the other person  
[22] continued hitting Sweeney until he was on the  
[23] ground. I was hitting -- hitting him with a  
[24] brick and the other person was hitting him with  
[25] the hatchet. Sweeney was trying to get up and

[1] run, and another person hit Sweeney in the head  
[2] with a bolder. There was blood pouring out of  
[3] Sweeney at this time.

[4] Then it was me and another  
[5] person on him until Sweeney died. I was hitting  
[6] Sweeney with a hammer now, and the other person  
[7] was hitting him with a hatchet. We just kept  
[8] hitting and hitting him.

[9] We took Sweeney's wallet and  
[10] split up the money, and then we partied beyond  
[11] redemption. We all went back to Josh's  
[12] grandpop's after. That is where we split the  
[13] money. We all then went and got high. I  
[14] brought heroin, pot, and Xanax.

[15] Question: What is April's full  
[16] name?

[17] Answer: April Constance  
[18] Morley.

[19] Question: Where did April  
[20] live?

[21] Answer: Palmar Street. I  
[22] don't remember the address.

[23] Question: What is Tina's full  
[24] name?

[25] Answer: Tina Morley.

[1] Question: What is Josh's full  
[2] name?

[3] Answer: Joshua Staab.

[4] Question: Where does Joshua  
[5] Staab -- Joshua's grandpop live?

[6] Answer: 1117 Crease Street.

[7] Question: Dominic, why did you  
[8] and the others beat Jason Sweeney to death?

[9] Answer: Money.

[10] Question: How many days prior  
[11] to this beating did you plan to do this to Jason  
[12] Sweeney?

[13] Answer: About two days before.

[14] Question: Whose idea was it to  
[15] do this to Jason Sweeney?

[16] Answer: I believe the others  
[17] and Tina.

[18] Question: What did you use to  
[19] beat Jason Sweeney?

[20] Answer: Hammer, hatchet, and  
[21] bricks.

[22] Question: What did you do with  
[23] the hammer and hatchet?

[24] Answer: Put them in a sewer.

[25] The other person will know what sewers. We also

[1] put our clothes in the sewer.  
 [2] **Question:** How many sewers?  
 [3] **Answer:** At least three.  
 [4] **Question:** Did you get any  
 [5] blood on your clothes?  
 [6] **Answer:** Not that I know of.  
 [7] **Question:** Dominic, how much  
 [8] money did you get from Jason Sweeney?  
 [9] **Answer:** A hundred and 25  
 [10] dollars each.  
 [11] **Question:** Was Tina there when  
 [12] you and the others were beating Jason Sweeney?  
 [13] **Answer:** Yes. She took him  
 [14] there. She was the bait to get Sweeney there.  
 [15] **Question:** Did Tina get any of  
 [16] the money?  
 [17] **Answer:** She got a hundred and  
 [18] 25 dollars also.  
 [19] **Question:** What did you do  
 [20] after the beating of Jason Sweeney?  
 [21] **Answer:** A group hug. It was  
 [22] like -- it was like we were happy what we did.  
 [23] **Question:** Dominic, were any of  
 [24] you high on drugs during this beating of Jason  
 [25] Sweeney?

[1] **Answer:** No. I was as sober as  
 [2] I am now. It is sick, isn't it?  
 [3] **Question:** Dominic, how many  
 [4] times did you hit Jason Sweeney with the brick  
 [5] and hammer?  
 [6] **Answer:** I don't know how many  
 [7] times, but it was a whole lot.  
 [8] **Question:** What did Jason  
 [9] Sweeney say when he was getting beat?  
 [10] **Answer:** I'm bleeding. And he  
 [11] said to Tina, "you set me up."  
 [12] **Question:** Dominic, is there  
 [13] anything else I can get you at this time,  
 [14] 2:21 a.m.?  
 [15] **Answer:** I'm absolutely fine at  
 [16] this time.  
 [17] **Question:** Dominic, is there  
 [18] anything else you want to tell us about the  
 [19] beating of Jason Sweeney?  
 [20] **Answer:** No.  
 [21] **Question:** Dominic, how were  
 [22] you treated during this statement?  
 [23] **Answer:** More civil than  
 [24] outside. I was treated great. It was good to  
 [25] talk to you about what happened.

[1] **Question:** Dominic, were you  
 [2] told before this statement that you can call and  
 [3] talk to your father and have him present; is  
 [4] that correct?  
 [5] **Answer:** Yes. I told you I  
 [6] didn't want to talk to my father again. I  
 [7] wanted to tell you what happened, and now I feel  
 [8] good I told you what happened.  
 [9] **Question:** Dominic, you just  
 [10] stated to us that you have been living on your  
 [11] own for the last four days. What do you mean by  
 [12] that?  
 [13] **Answer:** My dad told me I had  
 [14] to leave on the 13th, my 18th birthday. So I  
 [15] left early. I was on my own for four days.  
 [16] **Question:** When did you leave  
 [17] your dad's house?  
 [18] **Answer:** Two weeks ago is when  
 [19] he told me that. I left Wednesday that just  
 [20] past.  
 [21] **Question:** Where are the trails  
 [22] you described?  
 [23] **Answer:** It is an open area to  
 [24] the left of Penn Treaty Park.  
 [25] **Q.** Is that the end of the statement?

[1] **A.** Yes, it is.  
 [2] **Q.** What time did that complete,  
 [3] detective?  
 [4] **A.** 2:30 a.m.  
 [5] **Q.** Detective Watkins, was Dominic Coia  
 [6] afforded the opportunity to review that  
 [7] statement, make any corrections if he wanted to?  
 [8] **A.** Yes, he was.  
 [9] **Q.** Did he review the statement?  
 [10] **A.** Yes, he did.  
 [11] **Q.** And, to the best of your knowledge,  
 [12] do you know if there were any corrections that  
 [13] he made?  
 [14] **A.** Yes. There were two corrections.  
 [15] **Q.** After reviewing the statement, making  
 [16] the appropriate corrections, did he acknowledge  
 [17] the statement in any way?  
 [18] **A.** Yes, he did.  
 [19] **Q.** Okay. Did he sign pages?  
 [20] **A.** Yes. He signed the bottom of each  
 [21] page.  
 [22] **Q.** Okay. And that was in your presence,  
 [23] detective?  
 [24] **A.** Yes, it was.  
 [25] **Q.** Detective, are the words that you

[1] read to the Ladies and Gentlemen of the Jury the  
[2] exact words that Dominic Coia stated to you in  
[3] response to the questions you asked?

[4] A. Yes, they are.

[5] Q. Detective, during the course of this  
[6] statement, were there any threats by either  
[7] yourself or anyone else in the Homicide Unit in  
[8] exchange for him to give this statement?

[9] A. None.

[10] Q. And by, "threats," Detective Watkins,  
[11] I mean any physical threats, any verbal threats,  
[12] or any coercion, or threatening manner, behavior  
[13] in any manner?

[14] A. No, none at all.

[15] Q. Detective Watkins, were there any  
[16] promises made to Dominic Coia that -- any  
[17] promises whatsoever, any type of inducements to  
[18] get him to talk about the Jason Sweeney killing?

[19] A. No promises at all.

[20] Q. Detective, after taking that  
[21] statement from the defendant, Dominic Coia, that  
[22] you memorialized as Exhibit C-53, did you  
[23] recover any physical evidence from Dominic Coia?

[24] A. Yes, we did.

[25] Q. Okay. Tell us about the

[1] circumstances of that. Why did you do it? What  
[2] did you recover?

[3] A. We recovered his boots that he had on  
[4] him that morning, and my partner had stated that  
[5] he believe he had saw blood on the boots.

[6] Q. Okay. As a result of that, did you  
[7] recover them?

[8] A. Yes, we did.

[9] MR. CONROY: Your Honor, I'll  
[10] show -- with the Court's permission,  
[11] I will just hold up what has  
[12] previously been marked as  
[13] Commonwealth Exhibit C-46A and B.

[14] THE COURT: Correct.

[15] BY MR. CONROY:

[16] Q. Taking a look at what has been marked  
[17] as C-46A and B, do you recognize these?

[18] A. Yes.

[19] Q. What do you recognize them to be,  
[20] detective?

[21] A. They are the boots I took off of  
[22] Dominic Coia.

[23] Q. When you first met Dominic Coia in  
[24] homicide the late evening hours of Monday the  
[25] 2nd of June 2003, where were these in relation

[1] to Dominic Coia?

[2] A. On his feet.

[3] Q. He was wearing them?

[4] A. Yes.

[5] Q. Okay. After you recovered them,  
[6] Detective Watkins, tell me what the procedure is  
[7] -- strike that.

[8] What purpose did you and your  
[9] partner have when recovering the boots?

[10] A. To have -- to send them to the lab to  
[11] be analyzed and make sure that that is in fact  
[12] blood. And, if it is blood, to be compared to  
[13] other blood that was recovered in this  
[14] investigation.

[15] Q. Okay. Did you place those items on a  
[16] property receipt?

[17] A. Yes, we did.

[18] Q. Is that standard operating procedure?

[19] A. Yes, it is.

[20] MR. CONROY: At this time, Your  
[21] Honor, I believe the next  
[22] Commonwealth Exhibit would be C-54.

[23] THE COURT: Very good. C-54.

[24] ---

[25] (C-54 marked for

[1] identification.)

[2] ---

[3] MR. CONROY: Judge, matter of  
[4] fact, I'm going to have that property  
[5] receipt marked as Commonwealth  
[6] Exhibit C-54, and there is also an  
[7] additional document, which I will  
[8] make mention to, which is C-55.

[9] THE COURT: Okay.

[10] MR. CONROY: Copies previously  
[11] provided for counsel, and I have an  
[12] extra copy for the Court and the  
[13] Reporter as well.

[14] THE COURT: Very good.

[15] ---  
[16] (C-55 marked for  
[17] identification.)

[18] ---

[19] THE COURT OFFICER: C-54, Your  
[20] Honor. C-55.

[21] THE COURT: Okay.

[22] THE COURT OFFICER: Your Honor,  
[23] Commonwealth Exhibit C-54 and C-55  
[24] have been so marked.

[25] May I?

[1] THE COURT: You may.  
 [2] BY MR. CONROY:  
 [3] Q. Taking a look, Detective Watkins, at  
 [4] what has been marked as Commonwealth Exhibit  
 [5] C-54. Do you recognize that document?  
 [6] A. Yes, I do.  
 [7] Q. And, Detective Watkins, what do you  
 [8] recognize that document to be?  
 [9] A. This is the property receipt that I  
 [10] typed up for the boots that were recovered from  
 [11] Dominic Coia.  
 [12] Q. And tell us what happened after you  
 [13] placed that on a property receipt. Where did  
 [14] you submit it, and what request did you make of  
 [15] that?  
 [16] A. Submitted them to the Criminalistics  
 [17] Lab. Please analyze the above boots for any  
 [18] blood.  
 [19] Q. Okay. Real quick, I just provided  
 [20] counsel with a copy. Would it be fair to say  
 [21] that C-54 is an accurate photostatic copy of the  
 [22] property receipt that you prepared in regard to  
 [23] the boots that you took from Dominic Coia?  
 [24] A. Yes, it is.  
 [25] Q. Okay. And the number is stated on

[1] there.  
 [2] Detective, after those items  
 [3] were recovered, did you have occasion at some  
 [4] point in time to have any interaction with the  
 [5] defendant, Nicky Coia, Dominic Coia's brother?  
 [6] A. Yes, I did.  
 [7] Q. Can you tell us the circumstances --  
 [8] again the Ladies and Gentlemen of the Jury  
 [9] weren't there that evening. Tell us the  
 [10] following morning what contact you had with  
 [11] Defendant Dominic Coia, and the circumstance and  
 [12] what, if anything, he said.  
 [13] A. As I first stated, my first initial  
 [14] contact with Dominic Coia was in room A, and  
 [15] that was in there with his father and his  
 [16] brother.  
 [17] Later on, Dominic was also  
 [18] sitting outside of the homicide area, room A,  
 [19] out at a secretary's area.  
 [20] The next morning, when I came  
 [21] in to work, it was about 11:30 a.m. I was told  
 [22] by other squad people that were there that they  
 [23] have been knocking on the door to eat.  
 [24] I then went into room number --  
 [25] Room C in the Homicide Unit, and Nicholas Coia

[1] was in that room with the others.  
 [2] Q. And can you tell us what, if  
 [3] anything, happened at that time?  
 [4] A. Yes. I went down, and I got from our  
 [5] cell room a cheese sandwich for each one of them  
 [6] and an ice tea.  
 [7] When I came back, Nicholas Coia  
 [8] again had said to me that he wanted to speak  
 [9] with me about what happened; that we had spoke  
 [10] to the others, and that no one had spoke with  
 [11] him, and that all he did was throw a rock on  
 [12] Sweeney.  
 [13] Q. Okay. So he wanted to give you a  
 [14] statement?  
 [15] A. Yes.  
 [16] Q. Did you take one?  
 [17] A. No.  
 [18] Q. Why not, Detective Watkins?  
 [19] A. Because the night before, when we  
 [20] were in the room with all -- Detective Mangold,  
 [21] and I, the father, Mr. Coia, Dominic Coia, and  
 [22] Nicholas Coia, the father, who originally had  
 [23] stated that he -- let Nicholas give a statement  
 [24] in his presence, had told us that he did not  
 [25] want us to take anything from him.

[1] Q. Indicating Nicky Coia?  
 [2] A. Nicky Coia.  
 [3] Q. Did you respect his wishes?  
 [4] A. Yes.  
 [5] Q. Did you take a written statement from  
 [6] him?  
 [7] A. No, I did not.  
 [8] Q. But did he want to talk to you?  
 [9] A. Yes, he did.  
 [10] Q. What was Nicky Coia saying to you?  
 [11] A. He was saying to me he wanted me to  
 [12] take his statement, because the statements were  
 [13] taken from the others, and all he did was throw  
 [14] a rock on Sweeney, and no one has talked to  
 [15] him.  
 [16] And I informed him of why we  
 [17] didn't take a written statement from him.  
 [18] Q. What was his demeanor when he tells  
 [19] you he wants to take a statement?  
 [20] A. He seemed almost excited, like come  
 [21] on, talk to me, let me tell you. You talked to  
 [22] the other ones. Talk to me. All I did was  
 [23] throw a rock.  
 [24] Q. That is what he said to you?  
 [25] A. Yes.

[1] Q. Did you take a statement from him?  
[2] A. No, I did not.  
[3] Q. You assented to his father's wishes?  
[4] A. Yes, I did.

[5] MR. CONROY: Court's indulgence,  
[6] Your Honor, please.

[7] THE COURT: Certainly.

[8] MR. CONROY: Your Honor, at this  
[9] time I have no further questions of  
[10] Detective Watkins.

[11] THE COURT: Very good.

[12] Mr. Mandell, any questions  
[13] of Detective Watkins?

[14] MR. MANDELL: I certainly do, if  
[15] I may.

[16] THE COURT: You may.

[17] ---  
[18] CROSS EXAMINATION  
[19] ---

[20] BY MR. MANDELL:

[21] Q. Good afternoon, Detective Watkins.

[22] A. Good afternoon, sir.

[23] Q. How are you today?

[24] A. Fine. Thank you.

[25] Q. Good. Let's go back, if we can,

[1] to -- I think you said it was approximately  
[2] 11:30 or 11:45 p.m. on June 2nd when you first  
[3] came into contact with Dominic Coia together  
[4] with your partner.

[5] Am I just about correct on the  
[6] time frame there?

[7] A. That's correct, sir.

[8] Q. Now, you, of course, were aware that  
[9] Dominic had been at homicide headquarters since  
[10] around 8:30 earlier that evening; would that be  
[11] fair to say?

[12] A. Yes, sir.

[13] Q. And that is reflected on the  
[14] statement that has been marked as C-53, isn't  
[15] it?

[16] A. Yes, sir.

[17] Q. And, in fact, you also knew, I take  
[18] it, that when you went in to see him that he had  
[19] previously been interviewed by Detective Burns I  
[20] believe it was; is that correct?

[21] A. Yes, sir.

[22] Q. Now, my understanding from your  
[23] testimony a few moments ago was that when you  
[24] went into the room the defendant, Dominic Coia,  
[25] was there, his brother Nicky was there, their

[1] father Dominic, Sr. was there, and of course you  
[2] and Detective Mangold were there.

[3] A. Yes, sir.

[4] Q. And the father, Dominic, Sr.,  
[5] indicated to you that he did not want you to  
[6] talk to either Dominic, Jr. or Nicky until he at  
[7] least had an opportunity to talk to his,  
[8] Dominic, Sr.'s, brother; is that correct?

[9] A. That's correct. He wanted to talk to  
[10] his brother, that is correct.

[11] Q. Now, if I understood your testimony  
[12] earlier, he left homicide shortly thereafter,  
[13] would that be correct?

[14] A. Yes, sir.

[15] Q. Did he give you any indication as to  
[16] when he expected to talk to his brother?

[17] A. No, sir.

[18] Q. Did he ever give you the name of the  
[19] brother?

[20] A. No, sir.

[21] Q. When the father left, Dominic  
[22] remained -- Dominic, Jr. remains in interview  
[23] room A. Nicky is, I take it, moved to room C?

[24] A. No.

[25] Q. He's moved out of room A.

[1] A. Yes. He's moved out of room A, but  
[2] not placed in another room at that time.

[3] Q. So Dominic is alone in A.

[4] A. Correct.

[5] Q. Now, you told us earlier that when  
[6] the father gave you that information that he  
[7] didn't want you talking to Dominic, Jr. or Nicky  
[8] until he talked to his brother, you said that  
[9] you respected his wishes; is that correct?

[10] A. Yes.

[11] Q. And by doing that, you left the room,  
[12] you and Detective Mangold, and left Dominic in  
[13] the room by himself.

[14] A. Correct.

[15] Q. Now, at this point I take it that  
[16] Dominic was not free to leave; is that correct?

[17] A. I don't believe at that time, no,  
[18] sir, he was not.

[19] Q. All right. As of that point, that is  
[20] when the father has already left and you leave  
[21] Dominic in the room alone, had he already been  
[22] given the warnings for the first time?

[23] A. Yes. I had went over the warnings  
[24] with them all present at that time, yes, the  
[25] first time.

[1] Q. Now, you indicated to us that  
[2] sometime shortly after the father leaves,  
[3] Dominic knocks on the door, or at least makes an  
[4] attempt to talk to you in some respect about a  
[5] cigarette?

[6] A. He knocks on the door.

[7] Q. Okay. And that is when you told us  
[8] that he asked for a cigarette, which you gave  
[9] him?

[10] A. (Indicating.)

[11] Q. Did I understand you to say then that  
[12] after giving him the cigarette you engaged him  
[13] in some conversation concerning his future and  
[14] his future plans?

[15] A. Yes. He started talking to me about  
[16] that.

[17] Q. And that is inside room A?

[18] A. Yes, sir.

[19] Q. And, it is just you and he in there?

[20] A. Yes.

[21] Q. And during the course of this  
[22] conversation, which if I understand you  
[23] correctly, he initiates; is that correct?

[24] A. Yes.

[25] Q. During the course of this

[1] conversation, he indicates a desire to talk to  
[2] you?

[3] A. That's correct.

[4] Q. Now, I want to go back for a moment.  
[5] When you told us that you respected his father's  
[6] wishes not to talk to him until the father spoke  
[7] to his brother, why did you do that?

[8] A. Well, you know, after -- I went back  
[9] into the room, and going back to the original  
[10] part of this of when I sat with the father, the  
[11] father, we could see that he was more concerned  
[12] about Nicholas.

[13] But that time was also when the  
[14] father said: I don't care about him. My  
[15] concern is him, pointing to Nicholas.

[16] So having that, going back in  
[17] and talking about how persistent, we again  
[18] attempted to call his father, which we weren't  
[19] able to do.

[20] Q. When you were initially told by the  
[21] father not to talk to either Dominic, Jr. or  
[22] Nicky, you said you respected his wishes.

[23] A. That's correct.

[24] Q. Would I be correct that you respected  
[25] his wishes because the law does not allow you to

[1] talk to a juvenile if a parent or interested  
[2] adult does not allow you to do so?

[3] A. That's correct, sir.

[4] Q. All right. So, you honor the  
[5] father's wishes. And then Dominic engages you  
[6] in conversation, and expresses an interest at  
[7] least to speak to you further.

[8] A. That's correct.

[9] Q. Now, at that point -- did you advise  
[10] him at that point that his father had said he  
[11] should not talk to you until such time as the  
[12] father checked with or did something with his  
[13] brother? Did you say that to him again at that  
[14] point?

[15] A. I don't believe I said it at that  
[16] point, no. I don't believe he was aware of  
[17] that.

[18] Q. Was Dominic, by the way, Dominic,  
[19] Jr., present when his father indicated you  
[20] should not talk to him until he, Dominic, Sr.,  
[21] talked to him Dominic, Sr.'s brother?

[22] A. I believe so. I believe that was  
[23] said in the room, and then Mr. Coia and I had  
[24] left the room after this. So I believe yes.

[25] Q. So now, when Dominic, Jr. indicates a

[1] desire to talk to you, you now engage him in  
[2] some conversation regarding his rights; is that  
[3] correct?

[4] A. Yes.

[5] Q. And you make a determination that you  
[6] are going to interview him, even though his  
[7] father had previously told you not to do that?

[8] A. Yes, I did.

[9] Q. Now, you mentioned just a moment ago  
[10] in answer to another question that at some point  
[11] the father, Dominic, Sr., said something to you  
[12] to the effect that he didn't care about Dominic,  
[13] Jr. He was concerned about Nicky. Is that  
[14] correct?

[15] A. Yes, he did.

[16] Q. When did that take place?

[17] A. That was while we were inside room A.

[18] Q. In the presence of both Dominic, Jr.  
[19] and Nicky?

[20] A. Yes.

[21] Q. During the course of the taking of  
[22] the statement, C-53, Dominic obviously is in the  
[23] room. You are obviously in the room with him.  
[24] And Detective Mangold I take it is also in the  
[25] room?

[1] A. Yes, sir.  
 [2] Q. Are you doing the questioning and the  
 [3] recording both?  
 [4] A. Yes, until the end.  
 [5] Q. I'll get to that in a moment.  
 [6] A. Okay.  
 [7] Q. Now, I notice that if you look at  
 [8] page three of the interview, about halfway down  
 [9] the page there is a question that says:  
 [10] Dominic, in your own words tell me what you know  
 [11] about the death of Jason Sweeney.  
 [12] Do you see that?  
 [13] A. Yes, sir.  
 [14] Q. And then the answer goes on for the  
 [15] remainder of that page, all of the next page,  
 [16] and approximately half of the following page;  
 [17] does that appear to be correct?  
 [18] A. Yes, sir.  
 [19] Q. Now, I take it you are not a speed  
 [20] writer.  
 [21] A. No, sir.  
 [22] Q. Would it be correct to say then that  
 [23] this answer was broken up in some fashion. And  
 [24] by that I mean that certain things are said.  
 [25] You tell him to stop while you are writing. You

[1] catch up, and you tell him to continue?  
 [2] Did it basically go like that?  
 [3] A. Sometimes I may have told him to slow  
 [4] down while I caught up to the writing, yes.  
 [5] Q. I want you to look -- well, before  
 [6] you get to that. Look at page eight of the  
 [7] interview, if you would.  
 [8] A. (Witness complies.)  
 [9] Q. The first question asks: Dominic,  
 [10] were any of you high on drugs during this  
 [11] beating of Jason Sweeney?  
 [12] And the answer that is given  
 [13] is: No, I am was sober as I am now. It is  
 [14] sick, isn't it.  
 [15] Did I read it correctly?  
 [16] A. Yes.  
 [17] Q. Why did you ask him that question?  
 [18] A. Why did I ask him that question?  
 [19] Q. Yes.  
 [20] A. After I found out about the beating  
 [21] that this young man took, I was concerned if  
 [22] these individuals may have been high on  
 [23] something to do this beating.  
 [24] Q. Did you have any specific information  
 [25] that anyone involved in this incident had

[1] consumed either alcohol or drugs of some sort?  
 [2] A. Not that I recall, no, sir.  
 [3] Q. Now, looking at page nine of the  
 [4] interview, the first question and answer, that  
 [5] is in your handwriting, is it not?  
 [6] A. Yes, sir.  
 [7] Q. And then I notice that there is a  
 [8] distinct change in the handwriting, and that  
 [9] would be when Detective Mangold takes over the  
 [10] writing?  
 [11] A. Yes, sir.  
 [12] Q. Was there any interruption in the  
 [13] interrogation at that point other than just a  
 [14] shift in who's doing the writing?  
 [15] A. Not that I recall, no.  
 [16] Q. Any specific reason why he started  
 [17] writing other than you had a cramp or something?  
 [18] A. No, I didn't have a cramp.  
 [19] Actually there are questions  
 [20] that I didn't ask that Detective Mangold asked  
 [21] and he wrote them down.  
 [22] Q. Now, going back to page four for a  
 [23] moment, try and follow me on this, if you  
 [24] can. This is part of that lengthy answer in  
 [25] which Dominic is explaining what happened.

[1] Going down a little less than halfway in that  
 [2] answer on page four there is a line which  
 [3] begins: We started to drink Rock and Rye.  
 [4] Do you see that?  
 [5] THE COURT: It is about ten  
 [6] lines down.  
 [7] THE WITNESS: Yes.  
 [8] MR. MANDELL: It is actually  
 [9] exactly ten. That is pretty good.  
 [10] BY MR. MANDELL:  
 [11] Q. Now, you will forgive me, but did you  
 [12] understand what he meant by, "Rock and Rye"?  
 [13] A. Absolutely.  
 [14] Q. What is it?  
 [15] A. Rock and Rye is made by Jacquins. It  
 [16] is a type of -- I call it like a fruit liquor.  
 [17] Inside of the bottle you also have oranges and  
 [18] grapes and things of that -- inside of the  
 [19] bottle itself.  
 [20] It was an old saying about Rock  
 [21] and Rye where they he would use it for a cold  
 [22] remedy. But, yes, I did know exactly what he  
 [23] was talking about.  
 [24] Q. It is some type of an intoxicating  
 [25] alcoholic beverage of some sort?



[1] A. I guess you could say that, yes.  
 [2] Q. Now, I notice that there is no  
 [3] indication either in that answer or any  
 [4] follow-up questions by you as to how much either  
 [5] Dominic, Jr. or anybody else consumed, was  
 [6] there?  
 [7] A. No, there was not, sir.  
 [8] Q. And just so I'm clear, it does  
 [9] indicate in that or on that line rather the  
 [10] sentence begins, "we started to drink," rather  
 [11] than just, "I started to drink."  
 [12] A. That's correct sir.  
 [13] Q. So, would it be fair to say that --  
 [14] going back to that question I asked you earlier,  
 [15] that is on page eight: Dominic, were any of you  
 [16] high on drugs during this beating of Jason  
 [17] Sweeney? You had at least some indication that  
 [18] there was some consumption of at least alcohol  
 [19] to some extent prior to the actual incident  
 [20] taking place?  
 [21] A. Yes, sir.  
 [22] Q. Going down a couple lines below that  
 [23] line that we talked about a moment ago on page  
 [24] four, concerning the drinking of Rock and Rye,  
 [25] there is a sentence which begins -- actually the

[1] line right below it. "I don't remember who got  
 [2] Tina on the phone, but she was mad, saying we  
 [3] bitched out and that we ditched her."  
 [4] Do you see that?  
 [5] A. Yes, sir.  
 [6] Q. Those were Dominic's exact words?  
 [7] A. Yes, sir.  
 [8] MR. MANDELL: Your Honor,  
 [9] indulge me a moment.  
 [10] THE COURT: Sure.  
 [11] BY MR. MANDELL:  
 [12] Q. Jumping forward a little bit in time,  
 [13] maybe I misunderstood this, maybe I didn't,  
 [14] maybe you can clarify it.  
 [15] You told us that you came back  
 [16] on duty in the morning. I take it that would be  
 [17] the morning of June 3rd about 11:30 a.m.?  
 [18] A. No. I was back in homicide about  
 [19] 11:30 a.m., that's correct.  
 [20] Q. And at that point was the defendant,  
 [21] Dominic Coia, still there?  
 [22] A. Yes, sir.  
 [23] Q. Still in interview room A?  
 [24] A. C.  
 [25] Q. C, I'm sorry.

[1] MR. MANDELL: Indulge me one  
 [2] last time.  
 [3] THE COURT: Sure.  
 [4] BY MR. MANDELL:  
 [5] Q. Just one or two more things.  
 [6] Going to the -- going to page  
 [7] five for a moment, about maybe three-quarters of  
 [8] the way down, there is a question that reads --  
 [9] Well, first the question says:  
 [10] What is April's full name?  
 [11] And there is an answer given.  
 [12] And the following question:  
 [13] Where does April live?  
 [14] And the answer is: Palmer  
 [15] Street. I don't remember the address.  
 [16] Do you see that?  
 [17] A. Yes, sir.  
 [18] Q. Now, this is the same April Morley  
 [19] that was being referred to earlier in the  
 [20] statement about that ultimatum of some sort?  
 [21] A. Yes, sir.  
 [22] Q. And that ultimatum apparently was  
 [23] delivered while he was in April's house?  
 [24] A. That is what it appears.  
 [25] Q. But he doesn't even know the address?

[1] A. Correct.  
 [2] Q. I want you to turn to -- just bear  
 [3] with me, I'm having a problem finding the  
 [4] question I'm looking for.  
 [5] THE COURT: No problem.  
 [6] MR. MANDELL: Yes. I'm sorry.  
 [7] I got it.  
 [8] THE COURT: Which page?  
 [9] MR. MANDELL: Page five.  
 [10] BY MR. MANDELL:  
 [11] Q. The end of that long answer, about  
 [12] four lines up it says: We partied beyond  
 [13] redemption. Those were Dominic's words?  
 [14] A. Yes, they were.  
 [15] Q. And then it also goes on to say, the  
 [16] last sentence in that answer: We all then went  
 [17] and got high. I bought -- I guess that is:  
 [18] Heroin, pot, and Xanax.  
 [19] Do you see that?  
 [20] A. Yes, sir.  
 [21] Q. So, again, you have another reference  
 [22] here to the consumption of drugs, albeit at this  
 [23] point after the incident, but again something  
 [24] that made you at least curious as to whether  
 [25] there was any consumption prior or during the

[1] incident, as evidenced by your question on page  
[2] eight.

[3] A. Yes.

[4] MR. MANDELL: Thank you. That  
[5] is all I have, Your Honor.

[6] THE COURT: Very good.

[7] MR. SERVER: May I, Your Honor?

[8] THE COURT: You may, Mr. Server.

[9] ---

[10] CROSS EXAMINATION

[11] ---

[12] BY MR. SERVER:

[13] Q. Detective, were you aware at what  
[14] time Nicholas Coia came into homicide?

[15] A. I believed that Nicholas came in at  
[16] seven p.m. but I'm not sure of that.

[17] Q. And with Detective Reinhold; isn't  
[18] that correct?

[19] A. I believe so.

[20] Q. And were you aware that Nicky came in  
[21] voluntarily?

[22] A. I believe so.

[23] Q. And when was the -- strike that.

[24] You said that at some point you  
[25] went into the interview room A with Nicky, his

[1] brother, and his father. What time was that  
[2] again?

[3] A. The first contact that I had with  
[4] them was around 11:45, midnight area.

[5] Q. And it was at that time that you gave  
[6] warnings; isn't that correct?

[7] A. Yes, when I went over the warnings  
[8] with the father present.

[9] Q. And Nicky was in the room at that  
[10] time?

[11] A. Yes.

[12] Q. So, Nicky heard you give the warnings  
[13] and explain what they meant to the father and  
[14] his brother, correct?

[15] A. Yes.

[16] Q. And it was around that time that  
[17] Dominic Coia, Sr. said: Don't talk to my kids.  
[18] I'm going to go speak to my brother.

[19] A. Yes.

[20] Q. And then he left.

[21] A. We actually -- he doesn't leave  
[22] immediately after that. I go out and we go out  
[23] into the Homicide Unit, and that was -- we were  
[24] together, I would say, roughly ten minutes or so  
[25] before he does leave.

[1] Q. And is that when you separated Nicky  
[2] and Dominic?

[3] A. It was shortly after that, yes.

[4] Q. Where did you take Nicky?

[5] A. Nicky went off to the area, if I can,  
[6] A room, and then off to the left there, if you  
[7] are looking westerly, there is the secretary's  
[8] desk inside of the Homicide Unit area, that is  
[9] where he goes.

[10] Q. Was he secured in any way?

[11] A. No.

[12] Q. But Dominic you closed off into a  
[13] room?

[14] A. Yes.

[15] Q. Was that door locked?

[16] A. Yes.

[17] Q. So, at some point you said Dominic  
[18] starts to knock on the door?

[19] A. Yes.

[20] Q. And where is Nicky when that is  
[21] happening?

[22] A. Nicky would be off to the left, 25 to  
[23] fifty feet from there.

[24] Q. And how long after you separated them  
[25] was it that Dominic began knocking on the door?

[1] A. I'd say roughly 25 minutes maybe.

[2] Q. And what was Nicky doing for that 25  
[3] minutes?

[4] A. He was sitting back there with  
[5] Detective Booker.

[6] Q. Were they talking about anything?

[7] A. I don't know.

[8] Q. All right. Now, at some point you  
[9] open up the door, because Dominic is knocking,  
[10] and it is at that point that Dominic says that  
[11] he wants to speak with you.

[12] A. Right.

[13] Q. Correct?

[14] A. Right.

[15] Q. All right. Now, the same law that  
[16] applied to Dominic and your not being able to  
[17] speak to him because he's under 18, unless you  
[18] get permission of his parent or guardian --

[19] MR. CONROY: Judge, the law is  
[20] something --

[21] Objection, Judge.

[22] THE COURT: Rephrase,

[23] Mr. Server.

[24] MR. SERVER: Yes.

[25] BY MR. SERVER:

[1] Q. Do you believe that there was a law  
[2] that prevented you from speaking to juveniles  
[3] without permission of their parents or  
[4] guardians?

[5] MR. CONROY: Objection. Your  
[6] Honor.

[7] THE COURT: Overruled.

[8] BY MR. SERVER:

[9] Q. Did you believe that?

[10] A. Repeat your question.

[11] Q. Do you believe that there is a law  
[12] that prevents you from speaking to juveniles  
[13] unless you have permission of their parents or  
[14] guardian?

[15] A. Yes. And you have to show, if you  
[16] are going to -- of trying to get in touch with a  
[17] concerned adult or guardian or parent, you have  
[18] to also show that.

*Free E tried to call Nick*

[19] Q. You had previously told us that  
[20] Dominic Coia, Sr. said: Don't speak to my kids  
[21] until I can confer with my brother.

[22] A. Yes.

[23] Q. And then Dominic knocks on the door  
[24] and asks to speak with you, correct?

[25] A. Yes.

[1] Q. And you do speak with him?

[2] A. Yes.

[3] Q. And, as a matter of fact, you take a  
[4] written statement from him?

[5] A. Yes.

[6] Q. Even though the father had said not  
[7] to.

[8] A. Yes.

[9] Q. So basically you decided at that  
[10] point for whatever reason that you weren't going  
[11] to follow your understanding of the law.

[12] A. After making the attempts that I  
[13] needed to make, yes, I took a statement.

[14] Q. All right. Now, at some point after  
[15] you are done with Dominic's statement, that is  
[16] when Nicky allegedly makes this comment about:  
[17] Why aren't you speaking to me? All I did was  
[18] throw the stone.

[19] A. That was the first time that I  
[20] believe that he made that.

[21] Q. Where was he when he made that  
[22] statement?

[23] A. That would be at the secretary's  
[24] desk, Miss Marilyn's.

[25] Q. Is that something that you heard?

[1] A. Yes.

[2] Q. And, by that time, how long had Nicky  
[3] been in custody?

[4] A. Well, if you are looking at that, I  
[5] would say at least five hours.

[6] Q. Five hours. So about what time was  
[7] it that Nicky made that statement?

[8] A. Oh, I'm sorry. It would be longer  
[9] than that. That would be 2:30, 2:30 a.m.

[10] If he is there at seven  
[11] o'clock, it would be about seven hours.

[12] Q. Seven hours, okay.

[13] And, had Nicky had anything to  
[14] eat or drink?

[15] A. I don't know.

[16] Q. Had Nicky been allowed to go to the  
[17] bathroom?

[18] A. I don't know.

[19] Q. Did Nicky's father ever come back?

[20] A. When?

[21] Q. Before he made that statement at 2:30  
[22] in the morning?

[23] A. No.

[24] Q. And you had taken -- strike that.

[25] You said that when Nicky wanted

[1] to speak to you, he was anxious and excited;  
[2] isn't that right?

[3] A. Yes.

[4] Q. Anxious and excited to tell his  
[5] story; isn't that right?

[6] A. Yes.

[7] Q. Now, even though you took a statement  
[8] from Dominic, a written statement, when Nicky  
[9] was anxious and excited to talk to you to tell  
[10] you what had happened, you didn't take a written  
[11] statement from him?

[12] A. No, I did not.

[13] Q. And that was basically because your  
[14] perception was that the father was more  
[15] concerned for Nicky than he was for Dominic,  
[16] Jr.?

[17] A. That was taken into account, yes,  
[18] sir.

[19] Q. Did you try to contact Dominic Coia,  
[20] Sr. at that point to ask permission to take a  
[21] statement from Nicky?

[22] A. That was done by Detective Mangold.

[23] Q. And you couldn't contact him,  
[24] correct?

[25] A. Correct.

[1] Q. But yet, even though the same set of  
[2] circumstances had precipitated your taking a  
[3] statement from Dominic, Jr. those same set of  
[4] circumstances did not precipitate your taking a  
[5] statement from my client, even though he was  
[6] anxious and excited to tell you what had  
[7] happened?

[8] A. Yes.

[9] Q. All right. Now, so, is it fair to  
[10] say that you never asked him what he was  
[11] thinking when he threw the rock?

[12] A. I did not ask him that, no.

[13] Q. And is it fair to say that, you know,  
[14] like you asked Dominic, "was anybody high," you  
[15] never bothered to ask Nicky was he high?

[16] A. No, I did not.

[17] Q. Or what kind of drugs he was using?

[18] A. No, I did not.

[19] Q. You never asked Nicky how it was that  
[20] he came to be at the trails?

[21] A. No, I did not.

[22] Q. Or what made him go there?

[23] A. No, I did not.

[24] THE COURT: Mr. Server, you are  
[25] asking questions.

[1] BY MR. SERVER:

[2] Q. When Nicky said that all he did was  
[3] throw the rock, did you follow-up in any way  
[4] like that?

[5] A. I would have liked to have followed  
[6] up with taking a statement, if we had gotten his  
[7] father in.

[8] THE COURT: But did you?

[9] THE WITNESS: No, Your Honor, we  
[10] did not.

[11] THE COURT: Next question.

[12] Thank you.

[13] THE WITNESS: Thank you, Your  
[14] Honor.

[15] BY MR. SERVER:

[16] Q. You were referred to C-55. What is  
[17] C-55?

[18] A. C-55 is a Homicide Division activity  
[19] sheet.

[20] Q. Tell the Ladies and Gentlemen of the  
[21] Jury what an activity sheet is.

[22] A. Activity sheet is on jobs that we  
[23] have, we will do activity sheets for the  
[24] supervisor's benefit.

[25] Q. When did you write -- first of all,

[1] did you write that activity sheet?

[2] A. I believe I did.

[3] Q. And --

[4] A. Typed it.

[5] Q. You typed it. Is there a date on it  
[6] when you typed it?

[7] A. No.

[8] Q. Do you know when you typed it?

[9] A. I believe it was a couple days after.

[10] Q. A couple days after.

[11] And who was the first person  
[12] that you told that Nicky said, "all I did was  
[13] throw a rock"?

[14] A. Who was the first person I told?

[15] Q. Yes.

[16] A. Well, there were other detectives  
[17] there at the time.

[18] Q. Is it memorialized anywhere else in  
[19] the police paperwork, other than this activity  
[20] sheet?

[21] A. Other than the activity sheets, I  
[22] don't believe so, sir.

[23] Q. Why didn't you write an activity  
[24] sheet at the time of the event? In other words,  
[25] at the time that Nicky said, "all I did was

[1] throw a rock".

[2] A. Because I didn't.

[3] MR. SERVER: All right. That is  
[4] all I have?

[5] THE COURT: Anything further?

[6] MR. CONROY: Just briefly,  
[7] Judge, if I may.

[8] ---

[9] REDIRECT EXAMINATION

[10] ---

[11] BY MR. CONROY:

[12] Q. Detective, Dominic Coia, Jr. was ten  
[13] days short of his 18th birthday?

[14] A. Yes, he was.

[15] Q. He told you he was living on his own?

[16] A. Yes, he did.

[17] Q. He wanted to speak with you

[18] MR. MANDELL: Objection, Your  
[19] Honor.

[20] THE WITNESS: Yes, he did.

[21] THE COURT: Overruled.

[22] BY MR. CONROY:

[23] Q. Well, let me ask you this, if -- and  
[24] his father's concern was principally with whom,  
[25] just so it is clear?

*Accepted  
by  
I believe it was  
a couple days after  
a couple days after  
a couple days after*

[1] A. His father's concern was with  
 [2] Nicholas.  
 [3] Q. Who was 16?  
 [4] A. Yes.  
 [5] Q. Two years younger than him?  
 [6] A. Yes.  
 [7] Q. Did you respect his wishes?  
 [8] A. Yes, I did.  
 [9] Q. So, you took a written statement from  
 [10] Dominic, Jr. He wanted to speak with you?  
 [11] A. Yes, he did.  
 [12] Q. Nicholas Coia wanted to speak with  
 [13] you?  
 [14] A. Yes, he did.  
 [15] Q. But you didn't memorialize that,  
 [16] correct?  
 [17] A. Correct.  
 [18] Q. Let me ask you a question: Did you  
 [19] want to take a statement from Nicky Coia?  
 [20] A. Absolutely.  
 [21] Q. Would you want - would you have  
 [22] wanted to memorialize a statement, question and  
 [23] answer, verbatim, like you did with his brother?  
 [24] A. Yes.  
 [25] Q. But you didn't do it, did you?

[1] A. No.  
 [2] Q. Kind of darned if you do, darned if  
 [3] you don't?  
 [4] MS. McDERMOTT: Objection.  
 [5] MR. MANDELL: Objection.  
 [6] THE COURT: Sustained,  
 [7] sustained.  
 [8] Mr. Conroy, any other  
 [9] questions?  
 [10] MR. CONROY: I'm sorry, Judge.  
 [11] I'll wrap it up quickly.  
 [12] BY MR. CONROY:  
 [13] Q. Let me ask just you this, though,  
 [14] detective: There was some question by  
 [15] Mr. Mandell about intoxication vis-a-vis Dominic  
 [16] Coia, Jr.  
 [17] He gave you the written  
 [18] statement, correct?  
 [19] A. Yes.  
 [20] Q. Would it be fair to say that he told  
 [21] you that when they didn't see Jason and Tina up  
 [22] the trails, they rushed back to Crease Street,  
 [23] Josh's house, Rock and Rye, and goes back up to  
 [24] the trails?  
 [25] A. Yes.

[1] Q. Is that what he told you?  
 [2] A. Yes.  
 [3] Q. And you asked him specifically if he  
 [4] was high and he said no, correct?  
 [5] A. Yes.  
 [6] Q. By the way, in addition to that  
 [7] response, did Dominic Coia, Jr. appear to have  
 [8] any problem whatsoever remembering what happened  
 [9] that day?  
 [10] A. No, he did not.  
 [11] Q. Or did he have any problem relating  
 [12] to you what happened that day?  
 [13] A. No, he did not.  
 [14] MR. CONROY: Okay. Thank you.  
 [15] Nothing further.  
 [16] THE COURT: Thank you.  
 [17] MR. SERVER: May I?  
 [18] THE COURT: No. It was all  
 [19] about Dominic. Thank you.  
 [20] MR. SERVER: Judge, I thought we  
 [21] had some redirect about Nicky.  
 [22] MS. McDERMOTT: We did.  
 [23] THE COURT: Only that he didn't  
 [24] memorialize Nicky's statement.  
 [25] Would you have more

[1] questions about that question?  
 [2] MR. SERVER: Yes. May I have  
 [3] one, Your Honor?  
 [4] THE COURT: Sure.  
 [5] ---  
 [6] RE CROSS EXAMINATION  
 [7] ---  
 [8] BY MR. SERVER:  
 [9] Q. You said that you didn't take Nicky's  
 [10] statement because you couldn't get permission  
 [11] from his father.  
 [12] Well, why didn't you wait until  
 [13] the father returned or contacted you and then  
 [14] take Nicky's statement?  
 [15] A. We tried to contact the father.  
 [16] Q. Yes.  
 [17] A. The father was concerned about going  
 [18] to work at 3:30 a.m.  
 [19] Q. Yes.  
 [20] A. By the time he was wanting to give  
 [21] this, Detective Mangold tried to get in touched  
 [22] with the father again, but was unable to do it.  
 [23] Q. But at some point you must have been  
 [24] able to.  
 [25] A. They may have, I don't know, but it

[1] wasn't in my presence at my time.  
 [2] **Q.** No statement was taken from him after  
 [3] that?  
 [4] **A.** Who are you speaking about?  
 [5] **THE COURT:** Again, he's only  
 [6] telling you what he knows.  
 [7] **MR. SERVER:** All right, fine.  
 [8] **THE COURT:** He had no  
 [9] involvement with the statement from  
 [10] Nicholas Coia.  
 [11] **MR. SERVER:** Nothing further.  
 [12] **THE COURT:** Thank you.  
 [13] **THE WITNESS:** Thank you, Your  
 [14] Honor.  
 [15] **THE COURT:** Thank you very  
 [16] much.  
 [17] Ladies and Gentlemen, this  
 [18] is a good time to recess for the  
 [19] day. All right. I'll see you in the  
 [20] morning at 9:30. We will cross our  
 [21] fingers and pray the creek don't  
 [22] rise. Lord knows it rose today. But  
 [23] hopefully John took care of, it and  
 [24] the creek is under control.  
 [25] John.

[1] **THE COURT OFFICER:** May I?  
 [2] **THE COURT:** Yes.  
 [3] Thank you. Have a fabulous  
 [4] evening, and see you in the morning.  
 [5] Oh, please, Ladies and  
 [6] Gentlemen, once again a reminder of  
 [7] the media coverage, not to pay any  
 [8] attention to any media coverage.  
 [9] Thank you very much.  
 [10] **THE COURT OFFICER:** Everyone  
 [11] please remain seated while the jury  
 [12] exits the room.  
 [13] ---  
 [14] (JURY NOT PRESENT)  
 [15] ---  
 [16] **THE COURT:** Jude, what is left  
 [17] on the morning?  
 [18] **MR. CONROY:** Detective Mangold,  
 [19] briefly, Detective Booker, Sergeant  
 [20] Rosowski for the handwriting, and  
 [21] Jason's mom.  
 [22] **THE COURT:** Jason's mom,  
 [23] Mangold, and you will be done by  
 [24] lunch.  
 [25] **MR. CONROY:** I should be done by

[1] lunch, Judge.  
 [2] **THE COURT:** All right. You guys  
 [3] need to start --  
 [4] Are you going to put any  
 [5] evidence on?  
 [6] **MR. BOOKMAN:** No, I don't think  
 [7] so.  
 [8] **THE COURT:** Jude, how long is  
 [9] your closing?  
 [10] **MR. CONROY:** How long is my  
 [11] closing?  
 [12] **THE COURT:** How long is your  
 [13] closing?  
 [14] **MR. CONROY:** Judge, I would say  
 [15] probably an hour.  
 [16] **THE COURT:** Okay. Right now we  
 [17] will charge on Wednesday morning,  
 [18] because the closings will take all  
 [19] afternoon.  
 [20] Right now we have the crimes  
 [21] and accomplice liability.  
 [22] Anything else?  
 [23] **MR. SERVER:** Judge, even after  
 [24] that last round of testimony we are  
 [25] not going to get voluntary

[1] intoxication?  
 [2] **THE COURT:** No.  
 [3] **MS. McDERMOTT:** Polluted  
 [4] source?  
 [5] **THE COURT:** Polluted source you  
 [6] can have.  
 [7] **MS. McDERMOTT:** Would you hear  
 [8] argument on the involuntary  
 [9] intoxication?  
 [10] **THE COURT:** I'm happy to take  
 [11] it. I would love to. If you want to  
 [12] make it, I'm happy to take it.  
 [13] You need to know, because we  
 [14] are going to move straight through.  
 [15] So you need to know. I don't see you  
 [16] getting it, but I'm happy to hear  
 [17] you.  
 [18] **MR. SERVER:** We have some  
 [19] evidence in the case through  
 [20] Dominic's statement.  
 [21] **THE COURT:** Dominic's statement  
 [22] is -- Dominic's statement is useful  
 [23] only against Dominic.  
 [24] So the only person who has a  
 [25] remote prayer of getting voluntary

---

**First Judicial District of Pennsylvania**

*03061389, 03061389, 03061389*  
*Nicholas Coia*

*Maxilla  
File*

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*Trial (Jury) Volume 7*  
*March 08, 2005*

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*First Judicial District of Pennsylvania*  
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[1] IN THE COURT OF COMMON PLEAS  
 [2] FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
 [3] CRIMINAL TRIAL DIVISION  
 [4] COMMONWEALTH : JUNE TERM, 2003  
 [5] VS.  
 [6] NICHOLAS COIA : NO. 1389 3/4  
 [7] COMMONWEALTH : JUNE TERM, 2003  
 [8] VS.  
 [9] EDWARD BATZIG : NO. 1389 1/4  
 [10] COMMONWEALTH : JUNE TERM, 2003  
 [11] VS.  
 [12] DOMINIC COIA : NO. 1389 4/4  
 [13] MARCH 8, 2005  
 [14] COURTROOM 304  
 [15] CRIMINAL JUSTICE CENTER  
 [16] PHILADELPHIA, PENNSYLVANIA  
 [17] ---  
 [18] CRIMINAL JURY TRIAL - DAY 7  
 [19] ---  
 [20] ---  
 [21] BEFORE: HON. RENEE CARDWELL HUGHES, J.  
 [22] ---  
 [23] ---  
 [24] REPORTED BY: DIANE S. RAQUET, R.P.R.  
 [25] OFFICIAL COURT REPORTER

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[1] ---  
 [2] (IN CHAMBERS)  
 [3] ---  
 [4] **MR. BOOKMAN:** Your Honor, we are  
 [5] objecting to what we anticipate is a  
 [6] blowup to a confession allegedly made  
 [7] by Eddie Batzig. The Commonwealth  
 [8] will also present a handwriting  
 [9] expert to verify that it was in fact  
 [10] Eddie's handwriting. The  
 [11] Commonwealth intends to present a  
 [12] blowup of the, quote unquote,  
 [13] confession to the jury.  
 [14] It is our position that a  
 [15] blowup is improper, and it emphasizes  
 [16] unduly a statement that was made in  
 [17] much the same way that we prevent  
 [18] statements from going back to the  
 [19] jury for deliberations. This would  
 [20] unduly emphasize the body of the  
 [21] confession by blowing it up and  
 [22] having the jury see it, while it is  
 [23] being discussed.  
 [24] **MR. SCHWARTZ:** Let me make two  
 [25] additional points.

[1] One was that yesterday I  
 [2] informed Mr. Conroy that we were  
 [3] conceding the authenticity of that  
 [4] writing, that we wouldn't contest  
 [5] it.  
 [6] And, in addition, I would  
 [7] note that there is a very large  
 [8] number of writings in this case from  
 [9] defendants, from witnesses, from --  
 [10] and none of them, at least to my  
 [11] knowledge, have been blown up and  
 [12] that this would cause -- would call  
 [13] undue attention to a statement of the  
 [14] defendant.  
 [15] **THE COURT:** Mr. Conroy, you wish  
 [16] to be heard?  
 [17] **MR. CONROY:** Judge, just that  
 [18] these are the exhibits that the  
 [19] expert used to make a determination  
 [20] that this was written by the expert  
 [21] (sic).  
 [22] And, likewise, we also have  
 [23] Nicky Coia's original letter blown  
 [24] up, because it was -- Mr. Server  
 [25] contested the authenticity of that as

[1] well.  
 [2] So, we had Nicky Coia's  
 [3] statement where he talks about  
 [4] Justina falling into place. We had  
 [5] to take the exemplars, and we had to  
 [6] make a comparison. So that is why  
 [7] Sergeant Rosowski is being called.  
 [8] **THE COURT:** Because the document  
 [9] is unsigned, and this is the first  
 [10] time I have heard of you conceding  
 [11] the authenticity of the document.  
 [12] Are you willing to accept  
 [13] their stipulation to the authenticity  
 [14] of the document?  
 [15] **MR. CONROY:** I want to put it up  
 [16] there, Judge. I want to put my  
 [17] testimony up.  
 [18] **THE COURT:** Okay. Well, at this  
 [19] point, the stipulation to the  
 [20] authenticity of the document is not  
 [21] being accepted, and the handwriting  
 [22] analysis is customarily done with the  
 [23] handwriting expert showing an  
 [24] exemplar and showing the document in  
 [25] question. That is just how it is

[1] done.  
 [2] So, the objection is noted.  
 [3] It is overruled. And we move  
 [4] forward.  
 [5] **MR. CONROY:** Okay.  
 [6] **MR. BOOKMAN:** Okay.  
 [7] ---  
 [8] (IN OPEN COURT)  
 [9] ---  
 [10] **THE COURT OFFICER:** Quiet in the  
 [11] courtroom please while the jury is  
 [12] being seated.  
 [13] ---  
 [14] (JURY PRESENT)  
 [15] ---  
 [16] **THE COURT OFFICER:** All rise.  
 [17] Oyez, oyez, oyez. All  
 [18] persons who stand bound by  
 [19] recognizance or otherwise having  
 [20] business before this Honorable Judge  
 [21] of the Court of Common Pleas Trial  
 [22] Division, for the First Judicial  
 [23] District of Pennsylvania, may at  
 [24] present appear and they shall be  
 [25] heard.

[1] The Honorable Renee Cardwell  
 [2] Hughes presiding.  
 [3] God save the Commonwealth and  
 [4] this Honorable Court.  
 [5] **THE COURT:** Good morning.  
 [6] **THE COURT OFFICER:** Please be  
 [7] seated. Cease all conversation.  
 [8] **THE COURT:** Good morning, Ladies  
 [9] and Gentlemen.  
 [10] **THE JURORS:** Good morning.  
 [11] **THE COURT:** All I can say is  
 [12] thank you. You are such lovely human  
 [13] beings. Thank you. Thank you.  
 [14] Thank you.  
 [15] Mr. Conroy, would you like  
 [16] to call a witness?  
 [17] **MR. CONROY:** Yes, Your Honor.  
 [18] The Commonwealth would next call  
 [19] Detective Patrick Mangold.  
 [20] **THE COURT:** Very good.  
 [21] Mr. Purnell, I need Detective  
 [22] Patrick Mangold. Thank you.  
 [23] **THE COURT OFFICER:** Please  
 [24] remain standing, sir. Place your  
 [25] right hand on the Bible. Raise your

[1] left hand please.  
 [2] In a loud clear voice state  
 [3] your full name, spell your last name,  
 [4] give your badge number, district, and  
 [5] special unit if any.  
 [6] **THE WITNESS:** Detective Patrick  
 [7] Mangold, M-A-N-G-O-L-D, Badge Number  
 [8] a 805, assigned to Homicide Division.  
 [9] ---  
 [10] **DETECTIVE PATRICK MANGOLD,**  
 [11] having been first sworn or affirmed,  
 [12] was examined and testified as  
 [13] follows:  
 [14] ---  
 [15] **THE COURT:** Detective Mangold,  
 [16] how are you?  
 [17] **THE WITNESS:** Good morning. How  
 [18] are you.  
 [19] **THE COURT:** I'm good.  
 [20] **THE WITNESS:** Good morning,  
 [21] Ladies and Gentlemen.  
 [22] **THE COURT:** All right.  
 [23] Mr. Conroy, let's start.  
 [24] **MR. CONROY:** Thank you, Your  
 [25] Honor.

[1] ---  
 [2] **DIRECT EXAMINATION**  
 [3] ---  
 [4] **BY MR. CONROY:**  
 [5] **Q.** Good morning, sir.  
 [6] **A.** Good morning.  
 [7] **Q.** Detective, you are employed as a  
 [8] detective for the Philadelphia Police  
 [9] Department?  
 [10] **A.** Yes, I am.  
 [11] **Q.** You have been a member of the  
 [12] Philadelphia Police Department for how long?  
 [13] **A.** 24 years.  
 [14] **Q.** You have been assigned to the  
 [15] Detective Bureau for how long?  
 [16] **A.** Homicide, ten. I have been a  
 [17] detective 15.  
 [18] **Q.** Detective Mangold, did you have  
 [19] occasion to become involved in the death of 16  
 [20] year-old Jason Sweeney?  
 [21] **A.** Yes.  
 [22] **Q.** How was it that you became involved  
 [23] in that investigation?  
 [24] **A.** My partner and I were actually  
 [25] working another case that occurred the same

[1] night, and it was late in the evening around  
 [2] 11:30 p.m.  
 [3] **Q.** Let me just back up, Detective  
 [4] Mangold. Would it be fair to say that you are  
 [5] talking about -- or you became involved with  
 [6] your partner on Monday, June 2nd, 2003?  
 [7] **A.** Yes.  
 [8] **Q.** So that would have been -- Jason's  
 [9] body had been discovered the Saturday a couple  
 [10] days before?  
 [11] **A.** That's correct.  
 [12] **Q.** And that particular day, do you  
 [13] remember what tour of duty, that Monday, what  
 [14] hours you were working?  
 [15] **A.** I believe it was the eight to four  
 [16] tour.  
 [17] **Q.** Working day work?  
 [18] **A.** Day work.  
 [19] **Q.** You were working over, and how was it  
 [20] that you became involved in the investigation of  
 [21] Jason's death?  
 [22] **A.** Lieutenant Morrin, who is our squad  
 [23] commander, asked Detective Watkins and myself to  
 [24] go into A room and talk to Dominic and Nicholas  
 [25] Coia and their father.

[1] Q. Did you in fact do that?  
 [2] A. Yes.  
 [3] Q. Tell us, detective, as a result of  
 [4] speaking to the Coia -- Mr. Coia, Sr., Dominic  
 [5] Coia, Sr., as well as his two sons, what then  
 [6] happened, Detective Mangold.  
 [7] A. Myself and Detective Watkins left the  
 [8] interview room and left Mr. Coia with Dominic  
 [9] and Nicky alone. We went outside. Told our  
 [10] lieutenant, Lieutenant Morrin, that we had  
 [11] warned them of their rights. We told him that  
 [12] we knew what the facts in the case were, and  
 [13] wanted to take statements from both of his sons.  
 [14] A few minutes later there was a  
 [15] knock at the door. Mr. Coia exited, and he went  
 [16] into what -- a little room where there is a  
 [17] water cooler next door to interview room A, with  
 [18] Lieutenant Morrin.  
 [19] We went back into the room  
 [20] again with Mr. Coia. We asked him if he wanted  
 [21] to have the statements taken from his sons.  
 [22] At that time he said -- not his  
 [23] exact words but pretty close to it -- he said:  
 [24] My concern is him, and he pointed to Nicky, who  
 [25] was seated to my left. And Dominic at this

[1] point was seated over to my right.  
 [2] And we said: What do you mean *Homicide wasn't*  
 [3] your concern is with him? And he said: I want *cancel the statement*  
 [4] to talk to my brother before I do anything. He *What was he saying?*  
 [5] said: My concern is with him, pointing at  
 [6] Nicky.  
 [7] Q. Okay.  
 [8] A. We then had Mr. Coia leave the room.  
 [9] He went to a secretary's office area, which is  
 [10] to the left of interview room A. He was -- we  
 [11] sat Nicky down in a chair there at the  
 [12] secretary's desk. Mr. Coia sat down, and  
 [13] Lieutenant Morrin stayed with him and Detective  
 [14] Booker was with them.  
 [15] And myself and Detective  
 [16] Watkins left Dominic in the room for a little  
 [17] while, and then Mr. Coia left the Homicide  
 [18] Division.  
 [19] Q. Okay. There has already been  
 [20] testimony -- Detective Watkins has already  
 [21] testified to the Ladies and Gentlemen of the  
 [22] Jury. But would it be fair to say that as a  
 [23] result of events that transpired that evening  
 [24] Dominic was willing to speak with you and  
 [25] Detective Watkins?

[1] A. Yes.  
 [2] Q. Was a formal written verbatim  
 [3] statement taken of Dominic Coia?  
 [4] A. From Dominic, yes.  
 [5] Q. Do you see him in the courtroom  
 [6] today, Detective Mangold?  
 [7] A. Yes, Dominic's the black hair, seated  
 [8] to the far right.  
 [9] MR. CONROY: Okay. If we can,  
 [10] Your Honor, can -- just for  
 [11] identification purposes, can the  
 [12] Detective Mangold be shown  
 [13] Commonwealth Exhibit C-53 for  
 [14] identification purposes?  
 [15] THE COURT: Yes, very good.  
 [16] THE COURT OFFICER: May I, Your  
 [17] Honor?  
 [18] THE COURT: You may. Thank you,  
 [19] Mr. Guintier.  
 [20] BY MR. CONROY:  
 [21] Q. Detective Mangold, taking a look at  
 [22] what has been marked as C-53, do you recognize  
 [23] that document?  
 [24] A. Yes.  
 [25] Q. What do you recognize that document

[1] to be?  
 [2] A. This is the statement that was taken  
 [3] on June the 3rd from Dominic Coia by myself and  
 [4] Detective Watkins.  
 [5] Q. Okay. And again, just for clarity,  
 [6] is that a summary of what was said by Dominic  
 [7] Coia or is that verbatim?  
 [8] A. It is verbatim, exactly what he said.  
 [9] Q. Okay. After that statement was  
 [10] completed -- do you recall what time the  
 [11] statement was completed?  
 [12] A. It was about 2:30 in the morning.  
 [13] Q. Dominic Coia, did he get a chance to  
 [14] review and sign the document?  
 [15] A. He did.  
 [16] Q. Detective Mangold, after the  
 [17] completion of that statement from Dominic Coia,  
 [18] Jr., or at any point prior to the completion of  
 [19] that document, was there any attempts to locate  
 [20] or reach out to Dominic Coia, Sr.?  
 [21] A. Yes.  
 [22] Q. And who made those attempts?  
 [23] A. I did.  
 [24] Q. Tell us what you did.  
 [25] A. I called Mr. Coia by phone at least

[1] two times. Dominic supplied us the number.  
[2] Actually, it was included in his interview.  
[3] And I also sent a police car  
[4] back to their house to have him transported back  
[5] to homicide.

[6] There was no response.  
[7] Q. Okay. Detective, after that  
[8] statement was completed, did you have occasion  
[9] to have contact with Nicholas Coia? Tell us  
[10] exactly what transpired after the completion of  
[11] that statement; where you went, what you did.  
[12] Tell us what happened.

[13] A. After we finished the interview with  
[14] Dominic, myself and Detective Watkins took this  
[15] statement to our lieutenant. And the  
[16] lieutenants in homicide, they review all of the  
[17] paper, not even just suspect interviews but all  
[18] interviews.

[19] So, I took this out to my  
[20] lieutenant, who was seated with Nicky and  
[21] Detective Booker in the secretaries area still.

[22] Watkins went back in the room  
[23] to stay with Dominic.

[24] When I was out there, I was  
[25] talking to Lieutenant Morrin about this

*Booker - 2:35 PM  
Nicky - 2:40 PM  
Watkins - 2:45 PM  
This is correct  
Nicky - 2:40 PM  
Booker - 2:45 PM*

*is this correct  
Nicky - 2:40 PM  
Booker - 2:45 PM  
Watkins - 2:45 PM*

[1] statement. Nicky was seated there. And Nicky  
[2] kept asking: How come no one is talking to me?  
[3] Are you going to take my statement? All I did  
[4] was throw the rock. I threw the bolder, words  
[5] to that effect.

[6] And he wanted to be interviewed  
[7] by us. And it was as if he was being left out.  
[8] And he said: How come you guys are talking to  
[9] everybody else but not me? I want to tell you  
[10] my story.

[11] Q. In addition to yourself -- by the  
[12] way, Nicky Coia, who was making these statements  
[13] to you in your presence, do you see him in the  
[14] courtroom?

[15] A. Nicky is sitting right there behind  
[16] counsel with the longer hair, tan shirt.

[17] MR. CONROY: Indicating for the  
[18] record Detective Mangold has  
[19] identified Nicholas Coia.

[20] BY MR. CONROY:

[21] Q. Detective Mangold, in addition to  
[22] yourself, when Nicholas Coia was making these  
[23] statements to you, requesting to be interviewed,  
[24] who was there, do you recall?

[25] A. Detective Booker was there at that

[1] time.  
[2] Q. Okay. Detective Mangold, did you or  
[3] Detective Booker or Detective Watkins ever take  
[4] a formal written statement from Nicholas Coia?

[5] A. No.

[6] Q. Why not?

[7] A. Because his father didn't want us to.

[8] Q. Detective Mangold, you were -- what  
[9] time -- what time is it that you -- that these  
[10] statements were made by Nicholas Coia in your  
[11] presence requesting to be interviewed?

[12] A. That was right after this statement  
[13] was done. So, I would say five minutes after  
[14] this statement was completed, like 2:35, 2:40 in  
[15] the morning.

[16] Q. Okay. And you had been working the  
[17] day work tour of duty?

[18] A. Yes.

[19] Q. So, now it is 2:30 in the morning.

[20] You worked straight through?

[21] A. Correct.

[22] Q. What then happened, after that,  
[23] Detective Mangold?

[24] A. We faxed this over to the District  
[25] Attorney's Office, this statement.

[1] Q. Is that pursuant to standard  
[2] operating procedures?

[3] A. Yes.

[4] Q. Okay.

[5] A. Nicholas was left there at the  
[6] secretary's desk.

[7] Other interviews were being  
[8] done at that time. And we went through a lot of  
[9] paperwork. And it wasn't until the next  
[10] morning, I would say around 11 o'clock in the  
[11] morning, myself and Detective Watkins took  
[12] Dominic, Nicky, and Eddie Batzig and put them in  
[13] one room. It was interview room number C. We  
[14] put them altogether. We got sandwiches and ice  
[15] tea for them, and we let them eat.

[16] While they were all in there,  
[17] Nicky says again, and this time pointing to  
[18] everyone else: Ask them. Ask them. He says:  
[19] I threw the rock; isn't that right? I threw the  
[20] rock. And he goes: Why don't you guys take my  
[21] statement? You took theirs.

[22] Q. Did he -- he wanted to be  
[23] interviewed?

[24] A. He did.

[25] Q. Did you interview him?

[1] A. No.  
 [2] Q. And again why not?  
 [3] A. Because the father said, "my concern  
 [4] is with him," and he didn't want him  
 [5] interviewed.  
 [6] Q. Did you explain that to him?  
 [7] A. Yes, over and over again.  
 [8] These -- these conversations  
 [9] took place long after 11:30. He kept on  
 [10] saying: How come you don't talk to me? It was  
 [11] like he was being left out of the loop.  
 [12] Q. He wanted to tell you his side?  
 [13] A. Yes.  
 [14] Q. Detective Mangold, what happens  
 [15] then? We are into the next day. You are still  
 [16] on duty now.  
 [17] A. Yes.  
 [18] Q. Okay. Tell us, did you have  
 [19] interaction with any of the other defendants  
 [20] while you were up in homicide?  
 [21] A. After they all ate, lieutenant said  
 [22] we better separate these kids, just for safety  
 [23] reasons.  
 [24] So, we separated them again,  
 [25] and they were all placed back in the rooms they

[1] were in. Nicky was still kept at a secretary's  
 [2] desk, a little outside now, because the  
 [3] secretaries were in. It is a little area where  
 [4] there are filing cabinets.  
 [5] Q. If you can, Detective Mangold,  
 [6] explain just the physical plan, why Nicky Coia's  
 [7] sitting at a secretary's desk, like just lay it  
 [8] out, why he's sitting there.  
 [9] A. We only have four interview rooms,  
 [10] secure rooms, in the Homicide Unit. So, we had  
 [11] Dominic was in A room. Eddie was in D room. C  
 [12] room was being used by detectives on the day  
 [13] work shift now, who had people coming in. And,  
 [14] if I'm not mistaken, B room -- I think they kept  
 [15] Jessica in B room.  
 [16] And the facility is just  
 [17] outdated. On any given day you can walk in  
 [18] there on the eight to four or four to 12 shift,  
 [19] and it almost looks like a subway station.  
 [20] There are defendants and  
 [21] witnesses seated almost in the same area. We  
 [22] have sometimes defendants handcuffed to filing  
 [23] cabinets, because there is no room in the  
 [24] interview rooms. It is really antiquated.  
 [25] For Nicky's safety, he's a

[1] juvenile, we kept him pretty much in the back  
 [2] area towards where the secretaries are by the  
 [3] lieutenant's office is, out of the way of all of  
 [4] all the adults.  
 [5] And all day long Nicky kept  
 [6] say: How come you guys aren't talking to me?  
 [7] Statements just like that.  
 [8] Q. You indicated, Detective Mangold,  
 [9] that at some point in time that you separated  
 [10] the defendants for safety reasons.  
 [11] A. Yes.  
 [12] Q. Now, by the way, just so the Ladies  
 [13] and Gentlemen of the Jury know this as well, you  
 [14] indicated there is paperwork that has to be  
 [15] done. That's why the defendant's are still down  
 [16] there at homicide.  
 [17] Is there a -- various pieces of  
 [18] paper that have to be completed and typed up?  
 [19] A. We have to do activity sheets.  
 [20] By this time, I believe the  
 [21] charges were already approved, and we have a  
 [22] computer generated arrest report that you have  
 [23] to prepare, and that is what was being done  
 [24] then.  
 [25] Q. Okay. Continue on, detective.

[1] A. While this paperwork is being done,  
 [2] like I said, we separated them because they --  
 [3] of the circumstances we separated them.  
 [4] Prior to taking them downstairs  
 [5] to the detention area --  
 [6] Q. For what purpose do they do that?  
 [7] A. They are fingerprinted and  
 [8] photographed downstairs. It is a whole separate  
 [9] area.  
 [10] And before doing that, I took  
 [11] Eddie from the room. While taking Eddie from  
 [12] the room, he slid a piece of paper underneath a  
 [13] note pad.  
 [14] If you see in these statements,  
 [15] the second page is called page two. They are  
 [16] investigation interview records with lines on  
 [17] them here. We have stacks of them in the  
 [18] interview rooms.  
 [19] And Eddie had stuck a piece of  
 [20] paper underneath one of those tablets. And  
 [21] there was a pen on the table. I took the pen  
 [22] from the table, put it in my pocket. And I took  
 [23] the paper from underneath the tablet, and I saw  
 [24] there was writing on there and a little diagram  
 [25] at the bottom. I took it out and gave it to

*Handwritten note:*  
 Note: See provided to  
 T... like 22  
 Note

[1] Detective Booker and showed it to him.

[2] Q. Did you read it?

[3] A. Yes.

[4] MR. CONROY: I'm going to ask

[5] you to take a look at a photostatic  
[6] copy of what will be marked as --

[7] Judge, with the Court's

[8] permission I will mark these as the

[9] Court's next two Commonwealth

[10] Exhibits?

[11] THE COURT: C-56 and 57.

[12] MR. CONROY: That's correct,

[13] Your Honor, C-56 and 57.

[14] There are extra copies for  
[15] the Court Reporter. Counsel has been  
[16] provided with copies.

[17] ---

[18] (C-56 and C-67 marked for  
[19] identification.)

[20] ---

[21] THE COURT OFFICER: C-56, Your  
[22] Honor. C-57.

[23] THE COURT: Thank you.

[24] MR. CONROY: With the Court's  
[25] permission, Your Honor, C-56 -- if we

[1] can list that as C-56A. There is an  
[2] enlargement that would be C-56B.

[3] THE COURT: That is fine.

[4] THE COURT OFFICER: May I, Your  
[5] Honor.

[6] THE COURT: You may. Thank you.

[7] MR. CONROY: Mark this as

[8] C-56B. Thank you.

[9] ---

[10] (C-56B marked for  
[11] identification.)

[12] ---

[13] THE COURT: Ready.

[14] MR. CONROY: Yes, Your Honor.

[15] THE COURT: All right.

[16] MR. CONROY: May I continue?

[17] THE COURT: You may. Thank you.

[18] MR. CONROY: Thank you,

[19] Mr. Guinter.

[20] BY MR. CONROY:

[21] Q. Detective Mangold, I'm going to ask  
[22] you to take a look at what has been marked as  
[23] C-56A. Do you recognize that?

[24] A. Yes, I do.

[25] Q. Do you recognize C-56B?

[1] A. I do.

[2] Q. What do you recognize it to be?

[3] A. C-56A is the note, the writing, that  
[4] was recovered in D room that Eddie Batzig had.

[5] Q. And C-57 we will get to that.

[6] But taking a look at C-56B, is  
[7] that an enlargement?

[8] A. It is.

[9] Q. That's an enlargement of the piece of  
[10] paper, the interview paper, that Eddie Batzig  
[11] had shoved under the interview booklet?

[12] A. It is.

[13] Q. Can you read what it was that is on  
[14] that piece of paper that you recovered?

[15] A. Certainly.

[16] I can tell you right now that  
[17] Justina was the first one to tell the police  
[18] that we killed Jason Sweeney. If it wasn't her,  
[19] then it was Jessica. Everything was going fine  
[20] until they brought her in. Her, as in whichever  
[21] bitch got us caught. Well, at least we will all  
[22] be together, except for her. Out of all  
[23] mistakes I have made in my life, this one is the  
[24] biggest. Not killing man, could have saved me  
[25] from what is going to come. Someday I hope to

[1] see the light of day again. I'm going to end  
[2] this little note with never say never, because  
[3] you know something you never knew.

[4] Q. You recovered that from Eddie Batzig?

[5] A. Yes.

[6] Q. Okay. After you saw him put that  
[7] piece of paper under the tablet, you recovered  
[8] it, what did you do with it?

[9] A. I handed it to Detective Booker.

[10] Q. And Detective Booker is who?

[11] A. He's the assigned detective in this  
[12] case.

[13] Q. Okay. Would it be fair to say,  
[14] Detective Mangold, that C-56B is an enlargement  
[15] of the top half of that investigative piece of  
[16] paper, correct?

[17] A. Yes.

[18] Q. And the bottom half, you actually  
[19] have a photostatic copy of the whole sheet of  
[20] paper, correct?

[21] A. Yes.

[22] Q. Can you tell us what exactly is on  
[23] the balance, if you can show the Ladies and  
[24] Gentlemen of the Jury?

[25] A. On the bottom there is a diagram here

[1] that says: Richmond, has a little scribble on  
 [2] the bottom, has Pep Boys and a circle.  
 [3] I learned later from Detective  
 [4] Reinhold that that was a diagram that was  
 [5] prepared by Eddie Batzig.  
 [6] Q. Okay. For purposes of what, do you  
 [7] remember?  
 [8] A. Showing where some of the evidence  
 [9] was recovered. I think it was the hatchet.  
 [10] Q. Okay. And, eventually, that  
 [11] document, the top half, C-56B, the enlargement,  
 [12] the handwritten note, was afterward turned over  
 [13] to Detective Booker and eventually submitted to  
 [14] the Questioned Documents Unit for an expert to  
 [15] look at and compare with the defendant, Eddie  
 [16] Batzig's, writing?  
 [17] A. Yes, it was.  
 [18] Q. Detective Mangold, I'm going to ask  
 [19] you now to take a look at what has been marked  
 [20] as C-57 for identification purposes. Do you  
 [21] recognize that document?  
 [22] A. Yes.  
 [23] Q. What do you recognize that to be?  
 [24] A. This is an activity sheet. And it is  
 [25] prepared by either myself or Detective Watkins

[1] shortly after the events on June the 3rd.  
 [2] Q. And on the activity sheet, is  
 [3] indicated what, Detective Mangold?  
 [4] A. It reads: On Tuesday, 6-3 -  
 [5] Q. You don't have to read it out loud.  
 [6] MS. McDERMOTT: Objection.  
 [7] BY MR. CONROY:  
 [8] Q. I don't need you to read it out  
 [9] loud.  
 [10] But, would it be fair to say  
 [11] that that is an activity sheet that documents  
 [12] certain admissions that Nicholas Coia made to  
 [13] you; fair to say?  
 [14] A. Yes.  
 [15] Q. Okay. Because I think you testified  
 [16] there was never a formal verbatim question and  
 [17] answer of Nicholas Coia?  
 [18] A. That's correct.  
 [19] Q. Would it be fair to say that C-57  
 [20] documents -- codifies the oral admissions that  
 [21] he made to you in the presence of Detective  
 [22] Booker and Detective Watkins?  
 [23] A. Detective Booker and I thought we  
 [24] should put this on paper, what he said, so that  
 [25] we wouldn't forget it, or it would be almost

[1] close to the exact words he said.  
 [2] MR. CONROY: Court's indulgence,  
 [3] Your Honor.  
 [4] THE COURT: No problem.  
 [5] MR. CONROY: Detective Mangold,  
 [6] I have no further questions.  
 [7] Your Honor, I have no  
 [8] further questions.  
 [9] THE COURT: Very good.  
 [10] Mr. Bookman, are you ready  
 [11] to start?  
 [12] MR. BOOKMAN: Yes.  
 [13] THE COURT: All right.  
 [14] ---  
 [15] CROSS EXAMINATION  
 [16] ---  
 [17] BY MR. BOOKMAN:  
 [18] Q. Detective, just so we are clear on  
 [19] this, the sketching at the bottom of the  
 [20] handwritten statement, where it says Richmond  
 [21] and Pep Boys, that -- that was done by Eddie to  
 [22] assist the police in finding evidence; am I  
 [23] right?  
 [24] A. I believe it is prepared, according  
 [25] to Detective Reinhold -- I wasn't aware of what

[1] that was, even until two days ago when you asked  
 [2] me in the hallway. You showed me a copy of this  
 [3] and asked: What is that and who wrote that? I  
 [4] said: I'll have to talk to Reinhold and find  
 [5] out.  
 [6] Since then he told me that that  
 [7] was done by Eddie Batzig, when he did his  
 [8] interview of him.  
 [9] Q. And subsequent to that, the evidence  
 [10] was recovered, the hatchet was recovered out of  
 [11] the sewer; am I right?  
 [12] A. Yes.  
 [13] MR. BOOKMAN: All right. Thank  
 [14] you. That is all I have.  
 [15] THE COURT: Very good.  
 [16] Mr. Server.  
 [17] MR. SERVER: No questions.  
 [18] MR. MANDELL: I do, if I may.  
 [19] THE COURT: I apologize.  
 [20] MR. MANDELL: It's okay.  
 [21] THE COURT: I'm sorry.  
 [22] MR. MANDELL: Just a couple.  
 [23] THE COURT: No problem.  
 [24] ---  
 [25] CROSS EXAMINATION

[1] ---  
 [2] **BY MR. MANDELL:**  
 [3] **Q.** Good morning, Detective Mangold.  
 [4] **A.** Morning, Mr. Mandell.  
 [5] **Q.** How are you today?  
 [6] **A.** Fine, thank you.  
 [7] **Q.** In looking at C-53, Dominic Coia's  
 [8] statement, for a moment I notice there is some  
 [9] portion of it that was handwritten by yourself;  
 [10] is that correct?  
 [11] **A.** Yes.  
 [12] **Q.** I see your handwriting hasn't  
 [13] improved that much over the years.  
 [14] In any event, you were present  
 [15] throughout the course of that interview, were  
 [16] you not?  
 [17] **A.** I was.  
 [18] **Q.** And I take it you were also present  
 [19] when the warnings were given to Mr. Coia?  
 [20] **A.** Yes.  
 [21] **Q.** And during the course of that  
 [22] interview, however long it lasted, did Detective  
 [23] Watkins or yourself for that matter ever  
 [24] indicate to Dominic Coia that he was facing a  
 [25] possible death penalty?

[1] **A.** I don't believe we used those words.  
 [2] **Q.** I'm sorry. You believe you did or  
 [3] did not?  
 [4] **A.** Did not.  
 [5] **Q.** You also made reference to the fact  
 [6] that according to procedure the interview of  
 [7] Dominic Coia, C-53, was faxed over to the  
 [8] District Attorney's charging unit.  
 [9] What time was that done, if you  
 [10] know?  
 [11] **A.** It was right after this. I don't  
 [12] have a time stamp here. I'm sure we have it in  
 [13] the file somewhere. But there is a time stamp  
 [14] attached to the original.  
 [15] **Q.** And when you say it was done right  
 [16] after, are you saying after the conclusion of  
 [17] the interview?  
 [18] **A.** It was done after Lieutenant Morrin  
 [19] reviewed the interview.  
 [20] **Q.** So, the interview, I believe you  
 [21] indicated concluded, and if you refer to page  
 [22] nine of it, looks to be about 2:30 a.m.?  
 [23] **A.** That is my handwriting. I put the  
 [24] time down when he stopped the interview.  
 [25] **Q.** And you said that after it was

[1] concluded you gave it to Lieutenant Morrin to  
 [2] review?  
 [3] **A.** Yes.  
 [4] **Q.** And it was after his review that it  
 [5] was faxed over?  
 [6] **A.** That's correct.  
 [7] **Q.** So, could we approximate that  
 [8] sometime between, let's say, 2:30 and maybe  
 [9] three or 3:30, would that be a fair appraisal or  
 [10] approximation rather?  
 [11] **A.** I don't want to be incorrect. It  
 [12] could have been after that. I wouldn't know  
 [13] unless I saw the time stamp.  
 [14] **Q.** All right.  
 [15] **A.** A lot of things go on. A lot of  
 [16] times Lieutenant Morrin goes back and forth on a  
 [17] few different cases.  
 [18] We had multiple cases that  
 [19] night. So it could have been possible that this  
 [20] statement laid for an hour before it was fax  
 [21] over.  
 [22] **Q.** Would it be fair to at least say that  
 [23] it didn't get faxed over before three o'clock,  
 [24] three a.m.?  
 [25] **A.** I would doubt that happened, yes.

[1] **Q.** All right. Now, going back to the  
 [2] conversations that you had with Dominic Coia,  
 [3] the defendant's father, Dominic Coia, Sr., did  
 [4] he ever tell you or Detective Watkins in your  
 [5] presence that you had permission to interview  
 [6] Dominic Coia, Jr., his son?  
 [7] **A.** He didn't use those words.  
 [8] **Q.** Did he ever use any words to give you  
 [9] the impression that you could interview Dominic  
 [10] Coia, Jr.?  
 [11] **A.** It was the words he used and his  
 [12] actions.  
 [13] **Q.** My question - and I'll ask it  
 [14] again: Did he ever verbally give you  
 [15] permission - strike that.  
 [16] Did he ever say you have my  
 [17] permission to interview Dominic Coia, Jr.?  
 [18] **A.** He did not use those words.  
 [19] **MR. MANDELL:** Your Honor, bear  
 [20] with me just a moment, I have to  
 [21] locate a document.  
 [22] **THE COURT:** No problem.  
 [23] **MR. MANDELL:** Actually there is  
 [24] an exhibit that was offered  
 [25] yesterday.



[1] **THE COURT:** Which one? I'll  
 [2] help you find it.  
 [3] **MR. MANDELL:** That is what I'm  
 [4] looking for at this point, C-55.  
 [5] **THE COURT:** Okay.  
 [6] **MR. MANDELL:** That is not it.  
 [7] Your Honor, would you  
 [8] indulge me a moment?  
 [9] **THE COURT:** Sure. No problem.  
 [10] Is that the one you wanted?  
 [11] **MR. MANDELL:** No. It is not the  
 [12] one I wanted.  
 [13] **THE COURT:** Tell me what it is  
 [14] and I'll find it.  
 [15] **MR. MANDELL:** Apparently it was  
 [16] not offered as an exhibit. I may  
 [17] have to offer one, if I can find it.  
 [18] **THE COURT:** Okay.  
 [19] **MR. CONROY:** I may have extra  
 [20] copies of what you are looking for.  
 [21] **MR. MANDELL:** I think I have  
 [22] it. If it is the one I'm looking  
 [23] for, I think I may have it.  
 [24] Your Honor, I don't want to  
 [25] hold up anything any further.

[1] Apparently I can't put my fingers on  
 [2] the document I'm looking for.  
 [3] **MR. CONROY:** Judge, may I  
 [4] approach counsel? I'll help him out.  
 [5] **THE COURT:** Yes, because I'm  
 [6] sure one of us has it, and we can  
 [7] just give it to him.  
 [8] You have it?  
 [9] **MR. MANDELL:** Yes. Let me just  
 [10] make sure it is the same one.  
 [11] **THE COURT:** This is - if you  
 [12] decide to mark it, it will become  
 [13] D-10.  
 [14] **MR. MANDELL:** Yes. This is the  
 [15] document.  
 [16] **THE COURT:** Perfect.  
 [17] **MR. MANDELL:** It is D-10. I'm  
 [18] sorry.  
 [19] **THE COURT:** Correct.  
 [20] **MR. MANDELL:** Your Honor, on  
 [21] second thought, I'm going to withdraw  
 [22] the document. I'm not going to have  
 [23] it marked. I'm not going to ask any  
 [24] questions about it.  
 [25] **THE COURT:** Okay. That is fine.

[1] **MR. MANDELL:** And I have no  
 [2] further questions for Detective  
 [3] Mangold.  
 [4] **THE COURT:** Very good.  
 [5] Mr. Conroy, any further  
 [6] questions?  
 [7] **MR. CONROY:** Your Honor, I have  
 [8] nothing further of Detective Mangold.  
 [9] **THE COURT:** Detective, thank you  
 [10] very much.  
 [11] Mr. Conroy, your next  
 [12] witness.  
 [13] **MR. CONROY:** Your Honor, the  
 [14] Commonwealth would next call  
 [15] Detective Aaron Booker.  
 [16] **THE COURT:** Very good.  
 [17] Detective Aaron Booker,  
 [18] Mr. Purnell.  
 [19] **MR. SCHWARTZ:** Your Honor, may  
 [20] we get a brief off the record offer?  
 [21] **THE COURT:** Go ahead, and ask  
 [22] him. If it is sufficient, I'll do  
 [23] it, but just ask him.  
 [24] ---  
 [25] (Discussion off the record

[1] between counsel.)  
 [2] ---  
 [3] **THE COURT OFFICER:** Please  
 [4] remain standing. Raise your right  
 [5] hand. Place your left hand on the  
 [6] Bible.  
 [7] In a loud clear voice, state  
 [8] your full name, badge number, unit,  
 [9] spell your last name for the record  
 [10] please.  
 [11] **THE WITNESS:** Detective Aaron  
 [12] Booker, B-O-O-K-E-R, Badge Number  
 [13] 795, assigned to the Philadelphia  
 [14] Police Department's Homicide  
 [15] Division.  
 [16] ---  
 [17] **DETECTIVE AARON BOOKER,** having  
 [18] been first sworn or affirmed, was  
 [19] examined and testified as follows:  
 [20] ---  
 [21] **THE COURT OFFICER:** Have a seat,  
 [22] sir.  
 [23] **THE COURT:** Detective Booker,  
 [24] good morning.  
 [25] **THE WITNESS:** Good morning,

[1] Judge.  
 [2] **THE COURT:** Are you guys ready?  
 [3] **MR. SCHWARTZ:** Thank you, Judge.  
 [4] **THE COURT:** No problem.  
 [5] **MR. CONROY:** May I inquire, Your  
 [6] Honor?  
 [7] **THE COURT:** You may. Thank you.  
 [8] ---  
 [9] **DIRECT EXAMINATION**  
 [10] ---  
 [11] **BY MR. CONROY:**  
 [12] **Q.** Good morning, Detective Booker.  
 [13] **A.** Good morning.  
 [14] **Q.** Detective Booker, you are a member of  
 [15] the Police Department, correct?  
 [16] **A.** That's correct.  
 [17] **Q.** And you have been a member of the  
 [18] Police Department for how long, Detective  
 [19] Booker?  
 [20] **A.** 24 years.  
 [21] **Q.** You are assigned to the Homicide  
 [22] Division?  
 [23] **A.** That's correct.  
 [24] **Q.** You have been assigned to the  
 [25] Homicide Division, Detective Booker, for how

[1] long?  
 [2] **A.** Ten years.  
 [3] **Q.** Detective Booker, did you have  
 [4] occasion to become involved in the investigation  
 [5] of the death of 16 year-old Jason Sweeney?  
 [6] **A.** That's correct. I'm the assigned  
 [7] investigator.  
 [8] **Q.** Can you outline exactly for the  
 [9] Ladies and Gentlemen how it is that you become  
 [10] assigned? How one actually becomes assigned to  
 [11] a case, and how you became assigned to this  
 [12] particular investigation?  
 [13] **A.** Well, to put it simply, the Homicide  
 [14] Unit, the investigators, I guess in layman's  
 [15] terms we take turns. Each investigator is  
 [16] assigned a job as it comes up. And,  
 [17] unfortunately, I was assigned to this one. It  
 [18] was my turn.  
 [19] **Q.** Detective Booker, do you recall back  
 [20] on Saturday, the 31st of May, 2003, when Jason's  
 [21] body was discovered, is that when you became  
 [22] involved in this investigation?  
 [23] **A.** That's correct.  
 [24] **Q.** Did you actually go out to the scene  
 [25] of where Jason's body was?

[1] **A.** I did.  
 [2] **Q.** And I believe you were actually  
 [3] observable on the video.  
 [4] Were you present when Detective  
 [5] Williford was out there processing the scene?  
 [6] **A.** I was.  
 [7] **Q.** Detective Booker, during the course  
 [8] of your initial investigation of this case, did  
 [9] you know the day that Jason's body was  
 [10] discovered, did you have any idea who he was?  
 [11] **A.** I had no idea whatsoever. The body  
 [12] had no identification on him, and, you know,  
 [13] unfortunately it had no face either.  
 [14] **MR. BOOKMAN:** I object to the  
 [15] comments, "unfortunately." It is the  
 [16] second time, Your Honor, and I do  
 [17] object.  
 [18] **THE COURT:** Your objection is  
 [19] noted. It is sustained.  
 [20] **BY MR. CONROY:**  
 [21] **Q.** Detective Booker, as a result of --  
 [22] strike that.  
 [23] That particular day when you  
 [24] first became involved and went out to the scene,  
 [25] did you have occasion at some point while you

[1] were out at the scene to come in contact with an  
 [2] individual by the name of John Swenson?  
 [3] **A.** Yes, I did.  
 [4] **Q.** Tell us who he was and what, if  
 [5] anything, you had done with him?  
 [6] **A.** Well, during the course of the  
 [7] initial investigation, you know, we located a  
 [8] homeless person approximately a hundred yards  
 [9] away from the scene. He had a makeshift tent,  
 [10] and, you know, by being in a desolate area and  
 [11] no witnesses, we decided to bring this  
 [12] individual into homicide and interview him.  
 [13] And, he apparently had some  
 [14] specks on his face that appeared to be blood,  
 [15] and he gave us his permission. We got some  
 [16] samples.  
 [17] And after the interview, you  
 [18] know, we were satisfied that at least at that  
 [19] point in time he had no involvement, and he was  
 [20] released.  
 [21] What then happened, Detective  
 [22] Booker? I'm going to fast forward to Monday the  
 [23] 2nd of June, 2003.  
 [24] Did you become aware of a  
 [25] missing person's report that had been filed.