

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF WISCONSIN  
MILWAUKEE DIVISION**

**ANDREW L. COLBORN,**

**Plaintiff,**

**vs.**

**NETFLIX, INC.; CHROME MEDIA LLC,  
F/K/A SYNTHESIS FILMS, LLC;  
LAURA RICCIARDI; AND MOIRA  
DEMOS,**

**Defendants.**

**Civil No.: 19-CV-484-BHL**

**DECLARATION OF LEITA WALKER**

I, Mary Andreleita (“Leita”) Walker, under penalty of perjury and subject to 28 U.S.C. § 1746, declare as follows:

1. I am a partner at Ballard Spahr LLP in Minneapolis, Minnesota, and lead counsel for Defendant Netflix, Inc., in the above-referenced matter. I have personal knowledge of the matters set forth herein, and I make this declaration in support of Netflix’s Motion for Summary Judgment.

2. Attached hereto as Exhibit 1 is a true and correct copy of the Complaint in *Avery v. Manitowoc Cnty.*, No. 1:04-cv-00986-LA (E.D. Wis. Oct. 12, 2004), Dkt. 1.

3. Attached hereto as Exhibit 2 is a true and correct copy of excerpts of the transcript of the deposition of Plaintiff Andrew Colborn in this matter.

4. Attached hereto as Exhibit 3 is a true and correct copy of the Decision and Order on Wrongful Conviction Evidence in *State v. Avery*, No. 05 CF 351 (Wis. Cir. Ct. Manitowoc Cnty. Jan. 30, 2007).

5. Attached hereto as Exhibit 4 is a true and correct copy of a Jan. 5, 2016 email from Michael Griesbach to Ronald Goldfarb, produced by Mr. Griesbach in this matter at Bates No. Griesbach0026044.

6. Attached hereto as Exhibit 5 is a true and correct copy of a Jan. 10, 2016 email from Michael Griesbach to Ronald Goldfarb, produced by Mr. Griesbach in this matter at Bates No. Griesbach0015978.

7. Attached hereto as Exhibit 6 is a true and correct copy of a Jan. 12, 2016 email from Andrew Colborn to Patrick Dunphy, produced by Manitowoc County in this matter at Bates No. Manitowoc-000158.

8. Attached hereto as Exhibit 7 is a true and correct copy of a March 19, 2016 email from Brenda Schuler to John Ferak, produced by Manitowoc County in this matter at Bates No. Manitowoc-000063.

9. Attached hereto as Exhibit 8 is a true and correct copy of a Jan. 12, 2016 email from Andrew Colborn to Patrick Dunphy, produced by Manitowoc County in this matter at Bates No. Manitowoc-000270.

10. Attached hereto as Exhibit 9 is a true and correct copy of excerpts of the deposition of Defendant Laura Ricciardi in this matter.

11. Attached hereto as Exhibit 10 is a true and correct copy of the relevant excerpts of the License Agreement dated July 28, 2014 between Defendants Netflix, Inc. and Synthesis Films LLC, produced by Netflix in this matter at Bates No. NFXCOL0000091. Netflix will file the entire agreement under restriction should the Court request it.



12. Attached hereto as Exhibit 11 is a true and correct copy of a July 22, 2013 email from Laura Ricciardi to Lisa Remington, produced by Eleonore Dailly in this matter at Bates No. E. Dailly Subp. Prod. 31-0001.

13. Attached hereto as Exhibit 12 is a true and correct copy of a Nov. 17, 2015 letter from Lisa Callif to Michael Griesbach, produced by the Producer Defendants in this matter at Bates No. CHRM003641.

14. Attached hereto as Exhibit 13 is a true and correct copy of excerpts of the deposition of Adam Del Deo in this matter.

15. Attached hereto as Exhibit 14 is a true and correct copy of a Nov. 20, 2014 memorandum from Netflix to the Producer Defendants providing notes on Episodes 1-4 of *Making a Murderer* (“MaM”), produced by Netflix in this matter at Bates No. NFXCOL0000215.

16. Attached hereto as Exhibit 15 is a true and correct copy of an undated set of notes regarding music in MaM, produced by Netflix in this matter at Bates No. NFXCOL0000242.

17. Attached hereto as Exhibit 16 is a true and correct copy of an Aug. 23, 2015 email from Adam Del Deo to Benjamin Cotner, produced by Netflix in this matter at Bates No. NFXCOL0000265.

18. Attached hereto as Exhibit 17 is a true and correct copy of a set of notes regarding Episodes 8 and 9 of MaM, produced by Netflix in this matter at Bates No. NFXCOL0000282.

19. Attached hereto as Exhibit 18 is a true and correct copy of a July 23, 2015 email from Benjamin Cotner to Adam Del Deo, produced by Netflix in this matter at Bates No. NFXCOL0000294.

20. Attached hereto as Exhibit 19 is a true and correct copy of a set of notes regarding Episodes 5 and 6 of MaM, produced by Netflix in this matter at Bates No. NFXCOL0000335.

21. Attached hereto as Exhibit 20 is a true and correct copy of a Sept. 18, 2015 email from Benjamin Cotner to the Producer Defendants, produced by Netflix in this matter at Bates No. NFXCOL0002099.

22. Attached hereto as Exhibit 21 is a true and correct copy of excerpts of the transcript of the deposition of Lisa Nishimura in this matter.

23. Attached hereto as Exhibit 22 is a true and correct copy of excerpts of the transcript of the deposition of Lisa Dennis in this matter.

24. Attached hereto as Exhibit 23 is a true and correct copy of Plaintiff's Responses to Netflix, Inc.'s First Set of Interrogatories, dated Oct. 6, 2021.

25. Attached hereto as Exhibit 24 is a true and correct copy of a set of notes regarding Episode 5 of MaM, produced by Netflix in this matter at Bates No. NFXCOL0000212.

26. Attached hereto as Exhibit 25 is a true and correct copy of a set of notes regarding Episode 1 of MaM, produced by Netflix in this matter at Bates No. NFXCOL0001943.

27. Attached hereto as Exhibit 26 is a true and correct copy of a set of notes regarding Episodes 7 and 8 of MaM, produced by Netflix in this matter at Bates No. NFXCOL0001959.

28. Attached hereto as Exhibit 27 is a true and correct copy of a set of notes regarding Episodes 1-10 of MaM, produced by Netflix in this matter at Bates No. NFXCOL0001976.

29. Attached hereto as Exhibit 28 is a true and correct copy of a set of notes regarding Episode 7, dated Aug. 17, 2015, produced by Netflix in this matter at Bates No. NFXCOL0002075.

30. Attached hereto as Exhibit 29 is a true and correct copy of a set of notes regarding Episode 6 of MaM, dated Mar. 9, 2015, produced by Netflix in this matter at Bates No. NFXCOL0002131.

31. Attached hereto as Exhibit 30 is a true and correct copy of a June 26, 2015 email from Adam Del Deo to Benjamin Cotner, produced by Netflix in this matter at Bates No. NFXCOL0000226.

32. Attached hereto as Exhibit 31 is a true and correct copy of an Aug. 27, 2015 email from Benjamin Cotner to Lisa Nishimura, produced by Netflix in this matter at Bates No. NFXCOL0000273.

33. Attached hereto as Exhibit 32 is a true and correct copy of a set of notes regarding Episodes 5 and 6 of MaM, produced by Netflix in this matter at Bates No. NFXCOL0002059.

34. Attached hereto as Exhibit 33 is a true and correct copy of a Nov. 10, 2014 email from Marjon Javadi to Adam Del Deo, produced by Netflix in this matter at Bates No. NFXCOL0000208.

35. Attached hereto as Exhibit 34 is a true and correct copy of a Sept. 4, 2015 email from Lisa Nishimura to Benjamin Cotner, produced by Netflix in this matter at Bates No. NFXCOL0000288.

36. Attached hereto as Exhibit 35 is a true and correct copy of comments by Lisa Nishimura to a Google document on July 5, 2015, produced by Netflix in this matter at Bates No. NFXCOL0000293.

37. Attached hereto as Exhibit 36 is a true and correct copy of a July 16, 2015 email from Adam Del Deo to Lisa Nishimura, produced by Netflix in this matter at Bates No. NFXCOL0000245.

38. Attached hereto as Exhibit 37 is a true and correct copy of an undated memorandum by Frank Isaac of Film Finances Inc., produced by Netflix in this matter at Bates No. NFXCOL0000138.

39. Attached hereto as Exhibit 38 is a true and correct copy of an Aug. 23, 2022 email from Plaintiff's counsel April Barker to me.

40. Attached hereto as Exhibit 39 is a true and correct copy of excerpts of the transcript of the deposition of Mary Manhardt in this matter.

41. Attached hereto as Exhibit 40 is a true and correct copy of excerpts of the transcript of the deposition of Brenda Schuler in this matter.

42. Attached hereto as Exhibit 41 and filed under restriction is a true and correct copy of excerpts of the transcript of the deposition of Brenda Shuler in this matter that she has designated as confidential.

43. Attached hereto as Exhibit 42 and filed under restriction is a true and correct copy of certain medical records of Plaintiff Andrew Colborn that he has designated as confidential and produced in this matter at Bates No. Colborn-00153.

44. Attached hereto as Exhibit 43 and filed under restriction is a true and correct copy of certain medical records of Plaintiff Andrew Colborn that he has designated as confidential and produced in this matter at Bates No. Colborn 00061.

45. Attached hereto as Exhibit 44 is a true and correct copy of text messages on Dec. 18, 2018 between Andrew Colborn and Brenda Schuler, produced by Colborn in this matter at Bates No. COLBTXTS\_0006758.

46. Attached hereto as Exhibit 45 is a true and correct copy of a series of emails in November 2018 among Andrew Colborn, Michael Griesbach and John Mayer, produced by Colborn in this matter at Bates No. COLBORN-004486.

47. Attached hereto as Exhibit 46 is a true and correct copy of a series of emails in December 2018 among Andrew Colborn, Brenda Schuler and Michael Griesbach, produced by Colborn in this matter at Bates No. COLBORN-004586.

48. Attached hereto as Exhibit 47 is a true and correct copy of a series of emails on Jan. 8, 2019, among Michael Griesbach, Andrew Colborn and Brenda Schuler, produced by Colborn in this matter at Bates No. COLBORN-004611.

49. Attached hereto as Exhibit 48 is a true and correct copy of Plaintiff's Responses to Defendant Chrome Media LLC's First Set of Interrogatories, dated Jan. 28, 2022.

50. Attached hereto as Exhibit 49 is a true and correct copy of Plaintiff, Andrew L. Colborn's Supplemental Response to Defendant Netflix's Interrogatory No. 1, dated July 15, 2022.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: September 16, 2022

/s/ Leita Walker  
Leita Walker

# Exhibit 1

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN  
(Green Bay Division)

U.S. DISTRICT COURT  
EASTERN DISTRICT-WI  
GREEN BAY

STEVEN A. AVERY,

04 OCT 12 AM 37

Plaintiff,

v.

COMPLAINT

MANITOWOC COUNTY,  
THOMAS H. KOCOUREK, individually  
and in his official capacity as  
Sheriff of Manitowoc County,  
and

Civil Action No. 04-CV-00000

DENIS R. VOGEL, individually  
with respect only to his executive, administrative  
and advice and counsel functions  
and in his official capacity as  
District Attorney of Manitowoc County,

Jury Trial Demanded

Defendants.

Plaintiff Steven A. Avery, by his attorneys, Glynn, Fitzgerald and Albee, S.C. by  
Stephen M. Glynn, and Walter F. Kelly, S.C. by Walter F. Kelly states his complaint as  
follows:

Nature of the Case

1. This is an action pursuant to 42 U.S.C. §§ 1983 and 1985(2) and the due  
process and equal protection clauses of the Fourteenth Amendment to the United States  
Constitution seeking to redress the wrongful conviction and imprisonment of Steven A.  
Avery for felony crimes of sexual assault, attempted murder, and false imprisonment that  
he did not commit.

Jurisdiction

2. Jurisdiction is premised upon 28 U.S.C. §§ 1331 and 1343. The amount in  
controversy exceeds \$1,000,000.00 and may total as much as \$36,000,000.00.

## Parties

3. Steven A. Avery is a citizen of Wisconsin and of the United States who resides at 12930 Avery Rd. in Two Rivers, WI 54241.

4. Manitowoc County is a body corporate and political organized under and pursuant to the laws of Wisconsin, and its address is County Clerk, Manitowoc County Courthouse, 1010 South 8<sup>th</sup> Street, Manitowoc, WI 54220. At all times relevant to the allegations of this complaint Manitowoc County acted under color of law within the meaning of 42 U.S.C. § 1983 and pursuant to its official policies, customs and usages and the final authority of its Sheriff and District Attorney.

5. Thomas H. Kocourek is a citizen of Wisconsin and of the United States who resides at 1601 Shoto Road, Two Rivers, WI 54241. At all times relevant to the allegations of this complaint Kocourek was acting, albeit unlawfully, under color of law within the meaning of 42 U.S.C. § 1983 and within the scope of his employment within the meaning of § 895.46, Wis. Stats. Kocourek is sued both individually and in his official capacity as Sheriff of Manitowoc County as to which County he was the final authoritative decisionmaker and policymaker with respect to the office of Sheriff in all respects relevant to the allegations of this complaint until January, 2001.

6. Denis R. Vogel is a citizen of Wisconsin and of the United States who resides at 4 Bayside Drive, Madison, WI 53704. At all times relevant to the allegations of this complaint Vogel was acting, albeit unlawfully, under color of law within the meaning of 42 U.S.C. § 1983 and within the scope of his employment within the meaning of § 895.46, Wis. Stats. Vogel is sued both individually and in his official capacity as District Attorney of Manitowoc County as to which County he was the final authoritative



decisionmaker and policymaker with respect to the office of District Attorney in all respects relevant to the allegations of this complaint until an unknown date in 1986. In his official capacity Vogel is sued with respect to the entirety of his functions as the District Attorney of Manitowoc County in all respects relevant to the allegations of this complaint; in his individual capacity Vogel is sued with respect only to his executive, administrative, and advice and counsel functions as the District Attorney of Manitowoc County in all respects relevant to the allegations of this complaint.

7. On July 29, 1985 at approximately 4:00 P.M. one P. B. was sexually assaulted, beaten and threatened with her life, and forcibly held against her will on a Lake Michigan beach in Manitowoc County by Gregory A. Allen.

8. Allen, who had at the time a long and violent record which included sex offenses, had engaged in sexually lewd and lascivious conduct and threatened violence against a woman on the same beach two years previously to his attack on P. B. The prosecutor in that case was Vogel.

9. During July, 1985 Allen was under active daily surveillance by members of the City of Manitowoc Police Department for suspected sexually assaultive behavior occurring during the first half of 1985 up to and including July 29, 1985 that was characterized in official police records by the City Department as becoming increasingly "very bold."

10. A Manitowoc City Department report dated July 14, 1985 stated:

This department has compiled several complaints recently concerning Prowling, Window Peeping, Indecent Exposure, and Sexual Assault, ranging from January 1985 through 7/14/85. In each case, GREGORY A. ALLEN...has been listed as a suspect. Past record and intelligence concerning

Gregory Allen reveals he is a dangerous individual with a potential for violence.

11. On July 29, 1985 the surveillance of Allen by the Manitowoc city police was discontinued for most of the day because the Department's personnel were assigned to cover other calls.

12. Allen fit the description of P. B.'s assailant, and Allen's photograph was readily accessible to the Manitowoc County Sheriff and District Attorney.

13. Based upon the facts set forth in ¶¶ 7-12 above, Allen should have been the defendants' prime suspect in the sexual assault of P. B.

14. At the same time that P. B. was attacked Steven A. Avery was on a shopping trip with his wife and children in Green Bay to buy paint for work on his family home. He could account for his whereabouts throughout the day on July 29, 1985, and there was corroborating evidence from witnesses and documents to support his account.

15. On July 29, 1985 Steven A. Avery was known to both the Sheriff and the District Attorney of Manitowoc County generally in regard to certain prior offenses and specifically in regard to an endangerment of safety incident involving the wife of a Manitowoc County Deputy Sheriff that occurred in January, 1985. That woman was a friend of Manitowoc County Deputy Sheriff Judy Dvorak.

16. There was an attitude of hostility within the Manitowoc County Sheriff's Department toward Steven A. Avery and "the Averys" on July 29, 1985 that included both Dvorak and Sheriff Kocourek, and a similar attitude was shared by District Attorney Vogel.

17. As a result of this hostility neither Dvorak, nor Kocourek, nor Vogel possessed that objectivity that is required in law enforcement investigation of crimes such

as those committed against P. B. by Allen. Instead, each was predisposed against Steven A. Avery.

18. P. B. was severely traumatized by Allen's attack and was transported to Memorial Hospital in Manitowoc where she was questioned and interviewed during the sexual assault treatment protocol by Dvorek and Kocourek. Although P. B.'s description of her attacker substantially resembled Allen, Dvorak and Kocourek identified Steven A. Avery as the probable offender, which immediately focused the Manitowoc County crime investigation upon Steven A. Avery and tended to pretermitt meaningful investigation of other suspects, including particularly Allen.

19. Kocourek ordered procedures of victim identification, including a composite sketch and a photo selection process, that failed to follow professional standards, presented Steven A. Avery as a suspect, and excluded Allen from the selection process. P. B. was led to believe that the group of photos presented for her viewing included the main suspect whom the Sheriff's investigation considered to be her attacker. Steven A. Avery's photo was included; Allen's photo was not included.

20. According to well-known professional victim eyewitness identification principles, once a victim identifies a particular person as the criminal perpetrator, that identification becomes more likely to be repeated on later occasions. P. B. identified Steven A. Avery as her assailant when she examined the photos presented to her by Kocourek. A subsequent live lineup was arranged just three days later by Kocourek, who had since consulted Vogel, and again Allen was excluded from the array. Steven A. Avery was included, and P. B. was advised that an arrest had been made by the Sheriff's department and that the arrestee would be in the lineup. Steven A. Avery was the only

person in the live lineup whose picture had also been shown to P. B. in the group of photos provided to her by the Sheriff.

21. Although Kocourek had discussed the investigation and conferred with Vogel less than eight hours after the arrest of Steven A. Avery at approximately midnight on July 29, 1985, and although Vogel had prosecuted Allen two years previously for an assaultive sex crime on the same beach, neither Kocourek nor Vogel initiated or pursued investigatory efforts that considered Allen as a suspect, and Kocourek and Vogel cooperated in the planning and execution of the live lineup.

22. Kocourek and Vogel knew in July, 1985 about Allen's 1983 conviction for lewd and lascivious and assaultive behavior on the same beach. A report of that incident was contained in the Sheriff's file of the investigation of the attack upon P. B. and was signed by Vogel. Moreover, the Sheriff's Department knew as of December 15, 1983 both that Allen would expose himself and masturbate in front of women and children and that he had a history of sexually violent behavior, including the fact that he was a chief suspect in the murder of a fifteen-year-old girl in North Carolina in June, 1975.

23. Shortly after the arrest of Steven A. Avery, then City of Manitowoc Police Department detective Thomas Bergner approached Kocourek and attempted to discuss Allen, Allen's history, and his department's current concerns about Allen as a prime suspect in the attack upon P. B. It was Bergner's impression that Kocourek knew about Allen and Allen's history. Kocourek told Bergner that Allen had been ruled out as a suspect. That statement is irreconcilably inconsistent with Kocourek's repeated denials (following the events stated in ¶ 44 hereof) that he had no knowledge of Allen in August 1985 and thereafter until September 10, 2003.

24. Pursuant to his official policy, custom and usage in 1985 Kocourek made no memorandum or other writing for the P. B. investigatory file that recorded the contents of the information provided to him by Bergner.

25. Further pursuant to his official policy, custom and usage in 1985 Kocourek made no request interjurisdictionally of the City of Manitowoc Police Department, whether before or after his conversation with Bergner, for information concerning Allen.

26. Bergner believed that Allen should have been investigated as a prime suspect in the assault upon P. B. because he was a suspect in other sexual assaults at the same time, including an attempted sexual assault on July 14, 1985 in Manitowoc. Troubled by Kocourek's disinterest in pursuing Allen as a suspect, particularly in view of the then current alarm by City of Manitowoc officers that Allen was accelerating his sexually assaultive proclivities, Bergner contacted P. B.

27. P. B. herself was concerned at the time, a concern she communicated to the Sheriff, that she was receiving harassing phone calls of a sexual nature shortly after she entered her home, causing her to feel that she was being watched. P. B. contacted Kocourek and told him of Bergner's information. She was alarmed that her assailant might still be at large and stalking her, behavior that was consistent with Allen's history.

28. Kocourek did not tell P. B. of Allen's existence, history, or surveillance; he did not tell her of Bergner's alarm or the City department's pointed concerns about Allen; he did not tell her of "ruling out" Allen as a suspect; instead, he told her to disregard the matter and that he would take care of it, as the case was within Manitowoc County's jurisdiction, not the City's.

29. Pursuant to the same official policy, custom and usage in 1985 as alleged in ¶ 24 hereof Kocourek made no memorandum or other writing for the P. B. investigatory file that recorded the contents of the information provided to him by P. B. following her contact with Bergner.

30. The Captain of Detectives and other members of the Sheriff's Department in 1985 expressed their beliefs to the Sheriff that the investigation focused too quickly and specifically upon Steven A. Avery and to the exclusion of other suspects, including a man known for committing sex crimes like the one upon P. B., who matched P. B.'s description, and who was seen in the area where P. B.'s sexual assault took place at the time that it occurred. Kocourek would allow his investigatory personnel no further investigatory pursuit of suspects other than Avery and no pursuit of Allen.

31. Pursuant to the same official policy, custom and usage in 1985 as alleged in ¶ 24 hereof Kocourek made no memorandum or other writing for the P. B. investigatory file that recorded the contents of the information and objections provided to him by the Captain of Detectives and others within the Sheriff's Department in 1985.

32. Upon information and belief, Kocourek told Vogel about Bergner's information concerning Allen, P. B.'s ensuing phone call and further information, and the information and objections of his investigatory personnel.

33. Upon information and belief, pursuant to his official policy, custom and usage in 1985 Vogel made no memorandum or other writing for the P. B. prosecutorial or investigatory file in the District Attorney's office concerning the information provided to him by Kocourek about Bergner, P. B.'s concerns, and the information and objections of Kocourek's investigatory personnel.

34. Further pursuant to his official policy, custom and usage in 1985 Vogel made no request of the City of Manitowoc Police Department for information concerning Allen.

35. At the time of the investigation and prosecution of the attack upon P. B. Vogel knew that members of his office staff believed on objective, reasoned grounds that Steven A. Avery was not the person who attacked P. B. and that Allen was the person who attacked P. B. Upon information and belief, Vogel discussed the views of some members of his staff with Kocourek.

36. Pursuant to his official policy, custom and usage in 1985 Vogel made no memorandum or other writing for the P. B. prosecutorial or investigatory file in the District Attorney's office of either the views of his staff members as set forth in ¶ 35 hereof or of his discussions of these views with Kocourek.

37. Had Kocourek and/or Vogel reviewed police reports from the Manitowoc Police Department on or after July 29, 1985, the following information would have been specified, adding to the likelihood of Allen as the prime suspect in the assault upon P. B.

- A. Allen had been convicted of an aggravated offense as a juvenile.
- B. According to a police report from the Two Rivers Police Department, on August 2, 1983, Allen came up over some sand dunes on the same beach on which P. B. was assaulted, only some distance south of that point, and began walking behind a woman. He then pulled his shorts half-way down and began masturbating. He then lunged at her, but the woman was able to escape.
- C. Following that incident, Allen contacted the victim twice at her home and asked her to drop charges. The victim had moved to Green bay for school and did not know how Allen knew this or how he knew her phone number. Allen also contacted the victim's mother five days after the

offense and asked to talk to “Sue,” which was the victim’s name.

- D. Allen had been convicted on February 2, 1984, for disorderly conduct in the City of Two Rivers.
- E. On June 13, 1984, Allen was the suspect in a “proowler” case in which he attempted to gain entry into a woman’s residence in Manitowoc after following her 16-year-old daughter and her daughter’s friend to that residence.
- F. Allen was suspected of prowling on January 24, 1985, and February 2, 1985, in Manitowoc, involving walking into people’s yards and up to their garages and homes.
- G. On January 26, 1985, Allen was the suspect in an investigation in which a woman told Manitowoc police that at 6:30 a.m. she saw a male subject wearing a ski mask between her yard and neighbor’s yards; and that the suspect had taken a brick and moved it on the other side of a yard fence in order to stand on it and see into the neighbor’s windows; and that the neighbor had a high school-age daughter.
- H. On June 26, 1985, just one month prior to P. B.’s assault, Allen was suspected of going to a woman’s front door at 2:30 a.m. and exposing himself, wearing a red t-shirt wrapped around his head. The victim could see the man’s eyes, nose and mouth. She found out later that her kitchen window had been removed. Also, a bedroom window on the north side of the house had twelve Phillips screws removed from it.  
  
Allen was stopped on his motorcycle a short distance away, wearing a red t-shirt. Allen matched the description except that he had a mustache. He was arrested for a traffic violation and for being a suspect in a vehicle entry the same day in which the vehicle owner had two daughters. Allen had two Phillips screwdrivers in his possession. Despite this evidence, Allen was not charged for this incident.
- I. On July 14, 1985, just two weeks prior to P. B.’s assault, Allen was suspected of breaking into a man’s home at 3:28 a.m. and attempting to assault his daughter. The daughter awoke to find a man straddling her, sitting on her thighs and fondling her breasts. The man then placed a knife to



the girl's throat saying she should take off her clothes or he would kill her. He was nude and had a bathing suit wrapped around his head covering his entire face and hair. The victim stated she had her period and not to hurt her. He brought her hand onto his penis and made her masturbate him until he ejaculated on her nightgown. He asked where her sister was and she said her sister was not at home. He then ordered her to accompany him to the back door, where he had her let him out. As he was leaving he told her not to tell anyone or he would kill her.

A neighbor stated that he saw a man park his motorcycle near the victim's house at approximately 2:30 a.m. and then walk toward the victim's house. Allen had a motorcycle. Another neighbor stated that at approximately 2:42 a.m., she observed a man carrying a picnic bench between her house and the victim's house. The suspect had gained access to the house through the window. Another neighbor had seen a man duck into the bushes of the victim's house one month prior to the July 14 incident at approximately 8:30 p.m. He then saw a motorcycle parked in front of an elderly couple's house nearby.

38. All the information concerning Allen alleged in ¶¶ 8-13, 18, 22-23, 26-28, 30, 32, 35, and 37 hereof is material and exculpatory evidence that was timely requested of Vogel and Kocourek by attorneys representing Steven A. Avery and was not provided to them. This was severely prejudicial, as the information would have prevented the prosecution, and/or the conviction, and/or the imprisonment of Steven A. Avery between 1985 and 2003.

39. All the acts and/or omissions set forth in ¶¶ 8-37, committed by Kocourek and Vogel were intentional and/or in reckless disregard of the rights of Steven A. Avery.

40. The differential treatment of Steven A. Avery and Allen as possible suspects in the attack on P. B. was without rational basis and was premised upon personal hostility toward Steven A. Avery.

41. The policies, customs and usages alleged in ¶¶ 24, 25, 29, 31, 34, 36 and 38 were those of Manitowoc County acting through its highest-ranking authoritative law enforcement decisionmakers, its Sheriff and District Attorney, and were causes of failures to exculpate Steven A. Avery, as alleged in ¶ 38 hereof.

42. After his conviction Steven A. Avery consistently maintained his innocence and sought by appeal and post-conviction remedies to set aside his convictions. His attorneys continued to seek and pursue exculpatory evidence. Notwithstanding their affirmative obligation to provide the information concerning Allen alleged in ¶¶ 8-13, 18, 22-23, 26-28, 30, 32, 35, and 37 hereof even after Steven A. Avery's conviction, Kocourek and Vogel continued to fail to provide such information to Steven A. Avery or his attorneys.

43. In March, 1986 Vogel prosecuted and convicted Allen for a sex offense which again brought to Vogel's attention all the exculpatory information concerning Allen that should have been provided to Steven A. Avery or his attorneys.

44. Due to the efforts of the Wisconsin Innocence Project and conclusive DNA evidence Steven A. Avery was exonerated and released by final court judgment in September, 2003. The same DNA evidence conclusively implicated Allen, who had committed further violent sex crimes between 1986 and 1995, in the assault, beating and attempted murder of P. B.

#### First Cause of Action

45. The actions and omissions of the defendants Kocourek and/or Vogel and Manitowoc County in targeting Steven A. Avery and failing to investigate Allen as alleged in ¶¶ 8-43 hereof deprived Steven A. Avery of due process of law so

comprehensively as to “shock the conscience” in violation of the due process clause of the Fourteenth Amendment to the United States Constitution.

#### Second Cause of Action

46. The actions and omissions of the defendants Kocourek and/or Vogel and Manitowoc County as alleged in ¶¶ 8-43 hereof in their differential treatment of Steven A. Avery and Allen as suspects in the P. B. assault case upon grounds of personal hostility and irrationality deprived Steven A. Avery of the equal protection of the laws as provided by the Fourteenth Amendment to the United States Constitution.

#### Third Cause of Action

47. The actions and omissions of the defendants Kocourek and/or Vogel and Manitowoc County as alleged in ¶¶ 8-43 hereof in failing to record or provide to defense counsel for Steven A. Avery material exculpatory evidence concerning Allen that was timely and lawfully requested severely prejudiced Steven A. Avery and denied him due process of law in violation of the Fourteenth Amendment to the United States Constitution

#### Fourth Cause of Action

48. The post-conviction continuing failure of the defendants Kocourek and/or Vogel and Manitowoc County to come forward with material exculpatory evidence known to them concerning Allen throughout the eighteen years of Steven A. Avery’s imprisonment constitutes a violation of the due process and equal protection clauses of the Fourteenth Amendment to the United States Constitution and a continuing hindrance

and obstruction of the due course of justice in violation of the obstruction clause of 42 U.S.C. § 1985(2).

#### Damages

49. As a result of the actions and omissions of Kocourek, Vogel and Manitowoc County as alleged in ¶¶ 8-43 hereof Steven A. Avery has suffered the loss of his liberty and dignity for eighteen years, has been treated by society as the worst kind of criminal for eighteen years, has suffered the destruction of the ordinary civilian opportunities to work and earn a living and all the economic and social benefits that accompany an earned living for more than eighteen years, has become permanently economically and socially disabled, has suffered the loss of personal autonomy and of his most intimate personal and familial relations, and has been deprived of all the countless experiences of life that accompany free citizenship in Wisconsin and the United States. These losses exceed \$1,000,000.00 and may total as much as \$18,000,000.00.

50. The actions and omissions of the defendants Kocourek and Vogel as alleged in ¶¶ 8-43 hereof are intentional and/or in reckless disregard of the rights of Steven A. Avery and so outrageous as to warrant the imposition of punitive damages upon each of them that exceed \$1,000,000.00 and could total as much as \$18,000,000.00 cumulatively.

WHEREFORE, plaintiff demands judgment against defendants Manitowoc County, Kocourek and Vogel for compensatory damages, jointly and severally, in an amount exceeding \$1,000,000.00 and totaling as much as \$18,000,000.00; for punitive damages against defendants Kocourek and Vogel individually in an amount exceeding \$1,000,000.00 for each defendant and totaling cumulatively as much as \$18,000,000.00; for indemnification to the benefit of Steven A. Avery over against Manitowoc County of

all damages assessed against defendants Kocourek and Vogel pursuant to § 895.46, Wis. Stats.; for all costs and reasonable attorneys' fees pursuant to 42 U.S.C. § 1988; and for such other and further relief, equitable or legal, as this Court may deem proper and just.

PLAINTIFF HEREBY DEMANDS TRIAL BY JURY.

Dated at Milwaukee, Wisconsin, this 12<sup>th</sup> day of October, 2004.

GLYNN, FITZGERALD and  
ALBEE, S.C.  
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Milwaukee, WI 53202  
PHONE: (414) 221-9600

WALTER F. KELLY, S.C.  
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By: 

Stephen M. Glynn  
State Bar No. 1013103

By: 

Walter F. Kelly  
State Bar No. 1012283

Attorneys for Plaintiff

# CIVIL COVER SHEET

The JS -- 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

Place an X in the appropriate box:  Green Bay Division  Milwaukee Division

**I. (a) PLAINTIFFS**  
 STEVEN A. AVERY,  
 (b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Manitowoc  
 (EXCEPT IN U.S. PLAINTIFF CASES)

**DEFENDANTS**  
 MANITOWOC COUNTY,  
 THOMAS H. KOCOUREK,  
 DENIS R. VOGEL. Manitowoc  
 COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Manitowoc  
 (IN U.S. PLAINTIFF CASES ONLY)  
 NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

**(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)**  
 Stephen M. Glynn; Glynn, Fitzgerald and Albee, S.C.  
 526 E. Wisconsin Ave., Milw., WI 53202-(414) 271-9600;  
 Walter F. Kelly; Walter F. Kelly, S.C.  
 158 N. Broadway, #600, Milw., WI 53202-(414) 271-6989

ATTORNEYS (IF KNOWN) UNKNOWN.

**II. BASIS OF JURISDICTION** (PLACE AN "X" IN ONE BOX ONLY)

1 U.S. Government Plaintiff  3 Federal Question (U.S. Government Not a Party)  
 2 U.S. Government Defendant  4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

Citizen of This State	PTF <input type="checkbox"/> 1 DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	PTF <input type="checkbox"/> 4 DEF <input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2 <input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 <input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6

**IV. NATURE OF SUIT** (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans-Excl. Veterans <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury  <b>PERSONAL INJURY - Med. Malpractice</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice  <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability  <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other  <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark  <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))  <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions

**V. ORIGIN** (PLACE AN "X" IN ONE BOX ONLY)

1 Original Proceeding  2 Removed from State Court  3 Remanded from Appellate Court  4 Reinstated or Reopened  5 Transferred from another district  6 Multidistrict Litigation

**VI. CAUSE OF ACTION** (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)  
 42 U.S.C. Secs. 1983 & 1985(2)-denials of due process and equal protection of the laws resulting in 18 years of lost liberty

**VII. REQUESTED IN COMPLAINT:** CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23  **DEMAND \$** 36,000,000.00 **CHECK YES only if demanded in complaint: JURY DEMAND:**  YES  NO

**VIII. RELATED CASE(S) IF ANY** (See instructions): \_\_\_\_\_ **JUDGE** \_\_\_\_\_ **DOCKET NUMBER** \_\_\_\_\_

**DATE** 10/12/04 **SIGNATURE OF ATTORNEY OF RECORD** By: Walter F. Kelly  
 Walter F. Kelly

# Exhibit 2

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN

ANDREW COLBORN,

**COPY**

Plaintiff,

-vs-

CIVIL ACTION NO. 19-CV-0484-BHL

NETFLIX, INC., ET AL.,

VOLUME I

Defendants.

VIDEOTAPED DEPOSITION OF

ANDREW L. COLBORN

DATE: July 21, 2022

TIME: 9:23 a.m. - 5:22 p.m.

LOCATION: Godfrey & Kahn, S.C.  
833 East Michigan Street  
Suite 1800  
Milwaukee, Wisconsin 53202

REPORTED BY:  
Paula Huettenrauch, RMR, CRR  
365Reporting, LLC

VIDEOGRAPHER:  
Jon Hansen, CLVS  
Video Concepts  
608.408.7411



1 Times Reporter, which is the newspaper in Manitowoc  
2 County, Wisconsin, correct?

3 A Yes, it is.

4 Q And the date in the upper left-hand corner  
5 there is January 31st, 2007. Do you see that?

6 A Sorry. No, I don't. Where is that?

7 Q (Indicating.)

8 A Oh, yes.

9 Q Do you read the Herald Times Reporter?

10 A I don't have a subscription. I occasionally  
11 look at it online.

12 Q Do you agree what you were reading the  
13 Herald Times Reporter back in 2007?

14 A Yes, I'm sure there were days in 2007 that  
15 I -- that I read the paper, yes.

16 Q Do you have any specific recollection of  
17 reading this article?

18 A I do not.

19 Q I'll read the headline of the top article to  
20 you. "Defense allowed to point finger at deputies."  
21 Do you have any quibble with the accuracy of that  
22 headline?

23 MR. BURNETT: Objection, foundation.

24 A I have an objection with everything the  
25 media --

1           Q     Mr. Colborn, you don't get to object today.  
2           You only get to answer questions. Your attorney gets  
3           to object.

4                     My question is do you dispute the accuracy  
5           of that headline? I know you -- I know you dispute  
6           that you planted evidence or the defense's theory, if  
7           we can call it that, but do you dispute the accuracy  
8           of the headline that the, quote, defense was allowed  
9           to point finger at deputies? Do you dispute that?

10          A     I'm sorry, Mrs. Walker. I thought your  
11          question was do I object to the headline.

12          Q     No. Do you dispute its accuracy that this  
13          is what the defense was allowed to do?

14                     MR. BURNETT: Objection, foundation.

15          A     No, I don't dispute the headline.

16          Q     And then there's a subheadline, "Judge:  
17          Attorneys allowed to prove Avery framed." You don't  
18          dispute the accuracy of that headline, do you?

19                     MR. BURNETT: Objection, foundation.

20          A     I'm not sure what you mean by "accuracy of  
21          that headline." That's certainly what's printed here  
22          in front of me. I don't recall the specific arg --  
23          article, but I'm not going to dispute that that's  
24          what's written and in front of me.

25          Q     I'm asking you a little bit more than that.

1 I'm asking whether you dispute the accuracy of the  
2 contents, the substance of what's being said here.

3 I can ask it differently. Isn't it true  
4 that the judge allowed the attorneys to prove that  
5 Avery was framed?

6 MR. BURNETT: Objection, foundation.

7 MS. WALKER: Again, he attended portions  
8 of the trial and was cross-examined on this very  
9 topic. I think he can answer the question.

10 MR. BURNETT: I didn't tell him not to  
11 answer the question. I objected to the foundation.  
12 I don't think you've established personal knowledge,  
13 but go ahead.

14 A Yes, it's my understanding that the judge  
15 allowed that.

16 Q So, Mr. Colborn, let me ask you just one  
17 more time if you'll go back to the proposed  
18 stipulations 7, 8, and 9. Are you still going to  
19 refuse to admit those? And I'll let you read them if  
20 you need to.

21 A Yes, I'm not going to stipulate to those.

22 Q All right. Let's take a look at Exhibit 7,  
23 which I'll hand you in just a moment.

24 A Okay.

25 (Exhibit 7 marked for identification.)

1           **Schuler, correct?**

2           A       Correct.

3           Q       And the email that Brenda sent to you was an  
4           email she sent to someone named Mr. Ferak. Mr. Ferak  
5           is referenced in the stipulations you did agree to.  
6           He's a former journalist, correct?

7           A       I'm not 100 percent positive, but I believe  
8           he still is a journalist. I believe he's the editor  
9           of the Patch newspaper in Joliet, Illinois.

10          Q       And she's writing to Mr. Ferak in your  
11          defense, and I will point you down in her email maybe  
12          eight lines where she says, "There is nothing new in  
13          Making a Murderer, other than an incredibly slanted  
14          and selectively edited (read splicing of actual  
15          testimony days apart into one) version based of the  
16          Defense's view." Do you see where I'm reading?

17          A       Yes. Yes.

18          Q       And I read that correctly, correct?

19          A       Yes, you did.

20          Q       And you forwarded this to your wife at the  
21          time, correct?

22          A       Yes.

23          Q       And that's because you agreed with  
24          Ms. Schuler, correct?

25          A       As it pertained to Mr. Ferak, yes, I did.

1           Q     Right. And you agreed there was nothing new  
2           in Making a Murderer, and it was a slanted version  
3           based on the defense's view, correct?

4           A     I didn't include any comments on that.

5           Q     That wasn't my --

6           A     I forwarded this to my ex-wife.

7           Q     That's not -- that's not my question. You  
8           forwarded it because you agreed with what Ms. Schuler  
9           wrote here, correct?

10          A     I forwarded it because my ex-wife was  
11          concerned about all the negative press we were  
12          receiving from Mr. Ferak, who was a local reporter in  
13          Wisconsin at the time.

14          Q     Okay. You can just say no, and I can ask a  
15          new question. Well, I'll just ask -- I'll ask it  
16          this way. Do you disagree with Ms. Schuler and what  
17          she said here?

18          A     I don't disagree with her opinion, no.

19          Q     Let's take a look at that proposed  
20          stipulation number 15, if you could go back to  
21          Exhibit 1.

22          A     Okay.

23          Q     I'll read it out loud to you. We asked you  
24          to agree that "Even prior to its release, Mr. Colborn  
25          understood that Making a Murderer would not portray

1 MR. BURNETT: I'll withdraw the  
2 objection. You can answer.

3 A I disagree with that statement.

4 Q On what basis? Let me -- let me ask you.  
5 You've not watched the whole thing?

6 A Correct.

7 Q In fact, you haven't even watched the last  
8 three episodes at all according to your stipulated  
9 facts, correct?

10 A That is correct, yes.

11 Q So you have no idea in those last three  
12 episodes whether it tells both sides of the stories,  
13 raises questions, or encourages viewers to reach  
14 their own conclusion? You just don't know, correct?

15 A I don't know any of the content of the last  
16 three episodes, that's correct.

17 Q Can you point me to where in Making a  
18 Murderer it contends that you planted evidence to  
19 frame Avery for Teresa Halbach's murder?

20 A I believe there's quite a few examples in  
21 the Complaint that were -- so I'm not an attorney.

22 Q I know.

23 A I hired attorneys to do the research to find  
24 that evidence.

25 Q I'm just asking you -- yeah. And your

1           **Steven Avery?**

2           A       I'm sorry. Can you repeat that? I'm sorry.

3           Q       So I'll represent to you in the three  
4           episodes you didn't watch --

5           A       Yes.

6           Q       -- the reading of the verdict is shown --

7           A       Okay.

8           Q       -- and Steven Avery is walked out of the  
9           courtroom in handcuffs to jail. That detracts from  
10          any strong and definite statement that you planted  
11          evidence to frame him, correct?

12          A       I don't know. Without watching it, I don't  
13          know. I don't know how -- in what context it was  
14          shown, so I don't know.

15          Q       Do you have any intention of watching Making  
16          a Murderer in its entirety?

17          A       No.

18          Q       Okay.

19          A       I don't.

20          Q       Despite litigating a federal lawsuit that  
21          may go to trial, you don't plan to watch the  
22          documentary that you've sued over?

23          A       It's ruined my life. I'm not going to pay  
24          to watch it.

25          Q       Well, that's not my question, and I'll move

1       such a thing! But a majority assumed he was  
2       guilty--why would the police have arrested him if he  
3       wasn't involved?"

4               I think I skipped over a sentence about  
5       Nancy Grace, but otherwise, did I read that  
6       correctly?

7               A     Yes.

8               Q     And do you agree with this assessment of the  
9       local reaction to the murder of Teresa Halbach and  
10      the arrest of Steven Avery?

11              A     I'll agree that there were some in the  
12      community that thought he was innocent; some thought  
13      he had done this again. I don't know if the majority  
14      was one way or the other. That's Mike's opinion.

15                               (Exhibit 15-B marked for identification.)

16              Q     Understood. So I'll now hand you  
17      Exhibit 15-B, which is also from The Innocent Killer.  
18      This is from a few pages later in the book, page 215.  
19      And in the third paragraph down, Mr. Griesbach wrote,  
20      "The Avery case was naturally the chief topic of  
21      discussion at Warren's from the date of Teresa  
22      Halbach's appearance" [sic] "until the end of the  
23      trial. From Mike the window washer to the county  
24      executive, everyone at Warren's had an opinion about  
25      the case, and given what I do for a living, they



1       **quote. You would agree with Ms. Heinzen's**  
2       **assessment, correct?**

3           A       Mrs., I believe, and, you know, that might  
4       be her interpretation of it, but yes, certainly Avery  
5       had his supporters and not quite or anywhere near as  
6       vocally. Law enforcement probably had a few  
7       supporters as well.

8           Q       So I want to turn again to Exhibit 1 and  
9       those stipulations that we proposed.

10          A       Okay.

11          Q       And specifically numbers 11, 13, and 14.  
12       I'll read them out loud. Number 11 says, "Mr.  
13       Colborn felt wronged by the frame-up theory put forth  
14       by the defense at Mr. Avery's trial."

15                 Number 13 says, "Mr. Colborn felt the  
16       frame-up theory put forth by the defense at  
17       Mr. Avery's trial harmed his reputation."

18                 And number --

19          A       Hang on one second, okay? So you're reading  
20       11, 12, and 13, because mine says 13 blank --

21          Q       Yes.

22          A       -- and 11.

23          Q       I know. If you could flip to the ones we  
24       proposed --

25          A       Okay.

1 A Yes.

2 Q She told us that you felt like the system  
3 turned on you by letting the evidence planting theory  
4 be introduced at trial. Do you agree with that?

5 A Again, I don't ever recall telling her that  
6 the system turned on me. I probably told her I  
7 didn't feel that the officers involved in the  
8 investigation were getting the backing that they  
9 probably needed from the county.

10 Q She --

11 A I'm sorry. Go ahead.

12 Q She told us that you were afraid you were  
13 going to be sent to prison. Do you agree with that?

14 A No.

15 Q She said that you were not yourself during  
16 the trial. Do you agree with that?

17 A Yes.

18 Q She said that you were quiet and could only  
19 focus on the trial. Do you agree with that?

20 A Yes.

21 Q She said you would pace in the house. Do  
22 you agree with that?

23 A Yes.

24 Q She said you were withdrawn. Do you agree  
25 with that?

1           A       Well, I've been withdrawn all my life, so  
2           certainly, yes, I agree with that.

3           **Q       She said you started drinking more during**  
4           **the trial. Do you agree with that?**

5           A       Well, I'm not going to sit here and say I  
6           crawled into the bottle because I didn't, but  
7           certainly, yes, I probably used that as some sort of  
8           way to de-stress after work, yes.

9           **Q       She said you stopped going out in public.**  
10          **Do you agree with that?**

11          A       Yes.

12          **Q       She said you started avoiding people. Do**  
13          **you agree with that?**

14          A       That would be more after the release of  
15          Making a Murderer, not during the trial.

16          **Q       She said that you started feeling like you**  
17          **couldn't trust anyone during the trial. Do you agree**  
18          **with that?**

19          A       No.

20          **Q       So I'll ask you to look one more time at**  
21          **those proposed stipulations, number 11 --**

22          A       Okay.

23          **Q       -- 13, and 14. And my --**

24          A       11, 13, and 14?

25          **Q       And my question is will you agree to them?**

1 Q Is it how you felt at the time of the trial?

2 A There were times that I was angry, yes.

3 Q And it was because your integrity was being  
4 questioned?

5 A It was -- among other things, yes, yes.

6 Q And you felt like no one was coming to your  
7 defense?

8 A Well, I'm speaking specifically about the  
9 media, yes. No, I didn't feel any member or news  
10 organization was coming to our defense, no.

11 Q And you felt like your reputation was taking  
12 a hit, correct?

13 A Certainly.

14 Q So now go to page 23.

15 A Of the same document?

16 Q Of the same exhibit.

17 A Okay. All right. I have it.

18 Q That second full paragraph, minute marker  
19 1:14:15. Do you see that?

20 A The one that starts, "So Mr. Ferrick"?

21 Q Yes.

22 A Yes.

23 Q It says, "So Mr. Ferrick on one occasion had  
24 written an article and it prompted a lot of death  
25 threats." Did I read that correctly?

1 A Yes.

2 Q Do you remember making this statement to the  
3 filmmakers of Convicting a Murderer?

4 A You know, I don't -- I told you earlier I  
5 don't specifically recall, but you told me this is an  
6 exact excerpt of Brenda Schuler's -- or whoever  
7 interviewed me, that this is the excerpt of what I  
8 said.

9 Q Right. No reason to dispute that you said  
10 it, correct?

11 A I'm not disputing I said that.

12 Q And that's a true statement in your mind,  
13 correct --

14 A Yes.

15 Q -- that he wrote an article and it prompted  
16 a lot of death threats?

17 A Yes.

18 Q Okay. Will you go back to Exhibit 1 and  
19 look at our proposed stipulation number 25?

20 A Yeah.

21 Q You have to go back here.

22 A No, I have to read, though, this whole thing  
23 because that may -- that article may have been about  
24 another case that had nothing to do with Steven  
25 Avery. Mr. Ferak was also going after our department

1 Q Correct.

2 A Yes. The sheriff's department instructed me  
3 to do it.

4 Q And did you know that that statement was  
5 recorded and included in Episode 8 of Making a  
6 Murderer?

7 A Well, having not watched Episode 8, no, I  
8 don't know that statement was made.

9 Q And I'll --

10 A So I wouldn't know what context or anything.

11 Q I'll read the statement to you. You told  
12 the press, I hope and pray that this verdict helps  
13 put to rest any suspicions or loss of confidence that  
14 this community may have felt towards our department  
15 because I assure everyone that this agency has some  
16 of the finest law enforcement officers in the country  
17 in its employ.

18 I know you don't remember it word for word,  
19 but does that sound like what you said?

20 A I certainly would have stood up for our  
21 department, yes, and I certainly -- and still pray  
22 for the Halbach family, so that sounds consistent.

23 Q Does it make you feel better to know that  
24 that was included in Episode 8?

25 MR. BURNETT: Objection, form.

1           A       I would have to watch Episode 8 and see in  
2           which context -- how it was used. Like, was it used  
3           to ridicule me? So then no, I wouldn't feel better  
4           about how it was used.

5           **Q       But you don't plan to watch Episode 8,**  
6           **correct?**

7           A       As I sit here right now today and talk with  
8           you, no, I don't plan on watching Episode 8, but  
9           certainly there's no reason I can't change my mind at  
10          some point.

11          **Q       Okay.**

12                   MS. WALKER: Let's go to Exhibit 37.

13                   (Exhibit 37-A marked for identification.)

14          A       Do I have that one or no?

15          **Q       I'm going to give it to you.**

16          A       Oh, okay.

17                   MS. WALKER: Sure. So Exhibit 37  
18          collectively is Mr. Colborn's responses to  
19          interrogatories in this case. I have marked the  
20          different responses and supplemental responses and  
21          signature pages as Exhibits 37-A, B, C, and D. It's  
22          a little confusing given the way things kind of came  
23          in.

24          **Q       But let's start with Exhibit 37-A, which,**  
25          **Mr. Colborn, I'll represent to you are the first**

1       Lauren, L-a-u-r-e-n, last name is McCracken,  
2       M-c-C-r-a-c-k-e-n.

3               **Q       Okay.**

4               A       Next oldest child's first name is Brandy,  
5       B-r-a-n-d-y, and her last name is Rima, R-i-m-a.  
6       Next oldest child's first name is Jeffrey, common  
7       spelling, also last name McCracken.

8               **Q       Anyone else?**

9               A       Yes. Next child's -- I'm going from oldest  
10       to youngest. Amanda, also common spelling, her last  
11       name is Colborn. And the youngest child's first name  
12       is Jeremiah, J-e-r-e-m-i-a-h, also last name Colborn.

13              **Q       And they're all adults, correct?**

14              A       Yes. Jeremiah would be the youngest. He's  
15       30.

16              **Q       You also did not list a woman named Jodi**  
17       **Maurer. I understand you're in a relationship with**  
18       **her, correct?**

19              A       Yes.

20              **Q       And is she a witness to your alleged**  
21       **emotional distress in this case?**

22              A       No, not really, because I don't -- we don't  
23       discuss it.

24              **Q       Okay. Do you live with her?**

25              A       Yes.



1           Q     Okay. And she's not been in a position to  
2     observe any physical manifestations of your distress?

3           A     Not really, no.

4           Q     Do you have any physical manifestations of  
5     distress?

6           A     Such as?

7           Q     Loss of weight, physical manifestations of  
8     anxiety, inability to sleep, depression.

9           A     Not depression. I do have, you know,  
10    inability to sleep. I am constantly in a state of  
11    hypervigilance. I am very distrustful of people now.  
12    I am extremely introverted, much more so than I was  
13    before.

14          Q     Do you think Ms. Maurer has been able to  
15    observe these --

16          A     No.

17          Q     Not in a position to observe it?

18          A     No.

19          Q     It's just not observable; is that what  
20    you're telling me?

21          A     Right. She's never said, like, "Why do you  
22    do this" or "Why do you do that?" She just assumes  
23    that's the way I am.

24          Q     Okay. And you haven't had any conversations  
25    with her about this case?

1           A     I have not.

2           **Q     How long have you lived with her?**

3           A     We started sharing a residence April of  
4     2021.

5           **Q     So in more than a year, this case has never**  
6     **come up?**

7           A     No. I mean, I've -- obviously I told her  
8     today I'm going to -- you know, I've told her when  
9     court dates are, and she's asked me once if the  
10    lawsuit was still ongoing because there was such a  
11    long gap between anything happening, and I said it  
12    was. She expressed concern about being drug into it,  
13    things like that.

14          **Q     So did you not list her and your children**  
15    **because you didn't want to drag them into it or is it**  
16    **because she really doesn't know anything about the**  
17    **lawsuit or the underlying facts?**

18          A     She doesn't -- yeah, she doesn't know  
19    anything about it because I won't discuss it, and she  
20    doesn't pry about it. I think she senses it's one of  
21    those topics that should be avoided.

22          **Q     And your alleged emotional distress wouldn't**  
23    **be observable by the person living in the same house**  
24    **as you?**

25          A     I don't believe so, no.

1 A Like have I taken anything today?

2 Q **Yeah. Do you have --**

3 A I have acid reflux, so I took an antacid.

4 Q **Uh-huh.**

5 A I have asthma, so I have to take an inhaler  
6 every morning. I'm on a medication for anxiety. I  
7 can't give you the name of it. Not because I'm  
8 trying to withhold it, because I don't know, but you  
9 have my records. I believe I took one of those this  
10 morning.

11 Q **Okay.**

12 MS. WALKER: It's nearly 1:00. I think  
13 this is a good place to break and have lunch and come  
14 back.

15 MR. BURNETT: Sure. What time do you  
16 want to resume?

17 MS. WALKER: Let's go off the record.

18 MR. BURNETT: Let's go off.

19 THE VIDEOGRAPHER: Going off the record  
20 at 12:54.

21 (Lunch recess held.)

22 THE VIDEOGRAPHER: We're back on the  
23 record at 2:13.

24 Q **(By Ms. Walker:) All right, Mr. Colborn. I**  
25 **have some wrap-up questions from items we were**

1       discussing before the lunch break, and the first one  
2       is would you agree with me that your integrity had  
3       been questioned and your reputation harmed at the  
4       time of trial?

5             A       Yes.

6             Q       And you can't as you sit here today quantify  
7       the reputational harm arising from trial and the  
8       contemporaneous media coverage that came along with  
9       the trial, can you?

10            MR. BURNETT:  Objection, form.

11            A       I can say after the verdict, my reputation  
12       and everything went back to how it was.

13            Q       How do you know that?

14            A       Because after his conviction, the negative  
15       press stopped, people began being more favorable  
16       about the events of the trial, the unfolding of the  
17       trial, the conviction.  It was just a general  
18       atmosphere that was more supportive.

19            Q       So the publicity disappeared, but the  
20       articles that were written remained out there,  
21       correct?

22            A       That were written during the trial?

23            Q       Yes.

24            A       I don't know when they archive those, but I  
25       don't recall a blitzkrieg of negative press like

1 on.

2 Q Well, that's not my question. You agreed  
3 with Attorney Strang that he ruined your credibility?

4 A Do you mean I agreed with Brenda?

5 Q Did you agree with Brenda?

6 A I don't see where I agreed, but I'm on the  
7 same page with her, yes.

8 Q Yeah. As you sit here today, do you agree  
9 that Attorney Strang ruined your credibility and your  
10 integrity?

11 A I agree that Attorney Strang played a part  
12 in it after the release of Making a Murderer, yes.

13 Q Are you able to distinguish the reputational  
14 harm Attorney Strang caused you versus the  
15 reputational harm Jerome Buting called you -- caused  
16 you versus that that Making a Murderer caused you  
17 versus that that John Ferak caused you or that  
18 Kathleen Zellner caused you?

19 A No, I can't because Making a Murderer gave  
20 them all their material.

21 Q Well, Making a Murderer took material from  
22 the trial, correct?

23 A Kathleen Zellner wasn't part of that trial.

24 Q Making a Murderer took their material from  
25 the trial, correct?

1 years ago.

2 Q So you're changing your story?

3 MR. BURNETT: Objection, form.

4 A I'm saying I based a lot of this information  
5 off social media, threats that were being made to me,  
6 and I didn't have the trial transcript in front of  
7 me.

8 Q Any other reason you're departing from that  
9 statement?

10 A No, no other reason.

11 Q Two lines down from there you say, "The  
12 defense continues, in part thru Netflix, to maintain  
13 and keep alive these lies to this day. Just last  
14 week Strang was on WTMJ Radio saying these things I  
15 just mentioned. The trial was over 10 years ago, how  
16 much longer can the defense attorneys continue this  
17 crusade against my agency and me personally??" Did I  
18 read that correctly?

19 A Yes.

20 Q And if I'm reading this, you believe the  
21 defense team lied about you during the trial,  
22 correct?

23 A Yes.

24 Q Okay. That's when their crusade against you  
25 began, correct?

1           A     Yes, I do.

2           Q     But unless Mr. Griesbach was in the room  
3 with you or any of us sitting here today were in the  
4 room with you, none of us can know with 100 percent  
5 certainty, correct?

6           A     I would think that I drove that point home  
7 in the trial, and based on the subsequent conviction,  
8 I believe the jury was convinced of it.

9           Q     We would have to trust you, correct,  
10 Mr. Colborn?

11          A     Yes, you would have to trust that I was  
12 telling the truth under oath.

13          Q     And the jury found for the prosecution and  
14 convicted Mr. Avery, correct?

15          A     Yes, they did.

16          Q     And the jury's findings were included in  
17 Making a Murderer, correct?

18                   MR. BURNETT:  Objection, form.

19          Q     Do you know?

20          A     I have not watched a clip of or any of  
21 Making a Murderer when the jury verdict is read or --  
22 so I can't answer you positively.  I don't know what  
23 was included.  I don't know what episode that was in.

24          Q     You have no reason to dispute that it was  
25 included, correct?

1 I'm not alleging that.

2 Q Okay. And you have no reason to believe  
3 that anyone from Netflix attended any portion of any  
4 proceeding against Mr. Avery, correct?

5 A I don't know that.

6 Q I'm asking you only based on your personal  
7 knowledge, you don't have any reason --

8 A No.

9 Q -- to believe that?

10 A No, I do not.

11 Q So I'll take you back to Exhibit 1 that you  
12 signed this morning, and if you could flip to  
13 Exhibit A, which is the stipulations we proposed.

14 A One sec. I've got to find that. Okay.

15 Q And flip to Exhibit A, which is the initial  
16 stipulations we proposed.

17 A Okay.

18 Q And I want to point you to the first  
19 seven -- sorry, the first six. You declined to admit  
20 these, and my question for you is as you sit here  
21 today in your personal capacity, knowing that you  
22 rely on your lawyers to process all the evidence, but  
23 personally, let me ask you about number 1. Are you  
24 personally aware of any evidence that any Netflix  
25 employee attended any portion of any proceeding



1           **involving Steven Avery?**

2           A       I personally do not know, correct.

3           Q       **Number 2, do you have any personal knowledge**  
4           **or are you personally aware of any evidence that any**  
5           **Netflix employee has ever been to Manitowoc County,**  
6           **Wisconsin?**

7           A       During '16, '17 we had an abundance of  
8           protests out in front of our courthouse with people  
9           screaming how corrupt we were and how they should be  
10          freed, and I thought Netflix was involved in that,  
11          but I don't have any personal knowledge or evidence.  
12          Like, no one ever brought someone to me and said,  
13          "This person works for Netflix."

14          Q       **Are you personally aware of any evidence**  
15          **that any Netflix employee ever spoke to anyone who**  
16          **appears in Making a Murderer?**

17          A       I personally have no knowledge. I don't  
18          know if they did or they didn't.

19          Q       **Are you personally aware of any evidence**  
20          **that any Netflix employee ever received or read any**  
21          **transcript from any proceeding against Mr. Avery or**  
22          **involving Mr. Avery?**

23          A       Number 4, I believe I did see documents that  
24          did say that Netflix employees had a few transcripts  
25          of the criminal trial of Mr. Avery.

1           **Q     Do you remember anything about those**  
2           **documents?**

3           A     No, I don't.

4                       MS. WALKER: So we would just ask on the  
5           record that to the extent those documents exist and  
6           can be identified, that plaintiff produce them to us.

7           **Q     Number 5 here, do you personally have any --**  
8           **are you personally aware of any evidence that any**  
9           **Netflix employee ever received or watched any raw**  
10          **footage of any proceeding involving Mr. Avery?**

11          A     I believe my attorneys do have evidence that  
12          Netflix employees did view both civil and criminal --  
13          or, yes, civil and criminal video of me testifying  
14          both in deposition and in his criminal trial for the  
15          murder of Teresa Halbach.

16          **Q     Okay. Do you understand that to be raw**  
17          **footage or footage that was produced by the**  
18          **filmmakers and then provided to Netflix or do you not**  
19          **know?**

20          A     I don't know.

21          **Q     Number 6, are you personally aware of any**  
22          **evidence that any Netflix employee ever received or**  
23          **watched any other raw footage used by the filmmakers**  
24          **in creating Making a Murderer?**

25          A     I personally don't know what they used,

1 so -- or watched, no.

2 Q So going back to Exhibit 2, the Second  
3 Amended Complaint, and referring you to paragraph 46.

4 A Okay.

5 Q Actually, it will be on the -- on page 16,  
6 the last --

7 A Okay.

8 Q -- of the bullet points, and you say that  
9 among the things omitted from Making a Murderer, in  
10 the last bullet here, was that Avery had a history of  
11 extreme violence and sexual aggression against women,  
12 including beating, strangulation, death threats,  
13 attempted abduction at gunpoint, and allegations of  
14 rape. Did I read that correctly?

15 A Yes.

16 Q All right. So let's take each of those in  
17 that bullet one at a time. Do you know if there was  
18 evidence presented at trial that Avery ever beat a  
19 woman?

20 A I don't -- I don't know because I wasn't  
21 allowed to attend the trial other than the day I  
22 testified, so I don't know.

23 Q So if I told you that the judge excluded  
24 that evidence, you would have no reason to dispute  
25 me --

1 A Correct.

2 Q And so if Making a Murderer didn't include  
3 that evidence, that's consistent with what happened  
4 at trial as far as you know, correct?

5 MR. BURNETT: Objection, form.

6 A Could you repeat? Sorry.

7 Q Yeah. If these things weren't included at  
8 trial --

9 A Uh-huh.

10 Q -- and if Making a Murderer didn't include  
11 them, then Making a Murderer was consistent with what  
12 happened at trial, correct?

13 MR. BURNETT: Objection, form.

14 A I'm not going to agree that I --

15 Q Okay.

16 A -- believe that Making a Murderer was  
17 consistent with what happened at trial.

18 Q Well, you can -- I think we can agree that  
19 if we want to know what evidence was excluded, we can  
20 look at this Exhibit 57, correct? That's the judge's  
21 order?

22 A Yes.

23 Q Okay. So we talked about the exclusion from  
24 the trial of the Sandy Morris incident, and I  
25 actually want to play a clip for you now from Making

1       **a Murderer. This will be from Episode 1, which we'll**  
2       **mark in its entirety as Exhibit 58, and then the clip**  
3       **we're about to play we'll mark as Exhibit 58-A.**

4                   (Exhibits 58 and 58-A marked for  
5       identification.)

6                   (Video playing.)

7               **Q     Had you ever seen that clip from Making a**  
8       **Murderer?**

9               A     No.

10              **Q     Okay. So if you look back at Exhibit 57, I**  
11       **can point you now directly to page 10, onto page 11,**  
12       **where the Court excluded acts of recklessly**  
13       **endangering the safety of Sandy Morris. And while**  
14       **you look for that, I'll just ask you, isn't it true,**  
15       **Mr. Colborn, that even though the judge did not**  
16       **permit the jury to hear that evidence, Making a**  
17       **Murderer included it?**

18                   MR. BURNETT: Objection, form.

19              A     Yes. A portion of his inter -- a portion of  
20       his interview with Detective Conrad and a very small  
21       portion of her testimony was included in the clip you  
22       showed me, yes.

23              **Q     And so in that sense at least, Making a**  
24       **Murderer painted a less flattering picture of Steven**  
25       **Avery than the jury was permitted to hear, correct?**

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MR. BURNETT: Objection, form.

A It would appear to me, based on the reaction by people around the globe --

Q Well, I'm going to move to strike, and I'd just ask that you answer my question, that this is a very unflattering thing to publicize about Steven Avery, not even the jury got to hear it because it was so prejudicial according to the judge, but the filmmakers put it in the documentary, correct?

MR. BURNETT: Objection, form.

A Yes, it was in the clip you just showed me.

Q You also complained in the Second Amended Complaint that Making a Murderer portrayed an incident involving animal abuse as an accident and at worst a childhood prank. Do you remember that allegation?

A Yes.

Q Okay. But you acknowledge that this story about the animal abuse was omitted from Avery's trial, correct?

A I don't know if it came up in his trial or not.

Q Okay. Let me point you to Exhibit 57 again and specifically page 7. There's a subhead, 1982 Act of Criminal Cruelty Involving the Killing of a Cat.

1           **Do you see that?**

2                           MR. BURNETT:   What page are we on?

3                           THE WITNESS:   7.

4                           MS. WALKER:   Page 7.

5           **Q       And if you read to the end of that Section 3**  
6           **in the Court's order, the last sentence is that "The**  
7           **offered evidence fails all three parts of the**  
8           **Sullivan test and is not admissible." Do you see**  
9           **that?**

10                   A       What page is it where it mentions the  
11           Sullivan test?

12                   **Q       On page 10 at the top.**

13                   A       Oh, 10.  Okay.  Are they talking about the  
14           animal cruelty there, because it's shifted to  
15           something else by then, but --

16                   **Q       So the animal cruelty section begins on**  
17           **page 7 --**

18                   A       Uh-huh.

19                   **Q       -- and it goes through page 8, 9, and**  
20           **concludes at the top of page 10.**

21                   A       All right.  I see the area you're talking  
22           about.

23                   **Q       So that animal cruelty evidence was excluded**  
24           **from trial, correct?**

25                   A       It looks like it.

1           Q     Did you know that Making a Murderer included  
2     that story and showed it to viewers?

3                     MR. BURNETT:  Objection, form.

4           A     No, I didn't.

5           Q     Okay.  Let's play that clip.

6                     (Exhibit 58-B marked for identification.)

7                     (Video playing.)

8           Q     Had you ever seen that clip there?

9           A     I have not.

10          Q     So based on this clip and the one of Sandy  
11     Morris, you would agree with me that viewers of  
12     Making a Murderer got a more complete picture of  
13     Mr. Avery's criminal history than the jurors did,  
14     correct?

15                     MR. BURNETT:  Objection, form.

16          A     I would agree that a watered-down version of  
17     his acts were portrayed in Making a Murderer while  
18     they weren't allowed in court.

19          Q     So at least the viewers of the documentary  
20     heard about him attacking a woman and burning a cat,  
21     correct?

22          A     Yes.

23          Q     The jury didn't get to hear about that, did  
24     they?

25          A     No.



1 A Yes.

2 Q Okay. And you're not basing your conclusion  
3 or your opinion on what Making a Murderer concludes  
4 on anything other than the hateful calls you got from  
5 a number of anonymous callers; is that correct?

6 A Hundreds, if not thousands.

7 Q Okay.

8 A Yes, that is correct.

9 Q Okay. So you turned over 89 different  
10 voicemails to us. Does that sound about right?

11 A Yes.

12 Q Okay.

13 A I don't know.

14 Q Okay. I'll represent to you we listened to  
15 each one. There were 89.

16 A Okay.

17 Q Are there thousands more you haven't turned  
18 over?

19 A No. I've turned over everything that I had.

20 Q Okay.

21 A Some didn't go to a recording.

22 Q Okay. And I'm sorry, I didn't catch your  
23 answer, so I'm going to have to ask it again. Other  
24 than those crank calls and hateful messages from  
25 dozens of anonymous people, you're not basing your

1           A       Clearly Avery, his relatives and friends,  
2           his attorneys, and then Dean Strang and Jerome  
3           Buting, investigator aren't going to give anything  
4           but biased answers.

5           Q       Okay. Well, that sort of brings me to most  
6           of what I wanted to talk about here, which is as I  
7           look through all of the responses your counsel  
8           drafted to our interrogatories, what they seem to be  
9           pointing to is bias or maybe evidence that they think  
10          demonstrates an agenda by Netflix. They've pointed  
11          to instances where Netflix was perhaps skeptical of  
12          evidence that Avery presented at his trial. You  
13          pointed yourself to some of that, where someone at  
14          Netflix thought that something Avery presented at  
15          trial was sort of weak. Do you remember pointing  
16          that one out to me?

17          A       Yes.

18          Q       And they thought that of Avery's evidence,  
19          correct? In other words, it was Avery's evidence; it  
20          wasn't something they made up out of whole cloth?

21          A       Yes.

22          Q       So I want to just talk about this notion of  
23          documentary filmmaking and bias, but before we get  
24          there, I want to ask, do you have any evidence that  
25          Netflix instructed the producer defendants to make

1           Q     Okay. And you don't think their  
2           perspective, their pro law enforcement world view,  
3           keeps them from making a fair and objective  
4           documentary I take it?

5           A     No, I don't.

6           Q     You're very pro law enforcement?

7           A     Yes.

8           Q     Pro military?

9           A     Yes.

10          Q     Conservative?

11          A     Yes.

12          Q     And you have a bias in that you are  
13          100 percent convinced that Avery is guilty, correct?

14                   MR. BURNETT: Objection, form.

15          A     I don't have a bias that way. He was  
16          convicted by a jury of his peers.

17          Q     Well, he was --

18          A     So I believe in that verdict, yes.

19          Q     Okay. He was also convicted of rape,  
20          correct?

21          A     Yes.

22          Q     And that jury verdict was flat-out wrong,  
23          correct?

24          A     Correct.

25          Q     So juries can get it wrong, correct?

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CERTIFICATION PAGE

STATE OF WISCONSIN        )  
MILWAUKEE COUNTY        )

I, PAULA M. HUETTENRAUCH, RMR, CRR,  
Notary Public in and for the State of Wisconsin, do  
hereby certify:

That prior to being examined, the  
deponent named in the foregoing deposition,  
ANDREW L. COLBORN, was by me duly sworn to testify  
the truth, the whole truth, and nothing but the  
truth.

That said deposition was taken before  
me at the time, date, and place set forth; and I  
hereby certify the foregoing is a full, true, and  
correct transcript of my shorthand notes so taken and  
thereafter reduced to computerized transcription  
under my direction and supervision.

I further certify that I am neither  
counsel for nor related to any party to said action,  
nor in any way interested in the outcome thereof; and  
that I have no contract with the parties, attorneys,  
or persons with an interest in the action that  
affects or has a substantial tendency to affect  
impartiality, or that requires me to provide any  
service not made available to all parties to the  
action.

IN WITNESS WHEREOF, I have hereunto  
subscribed my name this 28th day of July, 2022.

*Paula Huettenrauch*

Paula M. Huettenrauch, RMR, CRR  
Notary Public - State of Wisconsin

My Commission Expires 8/18/2023



UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN

-----  
ANDREW COLBORN,

**COPY**

Plaintiff,

-vs-

CIVIL ACTION NO. 19-CV-0484-BHL

NETFLIX, INC., ET AL.,

VOLUME II

Defendants.  
-----

CONTINUED VIDEOTAPED DEPOSITION OF

ANDREW L. COLBORN  
-----

DATE: July 22, 2022

TIME: 9:02 a.m. - 4:40 p.m.

LOCATION: Godfrey & Kahn, S.C.  
833 East Michigan Street  
Suite 1800  
Milwaukee, Wisconsin 53202

REPORTED BY:  
Paula Huettenrauch, RMR, CRR  
365Reporting, LLC

VIDEOGRAPHER:  
Jon Hansen, CLVS  
Video Concepts  
608.408.7411

1 Buting's book come out, before Ken Kratz's book came  
2 out, before Mike Griesbach's Indefensible book came,  
3 because Making a Murderer preceded all of those.

4 Q So I'll move to strike because you're  
5 speculating. And I'm just asking you based on your  
6 personal knowledge, do you know if any of those  
7 callers had watched Making a Murderer?

8 MR. BURNETT: Let me object to the form  
9 and foundation of the question, but go ahead.

10 A All I know is I didn't receive any of these  
11 type of calls prior to the release of Making a  
12 Murderer.

13 Q Okay. So the answer to my question is you  
14 don't know?

15 A Right. Correct.

16 Q So my colleague who listened to the 89  
17 voicemails noted that very few callers mentioned  
18 their location but those who did were from out of  
19 town. Does that sound right to you?

20 A And out of the country, but yes.

21 Q So locally no one except for John Hartraub?  
22 Kevin Hartraub?

23 A Hartlaub.

24 Q Hartlaub. Locally no one was calling or  
25 confronting you in person in a critical way, correct?

1 A So what do you consider locally?

2 Q **Within Manitowoc County.**

3 A Okay. Well, I gave you the example of the  
4 service --

5 Q **Other than that.**

6 A In Manitowoc County? I don't -- no, I don't  
7 believe so. No one in Manitowoc County I believe  
8 called. I don't recall. I'd have to look at my  
9 entire list of phone numbers, but --

10 Q **As you sit here today, you don't recall**  
11 **that?**

12 A No.

13 Q **The people who left anonymous voicemails,**  
14 **you don't plan to call them to trial to testify on**  
15 **your behalf, do you?**

16 A No.

17 Q **Okay. And that's in part because you don't**  
18 **know who they are, correct?**

19 A Yes, that's correct.

20 Q **And you haven't identified any of them as**  
21 **witnesses in your discovery responses, correct?**

22 A No.

23 Q **And for all you know, some of these people**  
24 **were sitting in prison or a mental institution**  
25 **somewhere, correct?**

1 MR. BURNETT: Objection, foundation.

2 Q You don't know?

3 A Correct.

4 Q You do know that some of them were convicted  
5 felons, correct? I'll show you an example to jog  
6 your -- a document to jog your memory.

7 A Thank you.

8 Q Could you go to Exhibit 8?

9 A Do I have that?

10 Q Yeah.

11 A Got it.

12 Q And flip about 20 pages in to tracking  
13 number 355, if you could. Sorry, 356.

14 A Okay.

15 Q And just to refresh your memory, this is a  
16 transcript of the interview you gave for Convicting a  
17 Murderer, correct?

18 A Well, it's my answers. Again, like I said  
19 yesterday, the question doesn't appear.

20 Q Okay.

21 A And I can't determine which interview it is,  
22 but it's either interview one or two of Convicting a  
23 Murderer interviews.

24 Q Okay. So I'm going to start reading at the  
25 top of that third row. "Unwisely, I invited him to



1 Q I don't need it. Mr. Colborn, would you  
2 agree that almost by definition the people who left  
3 those voicemails for you were unreasonable?

4 A Yes.

5 Q No reasonable person would react this way to  
6 a documentary, correct?

7 A I've had reasonable people question me about  
8 it, yes.

9 Q Well, that's not my question. No reasonable  
10 person would watch a documentary and then call and  
11 leave a death threat, correct?

12 A Well, I would hope not, but maybe your  
13 definition of reasonable and mine might be different.

14 Q What about under your definition?

15 A I could see how someone could be so moved by  
16 such a production that they may contemplate it.

17 Q Uh-huh. And follow through, you think  
18 that's reasonable?

19 A No, I don't think it's reasonable.

20 Q Okay. So now I want to talk a little more  
21 about Ms. Maurer. You didn't list her in your  
22 interrogatory responses, and I think your explanation  
23 for that yesterday was you haven't talked to her  
24 about the facts -- underlying facts in this case or  
25 this lawsuit, correct?

1           A     That is correct.

2           Q     And you testified yesterday she has no  
3     knowledge of your damages, that you don't have any  
4     physical manifestations of anxiety or distress that  
5     she could observe, correct?

6           A     Well, I did correct that by saying she's  
7     aware that I have hypertension.

8           Q     Okay. But otherwise, nothing she can  
9     observe?

10          A     Correct.

11          Q     And that's true even though the two of you  
12     live together?

13          A     Yes.

14                     (Exhibit 81 marked for identification.)

15          Q     I'm going to hand you what we've marked as  
16     Exhibit 81. So this is a text between you and  
17     Ms. Maurer, correct?

18          A     Correct.

19          Q     And you texted her, "Jodi, as you may have  
20     suspected this whole Avery case was and continues to  
21     be a thorn in my side. Your continued support means  
22     more to me than you can possibly imagine. Thank you  
23     so very much from the bottom of my heart." And then  
24     your counsel redacted something.

25                     Jodi responded, "Andy I'm sorry you had to

1 Q And I'm in Exhibit A --

2 A Okay.

3 Q -- of Exhibit 1, which is our initial  
4 letter.

5 A Got it.

6 Q And I'm at number 63.

7 A Oh, okay. Okay.

8 Q So let me rephrase the question. You agreed  
9 to number 61, and you agreed to number 62, that the  
10 relationship with Ms. Maurer harmed your marriage and  
11 it harmed your relationship with your children.

12 A Yes.

13 Q And I'm trying to understand how the -- how  
14 you can deny that none of this caused you anxiety and  
15 distress. Can you explain that?

16 A Well, I guess --

17 Q I can rephrase. Did the divorce cause you  
18 anxiety?

19 A Sure.

20 Q Did the divorce cause you distress?

21 A I don't know about anxiety. So --

22 Q What's the word --

23 A I'm not exactly sure of the difference in  
24 definition between the two, but I would say it  
25 certainly caused me some distress, yes.

1           A     Yes, I see it.

2           Q     You told the interviewer, "When I announced  
3 my retirement, I received calls from tens, if not  
4 hundreds, of people who thanked me or told me that I  
5 had helped them through a difficult time or they were  
6 glad that I did this or glad that I did that, and  
7 numerous people have apologized to me for not coming  
8 forward." Did I read that correctly?

9           A     Yes.

10          Q     So we had asked you to stipulate to the  
11 following statement: "Upon announcing his  
12 retirement, Mr. Colborn received supportive calls  
13 from dozens of people." Here you said you received  
14 calls from tens, if not hundreds, of people.

15                   So my question is will you stipulate to that  
16 statement? I'll read it again. "Upon announcing his  
17 retirement" --

18          A     Where is this statement?

19          Q     Yeah, it's in Exhibit 1.

20          A     In your --

21          Q     My letter, number 51.

22          A     Okay. Thank you. Okay.

23          Q     Will you agree to that statement, having  
24 seen where it came from?

25          A     Yes.

1       dollar figure on it.

2               **Q       Okay.**

3               A       I would need a jury to make that  
4       determination.

5               **Q       What about Jerome Buting, can you put a**  
6       **dollar figure on how much he's harmed your**  
7       **reputation?**

8               A       That would be the same answer.

9               **Q       And Kathleen Zellner?**

10              A       Kathleen Zellner? She hasn't -- so she's  
11       flipped from different theory to different theory.  
12       Now law enforcement isn't even a suspect anymore.

13       Plus, this is being used in the course of the defense  
14       of her client, so I would have no standing in that.

15              **Q       What about Dean Strang, can you put a dollar**  
16       **figure on how much he's harmed your reputation?**

17              A       I would just repeat the same answer that I  
18       gave you for Jerome Buting and John Ferak.

19              **Q       Okay. Mr. Colborn, my last few pages here**  
20       **is about your medical records, and I'm going to try**  
21       **not to go through them one by one in the interest of**  
22       **time. So I'll just ask you a couple questions, and**  
23       **then we'll see how deep we have to go into these.**

24              A       Okay.

25              **Q       Isn't it true that you were not prescribed**

1           **anxiety and hypertension medication until two weeks**  
2           **after you filed this lawsuit, December 28th, 2018?**

3           A       That's two different prescriptions.

4           Q       **Yeah. I can ask it this way. Isn't it true**  
5           **you weren't prescribed anxiety medication at any**  
6           **point before you filed this lawsuit?**

7           A       I don't recall the date I was prescribed.

8           Q       **Well, you didn't go on anxiety medication**  
9           **when Making a Murderer was released, correct?**

10          A       No.

11          Q       **And you didn't go on anxiety medication that**  
12          **first year when you have told us you were**  
13          **experiencing all this backlash from Making a**  
14          **Murderer, correct?**

15          A       Correct.

16          Q       **And you didn't go on it 2 -- within the**  
17          **second year after its release in 2017, correct?**

18          A       Do you have my medical record there so I can  
19          look at the date?

20          Q       **Yeah. Exhibit 120.**

21                       (Exhibit 120 marked for identification.)

22          A       Thank you.

23          Q       **Uh-huh. So --**

24          A       Where is the date?

25          Q       **Yeah, I'm trying to find it for you. So the**

1 date is about halfway down the page. It says Today's  
2 Visit. You saw Theresa Krueger-Junk, Nurse  
3 Practitioner, on Friday, December 28th of 2018. Do  
4 you see that? And then above there it says you  
5 started taking buspirone and isinopril.

6 A Lisinopril.

7 Q Thank you.

8 A Yes.

9 Q Okay.

10 A Yeah, I see the -- I see the date.

11 Q Okay. And does that jog your memory as to  
12 whether it was December 28th, 2018 when you first  
13 started taking those medications?

14 A Yes.

15 Q Okay. So not one, not two, but three entire  
16 years after Making a Murderer was released, correct?

17 A Correct.

18 Q And, in fact, it was filing the lawsuit that  
19 seemed to raise your anxiety levels; is that correct?

20 A No.

21 Q Well, the lawsuit was filed in December  
22 2018, and about eleven days later is when you went on  
23 these anxiety and blood pressure medications,  
24 correct?

25 A I would have to check on the blood pressure

1 because I thought it was a preceding visit, but I'm  
2 not 100 percent positive, but certainly I was on them  
3 by this visit. It was the fact that this just was  
4 never going away probably --

5 Q Okay. When do you think you went on --

6 A -- is the greatest --

7 Q Oh, I didn't mean to interrupt.

8 A That's okay.

9 Q When did you think you went on blood  
10 pressure medication?

11 A So because I have asthma, I have to have a  
12 visit every six months as opposed to a year. So I  
13 thought it was the six-month visit before that that I  
14 would have gone on blood pressure medication.

15 Q When would that have been approximately, the  
16 date?

17 A Well, I'm assuming June of '18.

18 Q Okay. Does asthma tend to cause high blood  
19 pressure; do you know?

20 A My asthma's pretty well controlled, but I  
21 don't -- I don't know if hypertension is a by-product  
22 of having asthma, for lack of a better word.

23 (Exhibit 117 marked for identification.)

24 Q Okay. I'm going to hand you what we've  
25 marked as Exhibit 117. This is another medical



1 record. You can see about a third of the way down  
2 the page the date of this visit was December 14th,  
3 2018, which would have been three or four days before  
4 you filed the lawsuit in this case. Do you see that?

5 A Okay.

6 Q And if you flip to the second page, at the  
7 very bottom there's a note that says, "Informed  
8 patient his blood pressure is slightly elevated.  
9 Discussed diet/salt restriction/exercise. He will  
10 monitor blood pressure at home and follow up if he  
11 notices it stays elevated." Did I read that  
12 correctly?

13 A Yes, you did.

14 Q Does this jog your memory that --

15 A Yes.

16 Q -- this was maybe the first time you had  
17 elevated blood pressure?

18 A Correct. So --

19 Q Three days or four days before you filed the  
20 lawsuit?

21 A Correct.

22 (Exhibit 112 marked for identification.)

23 Q Okay. I'm going to hand you Exhibit 112.

24 This is another medical report.

25 A Okay.

1 Q This is from February 2018. Do you see that  
2 at the top?

3 A Where it says dictated on 2/9/18 or no?

4 Q I was looking at filed on 2/12/18, but --

5 A Okay.

6 Q -- it says you were seen on 2/9/18. So  
7 anyway, February '18, correct?

8 A Yes.

9 Q Okay. If you could flip to the third page.

10 A Is it page 155 that you want?

11 Q Yeah, and also 156.

12 A Okay.

13 Q You see it's just --

14 A Got it.

15 Q -- off by one. So this would have been two  
16 and a half years or so after Making a Murderer's  
17 release, two years? Do you see that?

18 A Yes.

19 Q Okay. And you filled out two screening  
20 questionnaires. One was the Depression Questionnaire  
21 where zero means not at all and 3 is nearly every  
22 day, and you scored a 1 out of, I think, 30 points  
23 here. There's ten items. Does that sound right to  
24 you?

25 A Yes.

1 Q Okay. So that's a very low score on the  
2 Depression Scale, correct?

3 A Yes.

4 Q Okay. And you were being honest when you  
5 completed this questionnaire?

6 A Maybe. I don't know if I was honest or not.  
7 I didn't want to be put on any sort of medication.

8 Q Okay. Well, this is --

9 A So I may have stretched things, but I would  
10 think that for the most part I was honest.

11 Q Okay. This is the only -- medical records  
12 are the only evidence we have of your alleged  
13 anxiety, correct?

14 A Correct.

15 Q Okay. The second questionnaire is the GAD,  
16 which is the General Anxiety Disorder questionnaire.  
17 Again, zero means no anxiety at all, and in every  
18 category you put a zero, correct?

19 A Correct.

20 Q Okay. On the next page, toward the bottom,  
21 in all caps there's a word that says PSYCH with a  
22 colon. Do you see that?

23 A Is it on 157?

24 Q Uh-huh.

25 A No, I don't see that.

1 Q I think -- so do you see there's -- there's  
2 page 156 of the medical report and then there's  
3 COLBORN 157?

4 A Yeah, I have --

5 Q So look at --

6 A Oh, I see. Okay.

7 Q Look at COLBORN 157.

8 A Yeah, that's the page I have, COLBORN 157.

9 Q Correct. And so do you see right here PSYCH  
10 at the top?

11 A Okay.

12 Q It's actually at the top and the bottom,  
13 PSYCH?

14 A Yes.

15 Q It says, "Denies anxiety, depression, or  
16 mania."

17 A Yes.

18 Q Do you see that?

19 A Yes.

20 Q And that's accurate, correct?

21 A It's accurate that I denied telling her I  
22 had it, yes.

23 Q Uh-huh. Okay. And, again, all we have to  
24 go on in terms of your anxiety and distress and  
25 emotional distress is your medical records, correct?

1 MR. BURNETT: Let me object to the form  
2 of the question. Go ahead.

3 Q And your testimony here today, that's all  
4 we've got, correct?

5 A Correct.

6 Q Okay. I don't think I've given you  
7 Exhibit 123, but I'm about to.

8 A Okay.

9 (Exhibit 123 marked for identification.)

10 Q And this is another medical record. You can  
11 see at the top under Encounter Information, it says  
12 2/20 of 2019. Do you see that?

13 A Yes.

14 Q Okay. About a year later; is that right?

15 A Yes.

16 Q Okay. Go to the second page of that  
17 document. At the very top it says Anxiety. Do you  
18 see that word?

19 A Yes.

20 Q And you told the doctor your personal  
21 situation had improved. Do you see that?

22 A Uh-huh.

23 Q Okay. And then there's on that same page  
24 another Generalized Anxiety Disorder Questionnaire.  
25 Do you see that?

1           A     Yes.

2           Q     And you put mostly zeros. You scored a 2  
3 out of a possible 21 points. Do you see that?

4           A     Uh-huh. Yes.

5           Q     Okay. You were accurate in answering that  
6 questionnaire?

7           A     Yes.

8                     MS. WALKER: All right. So let's go off  
9 the record. I think I'm done, but I just want to  
10 check my notes.

11                    THE VIDEOGRAPHER: Going off the record  
12 at 10:59.

13                             (Brief recess held.)

14                    THE VIDEOGRAPHER: We're back on the  
15 record at 11:18.

16                    MR. BURNETT: Kevin, can I go ahead and  
17 make that statement before you start?

18                    MR. VICK: Sure.

19                    MR. BURNETT: We've had a chance to  
20 discuss the time arrangement off the record, and I  
21 suspect we've exceeded the general rule for seven  
22 hours. I've talked to Mr. Vick, and I'm going to let  
23 him continue to question Mr. Colborn with the  
24 recognition that most of his questions are going to  
25 be in the -- on the subject matters -- on subject

1 plates when you called dispatch, right?

2 A Yes.

3 Q And at the end, it also includes testimony  
4 that you shouldn't have been and you weren't looking  
5 at Ms. Halbach's car when you made that call,  
6 correct?

7 A Well, there was some video footage inserted  
8 in there as well that I didn't do, like the knuckle  
9 cracking, Dean Strang's staredown. None of that was  
10 during that testimony.

11 Q Mr. Colborn, my question is different than  
12 that. It was at the very end of the clip.

13 A Uh-huh.

14 Q It includes testimony where you say again  
15 you weren't looking at Ms. Halbach's car when you  
16 made that call, correct?

17 A Yes.

18 Q So it clarifies you were not looking at the  
19 back end of her 1999 Toyota, right?

20 MR. BURNETT: Objection, form.

21 A I don't know if it clarifies it or not. It  
22 doesn't appear to because people seem to think I was.

23 Q Would you agree with me that it shows you  
24 stating explicitly twice that you were not looking at  
25 the car when you made the call to dispatch?

1           A     Yes.

2           Q     Does that address your concern that this  
3           exchange might give the impression that you were  
4           looking at the license plate when you made that call  
5           to dispatch?

6                         MR. BURNETT:  Objection, form.

7           A     Can you repeat, sir?

8           Q     Sure.  So the fact that there's two explicit  
9           denials from you that you were looking at the car  
10          when you made the call to dispatch, doesn't that  
11          address your concern that this exchange might give  
12          the impression that you, in fact, were looking at the  
13          car when you made the call?

14                        MR. BURNETT:  Same objection.

15          A     No, it doesn't address my concern.

16          Q     Why not?

17          A     Because that's not how I testified.  I  
18          testified under oath, and it wasn't portrayed -- my  
19          testimony wasn't portrayed accurately.

20          Q     But that testimony did include two explicit  
21          denials that you were looking at the car when you  
22          made the call to dispatch, correct?

23          A     Yes, I've agreed to that.

24          Q     Let's look at Exhibit B in the Second  
25          Amended Complaint.



1 right?

2 A Yes.

3 Q And that Mr. Lenk found the key after you  
4 handled the bookcase roughly, correct?

5 A Yes.

6 Q And it includes that you did not touch the  
7 key, correct?

8 A Yes.

9 Q Would you admit that that episode gets  
10 across each of the key points that Mr. Kratz elicited  
11 from you during this line of questioning in your  
12 testimony?

13 MR. BURNETT: Object, form.

14 A And the actual skill with which this was  
15 presented is the problem. It makes it appear that  
16 that is how I answered when it's not.

17 Q Would you agree that the substance that's  
18 presented, though, is the same in terms of the key  
19 points that Mr. Kratz was trying to solicit on your  
20 testimony on direct?

21 MR. BURNETT: Objection to the form.

22 A Yes, I will agree that the portions -- that  
23 a portion of my testimony about how I handled the  
24 bookcase and that I didn't touch the key are on this  
25 clip.

1 the last question, the question before it?

2 Q Oh, sure.

3 A Can I have that read back to me --

4 Q Yeah.

5 A -- please?

6 Q Do you agree that Mr. Kratz was asking  
7 questions here to make it clear that this call didn't  
8 motivate you to frame Mr. Avery for the murder of  
9 Ms. Halbach?

10 A Yes.

11 Q And to make clear that you didn't plant  
12 evidence against Mr. Avery?

13 A I don't know if this had anything to do with  
14 planting evidence. He was -- well, I guess if we go  
15 on to the next page, yes. I'm only -- I'm only on  
16 47. Are we including 48?

17 Q Oh, to be clear, I was asking about 47 and  
18 48.

19 A Okay.

20 Q If you'd like a moment to review, that's  
21 fine.

22 A Okay. I got it. Yes, that came up as well.

23 Q Is there anything I'm missing here that you  
24 would say is, you know, a crucial point in your  
25 testimony?

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MR. BURNETT: Objection, form.

A They -- to start off, they eliminated the -- my identification of myself when I answered the phone. I answered the phone. I said, "Manitowoc County Jail, Officer Colborn." I didn't identify myself as a deputy. By eliminating that, people watching this -- and I'm dressed in a law enforcement uniform, when I'm testifying, people automatically assume that when I was working in '94, '95, I'm a sworn law enforcement officer by eliminating that, because if I was a sworn law enforcement officer, my answering the phone would have been Manitowoc County Jail, Deputy Colborn, but I wasn't a deputy at the time. I'm a non-sworn corrections officer. So people now are like, Hmm, he's a law enforcement officer but he doesn't do nothing with this information.

**Q And is that why you transferred the call to the detectives --**

A Correct.

**Q -- detective and the sheriff?**

A I had no authority to --

MR. BURNETT: You've got to let him finish.

COURT REPORTER: Yeah, I missed the end

1 of your question, Kevin.

2 THE WITNESS: I'm sorry.

3 Q Is that why you transferred the call to the  
4 sheriff's office?

5 MR. BURNETT: Go ahead.

6 A Well, the jail is part of the sheriff's  
7 office, but that's why I transferred the call to an  
8 investigator, yes, sir.

9 Q Do you know if that fact is reflected in  
10 Making a Murderer, that you transferred the call to a  
11 detective? I'm not quizzing you on the contents of  
12 that, Mr. Colborn. I'm just asking if you know.

13 A I don't know if it's in Making a Murderer or  
14 not.

15 Q Let's --

16 A And I --

17 Q Let's look at a different clip.

18 A Okay.

19 Q This is Episode 7 still, and I'm looking at  
20 minute 17, second 36 to minute 19, second 10. Am I  
21 still sharing? Yes.

22 (Video playing.)

23 Q So the clip that we just saw, Mr. Colborn,  
24 that makes clear that you received this call in 1994  
25 or '95 when you were a corrections officer, right?

1 wishy-washy about that, pretty unsure of himself.  
2 For instance, "Have you ever planted any evidence  
3 against Mr. Avery?" my response at trial was, "That  
4 is ridiculous, no, I have not." And then the second  
5 question Mr. Kratz asked me, "Have you ever planted  
6 any evidence against anybody in the course of your  
7 law enforcement career?" that whole question is  
8 eliminated. Instead, it looks like I answered, "Have  
9 you ever planted evidence against Mr. Avery" by  
10 saying, "I have to say this is the first time my  
11 integrity has been questioned." That doesn't come  
12 across very forceful or convincing. It's hardly  
13 answering the question. So I don't believe that's an  
14 accurate portrayal.

15 **Q Did you feel that accusations that you**  
16 **planted evidence against Mr. Avery were calling into**  
17 **question your integrity?**

18 A The question was have you ever planted any  
19 evidence against anybody in the course of your law  
20 enforcement career. That's my answer to that  
21 question.

22 **Q Mr. Colborn, I'm going to move to strike.**  
23 **That wasn't my question.**

24 **My question is leaving this for a second,**  
25 **did you feel that accusations against you that you**

1       planted evidence against Mr. Avery, that that called  
2       into question your integrity as a law enforcement  
3       officer?

4             A       Yes.

5             Q       And do you feel like this scene shows you  
6       denying that you planted any evidence against  
7       Mr. Avery?

8             A       I'm sorry. The scene on Making a  
9       Murderer --

10            Q       Sure.

11            A       -- that you just showed me?

12            Q       The clip we just -- we just --

13            A       Is that what you are asking about?

14            Q       The clip we just looked at, you deny having  
15       planted any evidence against Mr. Avery, right?

16            A       Yes.

17            Q       Okay. Last one. If you could move on to  
18       page 52 of Exhibit B.

19            A       Okay.

20            Q       And what I'm interested in here is where it  
21       starts, oh, maybe a quarter of the page down, it says  
22       Redirect Examination.

23            A       Okay. I see it.

24            Q       So just looking at that section.

25            A       Okay.

1 A Yes.

2 Q -- that Dean Strang asked about this subject  
3 matter during his cross-exam.

4 A Yes.

5 Q And then Mr. Kratz on redirect wanted to  
6 respond to some of the points that Mr. Strang had  
7 raised, right?

8 A Yes.

9 Q Mr. Kratz wanted to make clear that you  
10 hadn't written a report about the call in 1994 or  
11 '95?

12 A Yes.

13 Q And that if you had written a report you  
14 wouldn't have known what it was about; is that right?

15 A Correct.

16 Q That you didn't know the call was even about  
17 Mr. Avery, right?

18 A Correct.

19 Q Is there anything I'm missing here that's  
20 key to understanding your testimony?

21 MR. BURNETT: Objection, form.

22 A I explained in the presence of -- all these  
23 questions were in the presence of the jury. I  
24 explained in the presence of the jury my reason that  
25 I didn't write a report has been eliminated from my

1 testimony. It just simply says, "I don't know what  
2 it would have been about," and that was actually a  
3 question, "that I received a call and transferred it  
4 to the Detective Division." There would have been no  
5 need to write a report every time you receive a  
6 telephone call and transfer it. Certainly there's no  
7 agency on the face of the Earth that does a report  
8 about that, and that whole explanation has been  
9 eliminated from my testimony there.

10 Q Let's take a look at the clip.

11 A Okay.

12 Q And this is still in Episode 7. It's at  
13 minute 23, second 48 to minute 24, second 5.

14 (Video playing.)

15 Q So the clip that we watched, again, it made  
16 clear that you didn't write a report in 1994 or '95  
17 about the call, correct?

18 A Yes.

19 Q That if you had written a report, you  
20 wouldn't have known what it was about, right?

21 A Correct.

22 Q And we can agree that the line about whether  
23 you knew the call was about Mr. Avery, that's not in  
24 this clip, right?

25 A Correct.



1        looked at earlier, which was the statement you  
2        prepared on September 12th?

3            A        Yes.

4            Q        Now -- so would you agree that based on this  
5        document, at least what this document purports to say  
6        is that your statement was, in fact, kept in the  
7        sheriff's department safe?

8            A        Yes.

9            Q        And yesterday you stipulated to that fact,  
10       right?

11          A        Yes.

12          Q        Okay. Now, you said that James Lenk had  
13       given some incorrect information to Sheriff Petersen?

14          A        Yes.

15          Q        How do you know that?

16          A        The paragraph that reads, "Sergeant Colborn  
17       said he was later informed by someone that the case  
18       was already solved and the right person was  
19       arrested." I never said that.

20          Q        And how do you know that that's what he  
21       passed on to Sheriff Petersen?

22          A        I'm reading it off his statement, so -- I  
23       wasn't there when he -- I don't know what he said  
24       verbally to the sheriff.

25          Q        That was going to be my question, is whether

1 the lawsuit. The other two I don't believe so.

2 Q How much of Making a Murderer would you  
3 estimate that you watched before you filed the  
4 lawsuit?

5 A Like in what context? Minutes?

6 Q Sure, minutes.

7 A Less than 30.

8 Q How about as you sit here today, do you have  
9 a sense of total number of minutes? And if you want  
10 to give me a range, that's fine.

11 A 45 to 60. Probably less than 60. 30 to 45.

12 Q Is that -- so you've only -- let me make  
13 sure I'm understanding this correctly. Have you  
14 watched 30 to 45 more minutes or is it still 30 to  
15 45 minutes total, meaning --

16 A No.

17 Q -- you've only watched an extra --

18 A 30 to 45 more minutes, additional minutes.

19 Q Oh, okay. Gotcha.

20 A Sorry.

21 Q So then it's a total of like an hour to hour  
22 15?

23 A Possibly, yes.

24 MR. VICK: Okay. This is a good time to  
25 take a break.

1 Strang.

2 Q I think you're right, but you made two of --  
3 you made two denials that we saw in that clip  
4 earlier, right?

5 A Yes.

6 Q I'd like you to look at Exhibit 2, which is  
7 the -- your Second Amended Complaint.

8 A Oh, I actually have that one handy for once.

9 Q And I'd like for you to look at paragraph  
10 33, and I'll read the paragraph.

11 A Okay.

12 Q It says, "A central part of Avery's defense  
13 at trial was that Plaintiff and other Manitowoc  
14 officers planted Halbach's HUV" [sic] "at the Avery  
15 Salvage Yard where Avery resided in a house trailer.  
16 With Plaintiff on the stand, Avery's attorneys played  
17 portions of his call to dispatch in an effort to  
18 convince jurors that he came upon the SUV at an  
19 undisclosed location on November 3rd, two days before  
20 it was found at the salvage yard. Cross examining  
21 Plaintiff about the contents of the call, Avery's  
22 attorneys suggested that Plaintiff was looking  
23 directly at Halbach's vehicle when he called  
24 dispatch. The claim is entirely baseless and false,  
25 and Defendants knew of its falsity." Did I read that

1 right?

2 A Yes.

3 Q What is the basis for your allegation that  
4 defendants knew of the falsity of this central part  
5 of Avery's defense?

6 MR. BURNETT: Objection, foundation.  
7 Go ahead.

8 A They were sitting in the courtroom and saw  
9 my complete unedited testimony.

10 Q Now, you were alone when you made the call  
11 to dispatch you said, right?

12 A Yes.

13 Q So you're the only one that would know for  
14 certain whether or not you were looking at Teresa  
15 Halbach's car when you made that call, correct?

16 A Yes.

17 Q And Avery's --

18 A I don't have an eyewitness with me, no.

19 Q And Avery's attorneys were suggesting the  
20 opposite, right?

21 A I wasn't really sure what Avery's attorneys  
22 were suggesting, and I don't want to speculate or  
23 tell you that that's what they were doing because I  
24 don't know.

25 Q But your testimony at trial and your

1           **Q     But it's a sentiment that some people were**  
2           **saying at the time, right?**

3                           MR. BURNETT:  Objection, foundation.

4           A     Yeah.

5           **Q     It's a sentiment that some people expressed**  
6           **to you at the time?**

7           A     Uh-huh.  Yes.

8           **Q     So then, Mr. Colborn, how can you say that**  
9           **my clients knew that Avery's defense attorneys'**  
10          **theory was false?**

11                          MR. BURNETT:  Objection, form.

12          A     For the reason that I said.  They sat in the  
13          courtroom the entire time, so they were privy to  
14          information that the average citizen wouldn't have.

15          **Q     What was that information?**

16          A     Again, we had a gag order.  So when people  
17          would ask me that question, I always had to say, "We  
18          can't discuss the case."  There was a lot of people  
19          that didn't know for a long time that Brendan Dassey  
20          had confessed to investigators and then investigators  
21          were able to locate evidence based on Brendan's  
22          confession.  People may not have known that the  
23          murder weapon was hanging over his bed.  People may  
24          not have known her bones were in his backyard after  
25          he mutilated her and burned her up in his pit.  They

1        **needle."**

2            A        Yes.

3            Q        "The hypodermic needle hole in this case was  
4        made when a specimen of Avery's blood was drawn by a  
5        phlebotomist and stored in the vial in connection  
6        with a 1996 post-conviction motion in his wrongful  
7        conviction case. The procedure necessarily resulted  
8        in the creation of a hole in the rubber stopper. The  
9        phlebotomist who drew the specimen from Avery in 1996  
10       was prepared to testify that's what happened in this  
11       instance." Did I read that correctly?

12           A        Yes.

13           Q        What is the basis for your allegation in the  
14        next sentence which is, "Having attended the trial in  
15        its entirety, Defendants Ricciardi and Demos were  
16        aware of the routine nature of the hole on the vial's  
17        rubber stopper and that the phlebotomist who drew the  
18        specimen from Avery was prepared to testify."

19                            MR. BURNETT: Objection, foundation.

20           Q        Or let me rephrase that. Do you have a  
21        personal knowledge basis for making the allegation in  
22        that sentence I just read?

23           A        I'm personally aware that your clients were  
24        in the court for its entirety, and I've seen the  
25        Making a Murderer episode where it's portrayed as a

1 great day for the defense when they discovered this  
2 vial that I'm assuming could have only been filmed by  
3 your defendants -- your clients I mean. I'm sorry.

4 Q Would it surprise you to learn that they  
5 didn't film it?

6 A Yes, it would.

7 Q Do you recall that Norm Gahn is in there, in  
8 that section, when it's being discovered?

9 A I viewed the portion where Jerome Buting is  
10 making a call to co-counsel.

11 Q Do you recall a little bit later Norm Gahn  
12 is in it too, who is one of the prosecutors?

13 A I know who Norm Gahn is, but I didn't view  
14 that portion of it.

15 Q So why do you think that my clients were  
16 aware of the routine nature of the hole on the vial's  
17 rubber stopper and that the phlebotomist who drew the  
18 specimen from Avery was prepared to testify?

19 MR. BURNETT: Objection, foundation.

20 Q Do you have any personal knowledge to  
21 support that portion of the allegation?

22 A I don't recall the motion hearing where that  
23 was discussed, if I was present or not, so I can't --  
24 again, a lot of these documents are the work product  
25 of my counsel. I didn't compile all this information

1           **and Deputy Kucharski, can you understand how they**  
2           **might have some uncertainty about your three's**  
3           **explanation about how the key came to be found that**  
4           **day?**

5                           MR. BURNETT:  Objection, form,  
6           foundation.

7           A       I don't have an instinctive distrust of law  
8           enforcement.  I trust law enforcement because I was  
9           in it for 27 years.  So I like to think that my  
10          testimony and when I say something, people understand  
11          that I'm under oath and I'm saying the truth.  If I  
12          don't know the answer to a question, I say I don't  
13          know.

14          Q       But can you understand how people who didn't  
15          know you personally, I'm not saying that they  
16          necessarily think that you're lying, but how they  
17          could walk away from hearing the explanation of how  
18          the key was found and just say, "I'm not sure what  
19          happened"?

20                           MR. BURNETT:  Objection --

21          Q       Can you understand that?

22                           MR. BURNETT:  Objection to form and  
23          foundation.

24          A       My explanation at trial was the only  
25          possible way I could think that that key got to where



1 it was. I don't know any other way because that was  
2 the only piece of furniture that we had searched, and  
3 then the key was discovered laying on the floor in an  
4 area we had previously looked. So I don't know.

5 Q And I think we saw a document that  
6 Mr. Griesbach wrote yesterday where he said that he  
7 believes Steven Avery was guilty but he wasn't  
8 sure -- so sure that the police didn't plant  
9 evidence. Do you recall that document?

10 A Yes.

11 Q So if Mr. Griesbach wasn't sure, how can you  
12 expect my clients to have been sure?

13 A I don't know if Mr. Griesbach had all the  
14 information available to him when he made that  
15 statement, but the key was found in Steven Avery's  
16 bedroom with Steven Avery's DNA on it, not my DNA,  
17 not Jim Lenk's DNA, not Deputy Kucharski's DNA,  
18 Steven Avery's.

19 Q But you understand that Mr. Griesbach was  
20 very interested in the Avery case and he was a  
21 student of the case, right?

22 MR. BURNETT: Objection, form,  
23 foundation.

24 Q Do you think it would be fair to call  
25 Michael Griesbach a student of the Steven Avery --

1       **the trial of Steven Avery for the murder of Teresa**  
2       **Halbach?**

3                       MR. BURNETT: Same objection.

4           A       He's certainly been involved in it, although  
5       not in the trial and investigation himself. He's  
6       written books about it.

7           Q       So again I would ask, if he wasn't so sure  
8       that planting didn't occur, how can you say that  
9       other people should -- you know, either knew or  
10      absolutely should have known that the planting theory  
11      was false?

12                   MR. BURNETT: I object to the form of  
13      the question. I think it's argumentative. It's been  
14      asked multiple times and answered. Go ahead and  
15      answer if you have a further answer.

16           A       I don't have an answer other than  
17      Mr. Griesbach didn't attend the trial.

18           Q       Now, finding that key in Steven Avery's  
19      trailer turned out to be a big deal into the  
20      investigation into the murder of Teresa Halbach,  
21      right?

22           A       I don't know if one piece of evidence was  
23      more -- I don't know if any one piece of evidence was  
24      more important than -- I would say the discovery of  
25      her body in his backyard was probably more important

1           A     Correct.

2           Q     And Ms. Walker talked yesterday about  
3           certain things regarding a number of Mr. Avery's  
4           prior crimes that were not presented to the jury  
5           also, right?

6           A     Yes. We talked about that yesterday, yes.

7           Q     So I won't repeat the stuff that you went  
8           over yesterday, but I did want to talk about some  
9           other things that are included in Making a Murderer  
10          that present Steven Avery in a negative light that  
11          were not even presented to the jury but are reflected  
12          in Making a Murderer.

13                    Are you aware that Making a Murderer  
14           includes Chuck Avery's statement that after Brendan  
15           Dassey's confession, he was, quote, pretty positive,  
16           end quote, that Steven probably had murdered Teresa  
17           Halbach?

18          A     No, I haven't seen that.

19          Q     And Chuck Avery is Steven Avery's brother,  
20          right?

21          A     Yes.

22          Q     Are you aware that Making a Murderer  
23           includes a scene where Barb Tadych tells Steven Avery  
24           that she hopes he burns in hell for what he did?

25          A     Her name might be pronounced "Todd-ick," but

1 no, I'm not aware of that.

2 Q Are you aware that there is a scene in  
3 Making a Murderer where Steven Avery tells his  
4 parents that if they didn't figure out how to get him  
5 out on bail within two weeks, he was going to give up  
6 and kill himself?

7 A No, I'm not aware of that.

8 Q Are you aware that there's a scene in Making  
9 a Murderer where Steven Avery himself opines that the  
10 prosecution was, quote, going to win anyway?

11 A No, I'm not aware of that.

12 Q Are you aware that Making a Murderer  
13 contains interviews with some people who say violent  
14 crime was in Steven Avery's character and others who  
15 say it was not?

16 A Well, I have seen interviews where people  
17 say that the police did it on Making a Murderer. I  
18 haven't seen any clips or any video where people are  
19 saying that they believe they -- law enforcement got  
20 it. So I'm unaware of that.

21 Q I'm really trying to limit the number of  
22 clips I show you given our time crunch.

23 A Sure.

24 Q So I'm going to pose these instead rather as  
25 questions.

1 A Okay.

2 Q Are you aware that there's a scene where  
3 Steven Avery's sister says that a violent assault was  
4 not in his nature?

5 A No.

6 Q Are you aware that there's a scene where a  
7 member of the media says that it was because he was  
8 one of the usual suspects around Manitowoc County?

9 A No.

10 Q Are you aware that there's a scene where the  
11 presiding judge in the Penny Beerntsen case says that  
12 he believed Avery's propensity against violence --  
13 against -- violence against women in particular, was  
14 a fact?

15 A No, I'm not aware of that.

16 Q Isn't that a good example of Making a  
17 Murderer showing different viewpoints and opinions  
18 regarding Steven Avery's character?

19 MR. BURNETT: Objection, form.

20 Go ahead.

21 A I would have to watch the entire thing to  
22 offer an intelligent answer on that, and I haven't  
23 done that.

24 Q Are you aware that Undersheriff Hermann is  
25 interviewed in Making a Murderer?

1 A No, I wasn't aware of that.

2 Q Are you aware that he is extremely critical  
3 of Steven Avery's allegations that evidence was  
4 planted?

5 A I'm not aware of that.

6 Q Are you aware that there is a scene in  
7 Making a Murderer where he not only denies the  
8 planting allegations but characterizes them as,  
9 quote, impossible, end quote, and quote, far-fetched,  
10 end quote.

11 A No, I'm not aware of that.

12 Q Now, incidentally, you ran against  
13 Undersheriff Hermann to replace Ken Petersen as the  
14 sheriff of Manitowoc County, right?

15 A Yes, I did.

16 Q But Making a Murderer includes a clip of  
17 him -- I'll represent that Making a Murderer includes  
18 a clip of him very vigorously disputing the planting  
19 allegations that were made against law enforcement  
20 officers. Are you aware of that?

21 A No.

22 Q Is it your position that Making a Murderer  
23 is biased against law enforcement?

24 A Yes.

25 Q Are you aware that Laura Ricciardi has

1 while we're human and imperfect, for the most part  
2 the criminal justice system does get it right.

3 Q I already told you about Undersheriff  
4 Hermann's calling the planting accusations  
5 far-fetched and impossible, right?

6 A Yes, sir.

7 Q So I'm going to play you now something from  
8 Episode 5, which I believe is one that you have  
9 seen -- or parts of the episode. I take that back.  
10 I'm going to show you a clip of Norm Gahn. Are you  
11 familiar with this scene?

12 A No.

13 (Video playing.)

14 Q Would you agree that that shows prosecutors  
15 pushing back quite vigorously against the planting  
16 theory?

17 MR. BURNETT: Objection, form.

18 A Yes.

19 Q And they refer to the officers being accused  
20 as being good, solid, decent family men, right?

21 A I don't think I saw that, but -- I don't  
22 recall hearing that, hearing them say that. I  
23 thought it centered more around the testing of the  
24 blood or that we have a right to have our reputations  
25 protected or something to that extent.

1 Q I'll go to another clip that's maybe more  
2 directly about you. This is in Episode 7. Oh, the  
3 one I just showed was Episode 5, 1:08 to 2:34.

4 A Okay.

5 Q The one I'm going to show now is Episode 7,  
6 13:55 to 14:28.

7 (Video playing.)

8 MS. RICCIARDI: You're in Episode 5.

9 MR. VICK: Oh, is this still in  
10 Episode 5? My apologies. Now I'm in Episode 7.

11 (Video playing.)

12 Q Would you agree that that shows Ken Kratz  
13 vigorously disputing the planting allegations?

14 MR. BURNETT: Objection, form.

15 A That appeared to be an out-of-court  
16 interview --

17 Q Yeah.

18 A -- with reporters, not in front of the judge  
19 like the preceding one.

20 Q Oh, you're absolutely correct. I'm not  
21 limiting this just to the in court. I'm saying would  
22 you agree that this is an instance of Ken Kratz out  
23 of court to the media, I think the word he used was  
24 deplorable to describe the planting theory; is that  
25 accurate?



1 A Yes.

2 Q So this is another instance where Making a  
3 Murderer shows people pushing back strongly against  
4 the planting theory, right?

5 MR. BURNETT: Objection, form.

6 A In that particular clip, yes.

7 Q Had you ever seen that clip before?

8 A No.

9 Q Okay. Same thing, Episode 27 -- or  
10 Episode 7. Now I'm going to 24:29 to 24:50. Again,  
11 this is going to be another one out of court.

12 A Okay.

13 (Video playing.)

14 Q Is that another instance showing someone?

15 A Yes. I've seen that one.

16 Q Yeah. Did you appreciate that that one was  
17 in this episode?

18 A I have to be honest with you, I don't  
19 appreciate anything about Making a Murderer, but I  
20 appreciate that the reporter asked that question of  
21 Attorney Strang.

22 Q And do you appreciate that that reporter's  
23 question was then included in this episode?

24 A Without watching it in its entirety, I have  
25 to stay by my original answer that I don't appreciate

1 anything about Making a Murderer. I don't appreciate  
2 it at all.

3 Q But you've testified that you haven't seen  
4 the whole series, right?

5 A Correct.

6 Q And I don't want to use my time showing you  
7 all the episodes.

8 A Okay.

9 Q I'll represent Episode 7 at 34:45 to 35:08,  
10 if you have any interest in seeing these later, I'm  
11 sure your counsel could probably get it for you.

12 A Yes.

13 Q There's another episode of Norm -- there's  
14 another instance of Norm Gahn sticking up for you.  
15 Is that something you're aware is in Making a  
16 Murderer?

17 A No. Well, is that the one you just showed  
18 me or --

19 Q It's a different one.

20 A Okay.

21 Q Are you aware that there is also footage, a  
22 scene, of yet another instance of Norm Gahn, this  
23 time at a press conference, where he's pushing back  
24 on the planting theory?

25 A No.

1           Q     Are you aware that during that press  
2           conference he calls it a, quote, despicable  
3           allegation?

4           A     No, I'm not aware of it.

5           Q     Would you say that Norm Gahn there in  
6           calling it a despicable allegation pretty accurately  
7           captures your own views of those allegations made  
8           against you and Lieutenant Lenk?

9           A     Certainly.

10          Q     Are you aware that there is a clip in  
11          Episode 7 of Making a Murderer that shows Mike  
12          Halbach giving his views on Steven Avery?

13          A     No.

14          Q     Are you aware that it -- that there's --  
15          that it shows that Mike Halbach believes Steven Avery  
16          was guilty and was lying when he claimed to be  
17          innocent?

18          A     I'm not aware of that in Making a Murderer,  
19          no.

20          Q     So nobody had ever told you that Mike  
21          Halbach was in -- there was a scene involving Mike  
22          Halbach giving his opinion that Steven Avery was  
23          guilty and was lying?

24          A     As it pertains to Making a Murderer?

25          Q     Correct.

1           A     That's correct.

2           Q     Are you aware that there is a scene in  
3     **Making a Murderer** in which Judge Willis provides his  
4     view that Steven Avery is, quote, probably the most  
5     dangerous individual to set forth -- set foot in this  
6     courtroom?

7           A     In Making a Murderer?

8           Q     Yes, in Making a Murderer.

9           A     No, I'm not aware that that's in Making a  
10    Murderer.

11          Q     After this deposition, are you going to  
12    watch the entire series do you think, Sergeant  
13    Colborn?

14                   MR. BURNETT:  Objection, form, calls for  
15    speculation.

16          A     As we sit here and talk right now, I don't  
17    have that intention, but I certainly will seek the  
18    advice of my counsel on it.

19          Q     Prior to bringing this lawsuit, did anybody  
20    tell you about the clips that you and I have  
21    discussed in the last hour or so in which various  
22    individuals defend you?

23          A     No.

24          Q     Do you think that could change your overall  
25    view of the series?

1 A No.

2 Q How could you know without watching them?

3 A Well, I can't. You just said what do I  
4 think, so I thought you wanted me to render an  
5 opinion.

6 Q Did John Ferak's columns typically include  
7 quotes from people in law enforcement who were  
8 defending you, who were telling -- who were saying  
9 that these are despicable allegations that are being  
10 made?

11 A Not that I recall.

12 Q I'd like to look at Exhibit -- Exhibit 1146.

13 (Exhibit 1146 marked for identification.)

14 A Thank you.

15 Q This is another text between you and Brenda  
16 Schuler, right?

17 A Yes.

18 Q And she says at the top, "Andy, sorry to bug  
19 you as I just deleted the emails not that long ago  
20 from you. Ken needs them again. He lost them. So  
21 sorry! Can you check your emails to me please? Your  
22 'sent' file please?" And your response is, "I may  
23 have hard copy but I think I deleted them from my  
24 sent file and anywhere else after Ferak demanded all  
25 our emails. Would hard copy work???" And she says,

1           A       Is that the Amended Complaint?

2           Q       **It is, yeah.**

3           A       Okay.

4                   MR. BURNETT: Are we in a position to  
5 wrap this up?

6                   MR. VICK: We are.

7                   MR. BURNETT: Great.

8           Q       **I'd like you to look at paragraph 37**  
9 **specifically.**

10          A       Okay. Okay.

11          Q       **So here you say, "Defendants Ricciardi and**  
12 **Demos strategically spliced 'reaction' shots of**  
13 **plaintiff appearing nervous and apprehensive at trial**  
14 **into other portions of his testimony where he did not**  
15 **appear nervous or apprehensive in fact." Do you see**  
16 **that?**

17          A       Yes.

18          Q       **Do you recall what it was about your**  
19 **demeanor in any of the shots that made you look**  
20 **nervous or apprehensive? Was there anything that you**  
21 **can recall right now that made you feel that way?**

22          A       Specifically the clip that you showed me  
23 that I commented on earlier where it appears that  
24 Dean Strang is giving me some sort of staredown and  
25 the -- it pans to the shot of me leaning back and

1 cracking my knuckles.

2 I did that during a recess out of the view  
3 of the jury. I certainly didn't do it in front of  
4 Attorney Strang, but it certainly does make me look  
5 nervous and apprehensive and that I've been caught in  
6 some sort of lie.

7 Q Now, Mr. Colborn, I'm not sure if you're  
8 aware, but during this deposition the last couple  
9 days, you've kept your head down a decent amount.  
10 Does that sound right?

11 A I'm frequently reading, but yes.

12 Q And you've sometimes had your head in your  
13 hands or cracked your knuckles in the course of this  
14 deposition. Does that sound right?

15 A Okay. I don't recall that, but I don't know  
16 what -- what you want me to -- what you're trying  
17 to -- can you clarify a little bit for me?

18 Q Well, is it possible that maybe things like  
19 cracking your knuckles or looking down, that that's  
20 just a natural mannerism of yours?

21 A The footage that I've watched of my trial  
22 testimony, I frequently make contact with whoever  
23 questioning me. Now, I was not in trial given a  
24 stack of documents like this and told frequently to  
25 go to this page, go to that page, look at this, look

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CERTIFICATION PAGE

STATE OF WISCONSIN )  
MILWAUKEE COUNTY )

I, PAULA M. HUETTENRAUCH, RMR, CRR,  
Notary Public in and for the State of Wisconsin, do  
hereby certify:

That prior to being examined, the  
deponent named in the foregoing deposition,  
ANDREW L. COLBORN, was by me duly sworn to testify  
the truth, the whole truth, and nothing but the  
truth.

That said deposition was taken before  
me at the time, date, and place set forth; and I  
hereby certify the foregoing is a full, true, and  
correct transcript of my shorthand notes so taken and  
thereafter reduced to computerized transcription  
under my direction and supervision.

I further certify that I am neither  
counsel for nor related to any party to said action,  
nor in any way interested in the outcome thereof; and  
that I have no contract with the parties, attorneys,  
or persons with an interest in the action that  
affects or has a substantial tendency to affect  
impartiality, or that requires me to provide any  
service not made available to all parties to the  
action.

IN WITNESS WHEREOF, I have hereunto  
subscribed my name this 28th day of July, 2022.



Paula M. Huettenrauch, RMR, CRR  
Notary Public - State of Wisconsin

My Commission Expires 8/18/2023





# Exhibit 3

STATE OF WISCONSIN      CIRCUIT COURT      MANITOWOC COUNTY

---

STATE OF WISCONSIN,  
Plaintiff,

MANITOWOC COUNTY  
STATE OF WISCONSIN  
**FILED**

vs.

JAN 30 2007

**Case No. 05 CF 381**

STEVEN A. AVERY,  
Defendant.

CLERK OF CIRCUIT COURT

---

**DECISION AND ORDER ON WRONGFUL CONVICTION EVIDENCE**

---

The State filed a motion in limine dated June 9, 2006 seeking to preclude the introduction of any evidence pertaining to the defendant's wrongful conviction on charges on sexual assault and attempted homicide in Case No. 85 FE 118. The State argued it would be inappropriate for the jury to consider that information because it presented an improper attempt to solicit sympathy from the jury and was irrelevant to the charges the defendant is presently facing.

The defendant filed his first motion in limine on July 14, 2006 seeking to introduce evidence concerning the wrongful conviction and the defendant's 2004 federal lawsuit against Manitowoc County arising out of the wrongful conviction. Avery contends that he should be permitted to present evidence relating to these matters because it demonstrates the potential bias of some of the State's witnesses against him. The State counters by recognizing that evidence of a witness's bias is

206  
(1)

generally admissible, but in this case the marginal relevance of such evidence is outweighed by its prejudicial effect and the evidence should be excluded.

At the outset, the court notes that the jury in this case is likely to gain some knowledge relating the 2004 lawsuit against Manitowoc County as part of the State's case-in-chief, irrespective of the use of such evidence by the defense on the issue of bias. Otherwise, the jury would simply be left to wonder why a crime which occurred in Manitowoc County was investigated under the supervision of the Calumet County Sheriff's Department and is being prosecuted by the Calumet County District Attorney. The jurors are entitled to some explanation as to why the prosecution of this matter is being handled by Calumet County and why they are being transported to Calumet County to hear the case. Otherwise, the jurors would be left to speculate on reasons for this procedure, to the potentially unfair prejudice of either party, rather than focus on the evidence as it relates to the merits of the case.

Both parties recognize that the starting point in determining the admissibility of bias evidence is *State v. Williamson*, 84 Wis. 2d 370 (1978). The court recognized in *Williamson* that "the bias or prejudice of a witness is not a collateral issue and extrinsic evidence may be used to prove that a witness has a motive to testify falsely." 84 Wis. 2d at 383. The trial court has discretion in determining the extent of the inquiry a defendant may make with respect to bias. *Id.* The first step

for the court to apply in exercising its discretion is to determine the relevance of bias evidence. “Evidence offered to prove bias must be rationally related to the witness sought to be impeached by it. In other words, using the terminology of the Wisconsin Rules of Evidence, testimony offered to show bias must be ‘relevant’ on that point. Sec. 904.02, Stats. To be relevant, the evidence must have a logical or rational connection with the fact sought to be proved.” *Id.*, at 384. If the court determines the bias evidence to be relevant, the court must then weigh its probative value against its prejudicial effect under §904.03. *Id.*, at 384-385.

The defendant seeks to introduce evidence relating to the defendant’s wrongful conviction in the 1985 case and subsequent lawsuit against Manitowoc County because he asserts it is relevant to show bias on the part of two members of the Manitowoc County Sheriff’s Department, James Lenk and Andrew Colborn. The court understands the defendant’s argument to be that while Lenk and Colborn were not members of the Manitowoc County Sheriff’s Department at the time of the 1985 case, they were deposed in the course of the defendant’s civil suit because they are alleged to have received information in 1995 or 1996 implicating Gregory Allen, the man who all parties now recognize actually committed the 1985 offense, at a time when the defendant was still incarcerated. Avery contended as part of his federal lawsuit that the inaction on the part of Lenk and Colborn contributed to the prolonging his wrongful incarceration. He argues that his accusation would

provide a motive on the part of Lenk and Colborn to be biased against him in their investigation of this matter. The court agrees that Avery's charges against Lenk and Colborn in his federal lawsuit could have provided such a motive, whether or not Lenk and Colborn were actually parties to the lawsuit. That is, the court is satisfied that some evidence relating to the wrongful conviction and the defendant's civil suit would have relevance on the issue of alleged bias on the part of Lenk and Colborn.

The next question is whether the probative value of such evidence is nevertheless substantially outweighed by the dangers of unfair prejudice, confusion of the issues, or potential to mislead the jury, rendering it inadmissible under §904.03. The court recognizes that there is a significant danger of unfair prejudice to the State because of the fact the jury could be swayed by sympathy for the defendant. Specifically, it is important that the jury in this case base its decision on the evidence introduced and not on sympathy for the defendant because of the fact he was wrongfully convicted and spent a number of years in prison arising out of the 1985 charges of which he was unquestionably innocent. In addition, in terms of confusion of issues, misleading the jury, or considerations of undue delay, it is important not to turn this trial into a relitigation of the defendant's civil rights lawsuit which has already been settled. The jury should not be given the impression that Mr. Avery should be found guilty or not guilty in this case based

on whether the jury feels he should or should not have prevailed in his wrongful conviction action against Manitowoc County arising out of the 1985 case. The court is satisfied that these problems can be addressed by (1) limiting the introduction of evidence relating to the 1985 wrongful conviction and the 2004 civil rights lawsuit to that which directly bears on the alleged motive of Lenk or Colborn to be biased against the defendant, and (2) providing the jurors with a cautionary instruction at the conclusion of the case concerning the reasons for which the evidence is being admitted. With these considerations in mind, the court will allow evidence at trial that:

1. The defendant, Steven Avery, was convicted following a jury trial on charges of attempted homicide and sexual assault in Manitowoc County for crimes allegedly committed in 1985.
2. The Manitowoc County Sheriff's Department was the lead investigative agency in that case.
3. The conviction in the 1985 case was based primarily on eyewitness identification of Steven Avery by the victim.
4. Following his wrongful conviction in the 1985 case, the defendant served a number of years in prison.

5. In 2003, the defendant was released from prison after DNA evidence from the 1985 case demonstrated to the satisfaction of all parties including the State that Gregory Allen, and not Steven Avery, was responsible for the crime.

6. The DNA testing which led to the defendant's release from prison in 2003 was not available earlier.

7. In 2004 the defendant filed a civil rights lawsuit against Manitowoc County based on the alleged failure of the Manitowoc County Sheriff's Department to pursue other leads which may have led to Gregory Allen as a suspect and prevented the defendant from being wrongfully convicted.

8. James Lenk and Andrew Colborn are employees of the Manitowoc County Sheriff's Department. They were not on the sheriff's department at the time of Steven Avery's wrongful 1985 conviction and played no role in the investigation that led to Mr. Avery's wrongful conviction.

9. The fact that Lenk and Colborn were members of the Manitowoc County Sheriff's Department in 1995 and thereafter, along with any action or inaction they were alleged to have taken or not taken relating to the 1985 case, including any reports made or not made.

10. Lenk and Colborn were deposed as witnesses in Steven Avery's civil lawsuit approximately three weeks before Teresa Halbach's disappearance.



11. The defendant did not make a monetary claim against either Lenk or Colborn in the 2004 civil rights lawsuit.

12. The defendant and Manitowoc County's insurance carrier settled the defendant's 2004 lawsuit before it went to trial. All settlement proceeds were paid by the insurance carrier for Manitowoc County.

13. The DNA testing which led to the defendant's release from prison in 2003 was performed by the State of Wisconsin Crime Laboratory.

The court further concludes that evidence relating to the following items would not be admissible, as any relevance it may have is outweighed by the danger of unfair prejudice, confusion of the issues, misleading the jury, or considerations of undue delay and waste of time:

1. The amount of money either claimed by Steven Avery in the 2004 civil rights lawsuit or the amount for which the lawsuit was settled. Since Lenk and Colborn were not parties to the lawsuit and would presumably have been covered under the County's liability insurance had they been named as parties, the damages claimed or the settlement reached have no measurably probative value relating to their alleged bias. Any marginal probative value of such evidence is substantially outweighed by danger of unfair prejudice, confusion of the issues and potential to mislead the jury. Since Lenk and Colborn had no personal money at



stake, and the reason for the evidence relates to their motives, the evidence is not admissible.

2. The precise number of years Mr. Avery spent in prison as a result of his 1985 wrongful conviction. A discussion of the time Avery spent in jail would require the jury to learn that he was also serving a sentence on a felony for which he was lawfully convicted and would draw undue attention to his criminal record.

3. The history of Mr. Avery's challenges to his 1985 conviction, except for the information listed above which is specifically admissible. Because the evidence is being admitted as it relates to bias on the part of James Lenk or Andrew Colborn, other information relating to the 1985 wrongful conviction or Avery's civil rights lawsuit would have little or no probative value. Whatever probative value the evidence had would be substantially outweighed by the danger of unfair prejudice, confusion of the issues and misleading the jury. What's important is not the history of the defendant's wrongful conviction, but the role Lenk and Colborn may have played in it that could cause them to be biased.

4. The number of lawyers representing the parties to the 2004 lawsuit. This information is simply irrelevant.

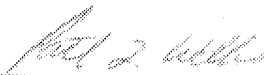
5. The fact that Sheriff Petersen on or about September 12, 2003 issued a written directive to the Manitowoc County Sheriff's Department that its personnel were not to discuss Steven Avery. Sheriff Peterson is not alleged to have played

any role in the investigation of the charges the defendant now faces and his directive has no particular relevance to bias on the part of Lenk or Colborn.

The court is satisfied that the facts listed above which the court will permit the defendant to introduce on the issue of bias, coupled with a cautionary instruction to the jury as to the use which they are permitted to make of the evidence, will allow the defendant to adequately pursue his claim of bias against James Lenk and Andrew Colborn without unfairly prejudicing the State, confusing the issues or misleading the jury.

Dated this 30<sup>th</sup> day of January, 2007.

BY THE COURT:

  
\_\_\_\_\_  
Patrick L. Willis,  
Circuit Court Judge

# Exhibit 4

Message

---

**From:** Michael Griesbach [REDACTED]  
**Sent:** 1/5/2016 1:32:40 PM  
**To:** Ronald Goldfarb [REDACTED]  
**CC:** Gerrie Sturman [REDACTED]  
**Subject:** Re: Sykes interview re Netflix doc, save at home

I've debated this for a week with my wife and children and in my own mind. I am convinced he is guilty (I said the same in the interview I sent you.) ... but I'm nowhere near as certain that the cops did not plant evidence to bolster their case. There is also the alternate suspect issue that Avery's defense team is shaking down as we speak.

On Tue, Jan 5, 2016 at 12:52 PM, Ronald Goldfarb <[REDACTED]> wrote:  
you need to know, and tell me, what your position is: Guilty or NG?

Ronald Goldfarb  
Goldfarb & Associates  
[REDACTED] phone

On Jan 5, 2016, at 1:51 PM, Michael Griesbach <[REDACTED]> wrote:

----- Forwarded message -----

**From:** Griesbach, Mike <[Mike.Griesbach@da.wi.gov](mailto:Mike.Griesbach@da.wi.gov)>  
**Date:** Tue, Jan 5, 2016 at 12:29 PM  
**Subject:** Sykes interview re Netflix doc, save at home  
**To:** "[REDACTED]" <[REDACTED]>

!5 minute interview I did with Milwaukee's WTMJ this morning. Will give you an idea of where I am coming from. Thoughts always welcome. A Milwaukee TV channel wants to do an interview tonight or tomorrow.

<010516\_Attorney\_Author\_Michael\_Griesbach.mp3>

--  
Michael Griesbach

Author of award winning true crime thriller, *The Innocent Killer: a True Story of a Wrongful Conviction and its Astonishing Aftermath*

[theinnocentkiller.com](http://theinnocentkiller.com)

<http://www.amazon.com/dp/1627223630>



# Exhibit 5

Message

---

**From:** Michael Griesbach [REDACTED]  
**Sent:** 1/10/2016 10:49:51 AM  
**To:** Ronald Goldfarb [REDACTED]  
**Subject:** Re: 'Making A Murderer': The Men Steven Avery Thinks Could Be the Killer

No. Same guys he wanted to but was prevented from pinning it on at trial. It's hogwash, same with Zigfreid, who is looking more like the vic of his wacked out wife trying to set him up that the murderer (though it will still hit the fan when Avery's lawyers start filing motions, I'm guessing in a few weeks. Spoke with Dean Strang One of Avery's attorneys) a few times this week. He doubts they have enough for a new trial even if Dassey's confession is thrown out as coerced cuz it was not admitted in Avery's trial. Dean as much admitted that he knows his guy did it .... which is not to say that the cops did not plant evidence to make their case. Demonstrations planned at cthouse in 2 weeks with rumors of Alec Baldwin coming to town to join in. Crazy stuff. Still working and making good progress.

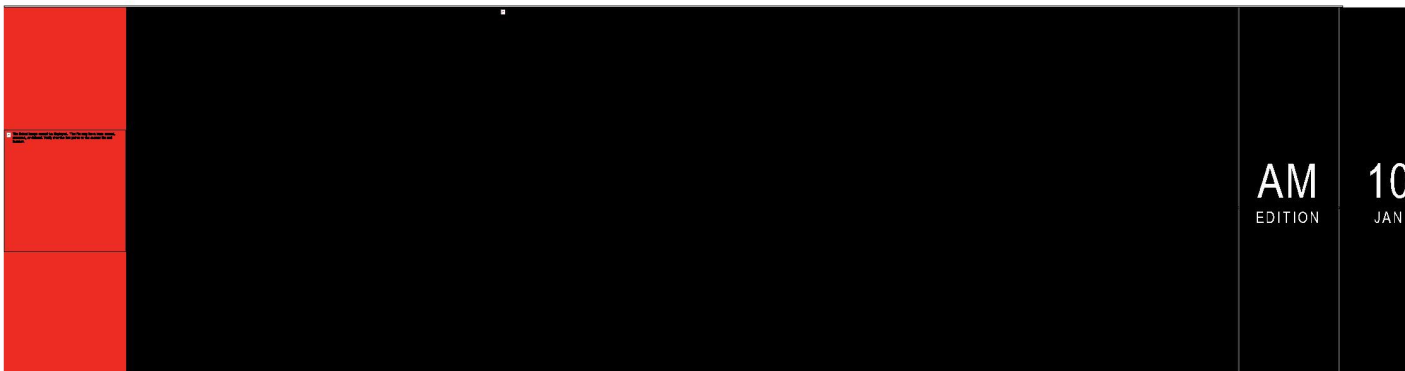
On Sun, Jan 10, 2016 at 10:41 AM, Ronald Goldfarb <[REDACTED]> wrote:  
the latest; worth dealing with?

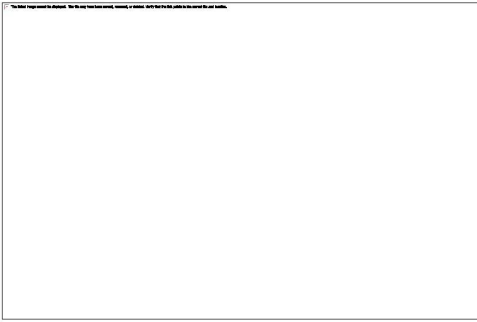
Ronald Goldfarb  
Goldfarb & Associates  
[REDACTED] phone

Begin forwarded message:

**From:** "The Daily Beast: AM Digest" <[emails@thedailybeast.com](mailto:emails@thedailybeast.com)>  
**Date:** January 10, 2016 at 11:11:10 AM EST  
**To:** [REDACTED]  
**Subject:** 'Making A Murderer': The Men Steven Avery Thinks Could Be the Killer

If you're having trouble viewing this email, you can [view it in a browser](#).

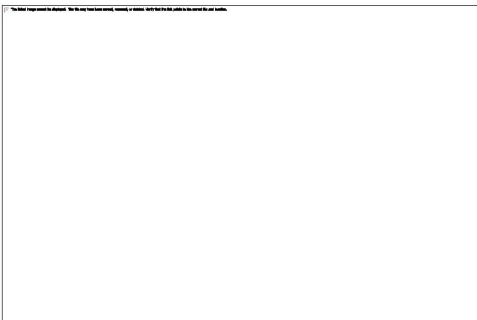
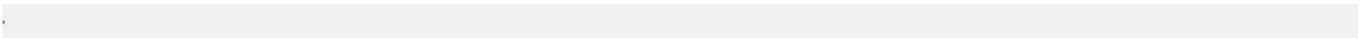




## 'MAKING A MURDERER': THE MEN STEVEN AVERY THINKS COULD BE THE KILLER

BY MARLOW STERN

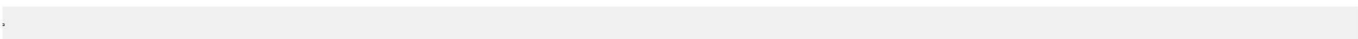
Steven Avery, the subject of the Netflix docuseries *Making a Murderer*, has fingered four possible suspects in the killing of Teresa Halbach. Here's the evidence he presented.



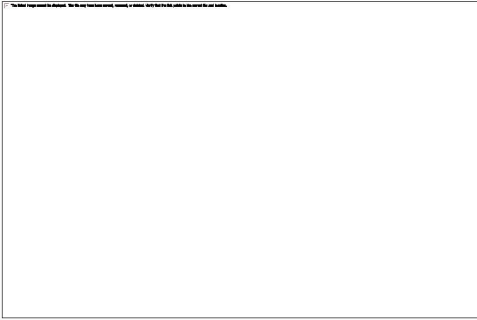
## DID POPE'S BROTHER RUN CHOIR SEX CAMP?

BY BARBIE LATZA NADEAU

An investigation has revealed hundreds of young choirboys may have been abused in sadistic rituals at a choir run by Pope Benedict's Brother.



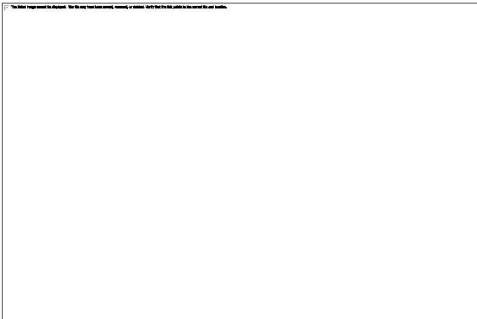
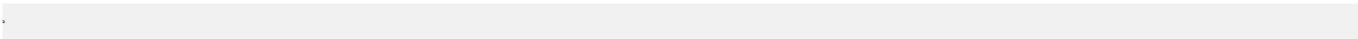




## MOTORHEAD DIEHARDS TOAST LEMMY IN L.A.



BY JEN YAMATO

Fans and loved ones gathered at Motorhead frontman Lemmy's favorite bar to help send the fallen rock 'n' roll icon off to the great beyond.

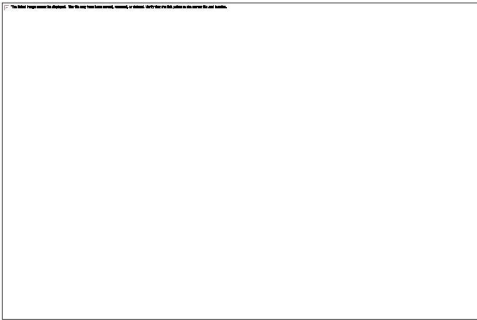
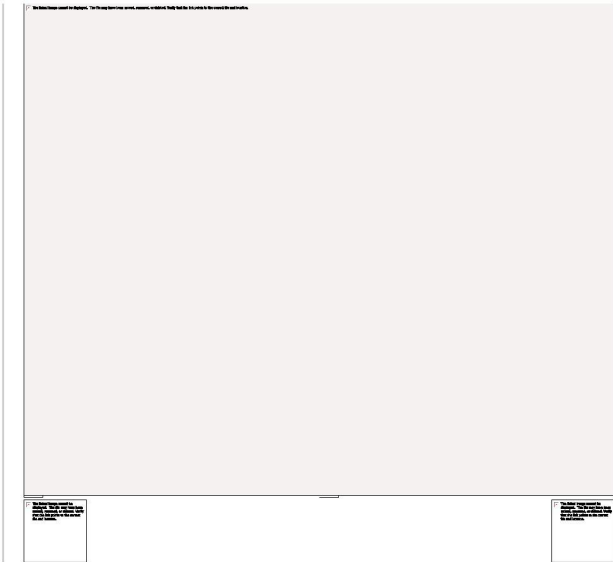


## HOW THE WHISKEY INDUSTRY GETS HACKED

BY G. CLAY WHITTAKER

A new project aims to add the signature smoky flavors of aged whiskey in a fraction of the time.  



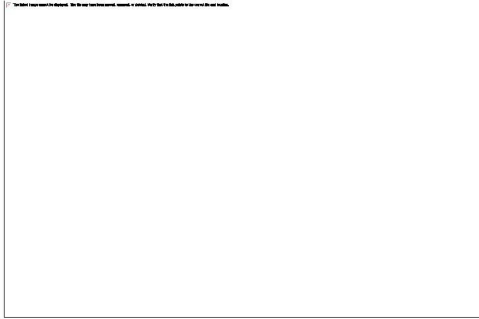


# WAS PUTIN'S MEDIA CHIEF READY TO SNITCH?

BY SHANE HARRIS

The D.C. cops won't say what killed Mikhail Lesin—or what he was doing in a hotel room there. But all signs point to the former Kremlin propaganda boss cutting a deal with the FBI.





## WHEN YOU FALL IN LOVE WITH A STRIPPER

BY PETE DEXTER AND JEFF NALE

The ultimate missed connection.



## TOM STOPPARD: I WANT TO BE LIKE VERDI

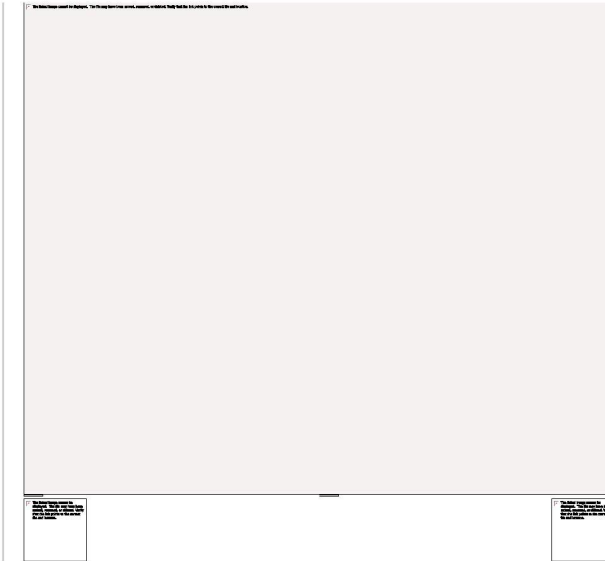
BY MALCOLM JONES

The noted playwright discusses the Blu-Ray version of *Rosencrantz and Guildenstern*, writing for stage vs. screen, and why actors don't laugh at jokes they're telling on stage.



SEE MORE STORIES





## CHEAT SHEET

1 DISGUSTING

### INDIAN TEEN GANG-RAPED, LEFT IN WELL

Shot after being held captive for two weeks.

2 VIDEO EVIDENCE

### UTAH TO REOPEN COP SHOOTING CASE

Video shows man on the ground being shot.

3 SOLIDARITY

### U.S. FLIES B-52 BOMBER OVER S. KOREA

Days after North Korea's alleged H-bomb test.

4 DEVELOPING

## SWEDISH SHOPPING CENTER EVACUATED

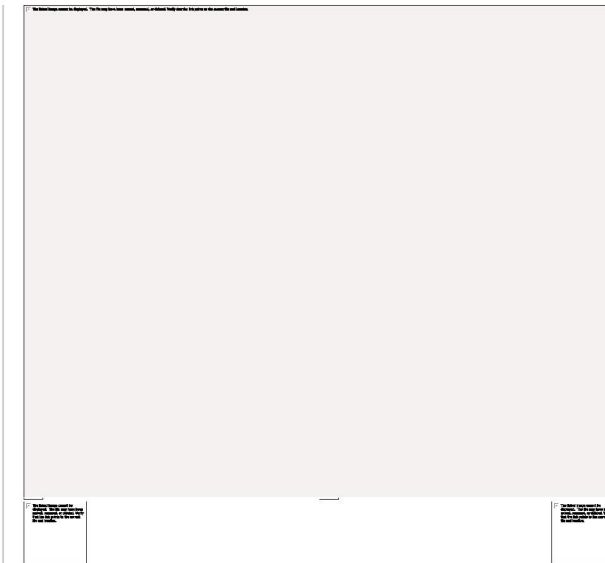
Due to bomb threat

5 OH REALLY

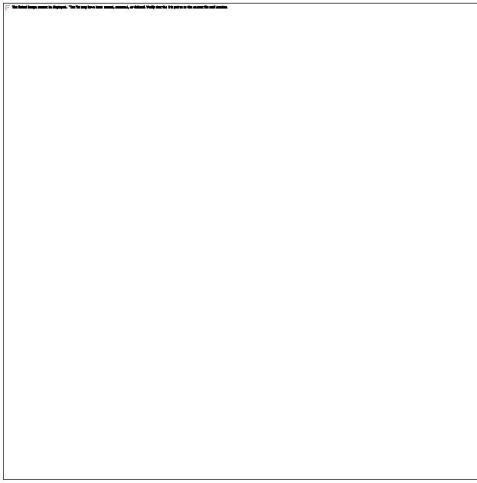
## PENN'S MEETING WITH CHAPO LED TO ARREST

According to Mexican government.

KEEP CHEATING 



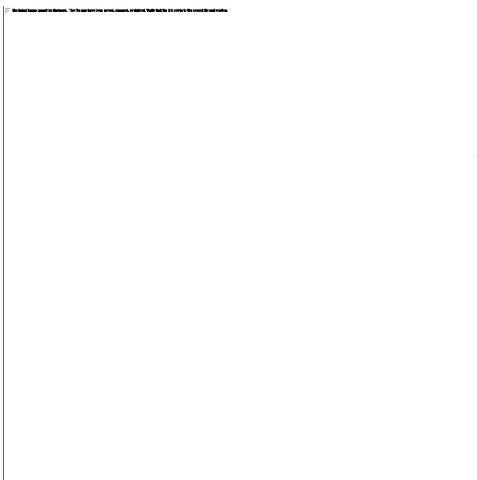
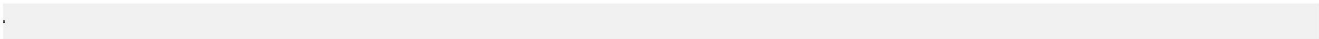
## MORE FROM THE BEAST



ENTERTAINMENT

# RISE OF THE DORK ACTION HERO

BY NICK SCHAGER

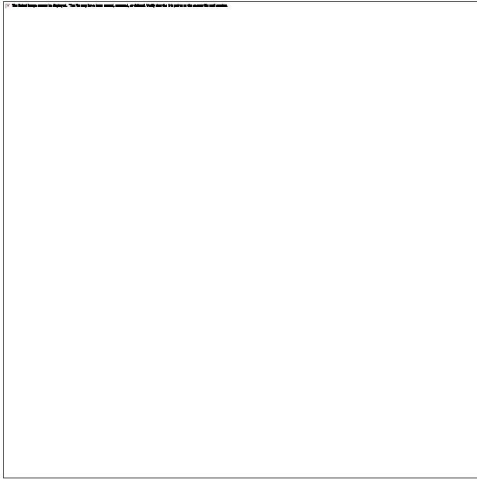


WORLD NEWS

# THE DEMON HEIRS OF EL CHAPO

BY MICHAEL DEIBERT





BEASTSTYLE

# WILL GEORGE BREAK THE ROYAL DUNCE MOLD?

BY TOM SYKES





## FROM OUR PARTNERS

ROLLING STONE

WHY WESTERNS ARE TRAGICALLY MORE  
RELEVANT THAN EVER

HUFFINGTON POST

SENATE DEMS TRY TO SHIFT FOCUS FROM SYRIAN  
REFUGEES BY BACKING VISA WAIVER LIMITS

ROLLING STONE

2016 PREDICTIONS: FROM RIHANNA TO  
HOLOGRAMS, OUR BEST GUESSES FOR THIS YEAR



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--

Michael Griesbach

Author of award winning true crime thriller, *The Innocent Killer: a True Story of a Wrongful Conviction and its Astonishing Aftermath*

[theinnocentkiller.com](http://theinnocentkiller.com)

<http://www.amazon.com/dp/1627223630>  
[ShopABA.org](http://ShopABA.org)

# Exhibit 6

**To:** Patrick O. Dunphy [REDACTED]  
**Sent:** Tue 1/12/2016 12:24:19 PM  
**Subject:** RE: Steven Avery Netflix Documentary

Sir, thank you so much for your prompt reply. Like you, I have refused to watch it and in a small act of defiance canceled Netflix. I can try and get that info from others who have suffered thru it. I can tell you specifically what the defense claimed during the trial because I testified. The claims by the Netflix documentary mirror those claimed by the defense during the trial. I will get my notes together and address

---

Lt. Andrew Colborn  
Manitowoc County Sheriff's Department  
920-683-4216 Office  
[REDACTED]

[AndrewColborn@co.manitowoc.wi.us](mailto:AndrewColborn@co.manitowoc.wi.us)

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---

**From:** Patrick O. Dunphy [mailto:[REDACTED]]  
**Sent:** Tuesday, January 12, 2016 1:41 PM  
**To:** Andrew Colborn <[AndrewColborn@co.manitowoc.wi.us](mailto:AndrewColborn@co.manitowoc.wi.us)>  
**Subject:** RE: Steven Avery Netflix Documentary

Lt.

I read your email with interest.

I have studiously avoided watching the shows.

I do not know if you have a claim for defamation. But before I can comment it would be very helpful if you could detail not just what you claim is false but the episodes that contain the false statements. I can watch them directly rather than sitting through 10 hours of blind TV watching.

What is happening to you and your family is terrible and I will certainly give you some free time to determine if you may have the basis for a claim.

Patrick O. Dunphy  
[REDACTED]

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---

**From:** Andrew Colborn [mailto:[AndrewColborn@co.manitowoc.wi.us](mailto:AndrewColborn@co.manitowoc.wi.us)]  
**Sent:** Tuesday, January 12, 2016 12:49 PM  
**To:** Patrick O. Dunphy <[REDACTED]>  
**Subject:** Steven Avery Netflix Documentary

Dear sir, I was referred to you and your firm by Atty. Mark T. Baganz who stated you have defended police officers before in a defamation case or suit, (perhaps the Badger Guns case??). In 2005 I was involved in the 2<sup>nd</sup> Steven Avery investigation which culminated in Steven Avery being found guilty of 1<sup>st</sup> degree intentional homicide and he was sentenced to life imprisonment. During the trial Mr. Avery was very well represented by Attorney Dean Strang from Madison, WI and Attorney Jerome Buting from Brookfield, WI. In short, the defense was that I and another now retired police officer planted the evidence that led to Mr. Avery's conviction. Avery was found guilty by the jury and his appeals have been exhausted. No evidence was EVER planted and the defense issues were soundly defeated by the prosecution team of Milwaukee County ADA Norm Gahn, DOJ State Attorney Tom Fallon and then Calumet County DA Ken Kratz. Fast forward to 2015 and now Netflix releases a "documentary" made by 2 producers who worked with the Avery defense team and again I am being accused of committing felonies in order to put Steven Avery in prison. Attorneys Strang and Buting continue to support these lies and exacerbate the situation by continuing to state there was a conspiracy on the part of law enforcement and the judicial system to convict Avery. Since the release of this documentary my agency as a whole has been under suspicion and I personally am receiving threats, including death threats, on a daily basis. My family, including my children, have been threatened and packages that explode in glitter showers have been mailed to my residence. As you can see below, I am a detective lieutenant still employed by the Manitowoc County Sheriff's Office and I am concerned that my new found "popularity" will begin to affect the prosecution of cases I have before the court, and may ultimately destroy my career as the character assassination continues. I am GRAVELY concerned for the safety of my family, as my wife is blind and my children do not live at home so it is difficult for me to protect them. I have served my country proudly my entire life, I enlisted in the USAF in 1976 and served until 1988. I was hired as a law enforcement officer in 1992 and have honorably served this agency for 24 years. I have NEVER committed any type of wrong doing on any investigation and my military and police service records would stand up to any scrutiny. Not only is this eroding the confidence of the citizens in law enforcement, it is striking a serious blow to the entire Wisconsin judicial system. Is there any recourse for me?? I want the producers of the documentary as well as Netflix held accountable for their irresponsibility and their demonization and vilification of my agency and me personally. Also, can Attorneys Strang and Buting be held liable for their inflammatory role in this?.....thank you for your time and consideration, please feel free to contact me by any means you wish with the exception of my desk phone number, 920-683-4216 as that is constantly being used by people leaving recorded threats. My cell phone or email would be the best way to contact me.

---

Lt. Andrew Colborn  
Manitowoc County Sheriff's Department  
920-683-4216 Office

[AndrewColborn@co.manitowoc.wi.us](mailto:AndrewColborn@co.manitowoc.wi.us)

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# Exhibit 7

**To:** Barb[REDACTED]  
**From:** AndrewColborn@co.manitowoc.wi.us  
**Sent:** Sun 3/20/2016 6:56:51 AM  
**Subject:** Fwd: Your recent article on 'Lenk, Colborn honored for work on Avery case'  
[John Ferak post crescent.docx](#)  
[ATT00001.htm](#)

Sent from my iPhone

Begin forwarded message:

**From:** Brenda L <[REDACTED]>  
**Date:** March 19, 2016 at 2:15:50 PM CDT  
**To:** "jferak@[REDACTED]" <jferak@[REDACTED]>  
**Cc:** Mark Wiegert <wiegert.mark@co.calumet.wi.us>, "andrewcolborn@co.manitowoc.wi.us" <andrewcolborn@co.manitowoc.wi.us>, "davidremiker@co.manitowoc.wi.us" <davidremiker@co.manitowoc.wi.us>  
**Subject:** Your recent article on 'Lenk, Colborn honored for work on Avery case'  
**Reply-To:** Brenda L <[REDACTED]>

Dear Mr. Ferak,

I am writing regarding the above referenced article that you wrote and attached a document I'd like for you to review.

I am hoping that you will share this information because too many people are only taking the word of the defense side. Keep in mind that Steven Avery had his day in court and was found guilty. All of the issues of police corruption, evidence planting, improper searches, credibility of EDTA evidence, etc., has been brought forth in appellate court. There is nothing new in Making a Murderer, other than an incredibly slanted and selectively edited (read splicing of actual testimony days apart into one) version based of the Defense's view.

It's obvious that you have done minimal research outside of MaM and that is extremely disappointing to me, but unfortunately, you are with the majority of viewers that take this "documentary" and I use that term loosely, that choose to believe that Steven Avery is some type of folk hero. He is being portrayed as the new face of injustice and I'm embarrassed for humanity at how easily people have discounted the type of person and criminal history that Avery has but are so quick to judge and threaten LEO's that were involved, regardless of the county they reside in, their rank or their countless years of service with NO prior wrongdoing.

So, in effort to stand behind my strong opinion of bias towards MaM and your article that only portrays the defense side, I'm offering up a chance for you to show your credibility in reporting my rebuttal. I am hopeful you will do that and if in the end you don't, then it'll certainly be noticeable that you have no interest in reporting a story fairly to both sides.

I attached a document pointing out five things from your article.

Thank you for your time,

Brenda S.

# Exhibit 8



**To:** Brenda Schuler [REDACTED]  
**From:** Andrew Colborn  
**Sent:** Wed 1/24/2018 2:33:48 PM  
**Subject:** FW: Steven Avery Netflix Documentary

---

Lt. Andrew Colborn  
Manitowoc County Sheriff's Department  
920-683-4216 Office  
[REDACTED]  
[AndrewColborn@co.manitowoc.wi.us](mailto:AndrewColborn@co.manitowoc.wi.us)

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---

**From:** Andrew Colborn  
**Sent:** Tuesday, January 12, 2016 5:42 PM  
**To:** Patrick O. Dunphy <[REDACTED]>  
**Subject:** RE: Steven Avery Netflix Documentary

Dear Sir, I now see Attorney Strang will be giving a presentation on the Avery case on 01/27/16 in Minneapolis, MN @ Sisyphus Brewing. It's sold out or I would try to obtain a record of the "event" for you as I am guessing my name will be bantered about quite a bit. Specifically the claims against me are these: That all evidence gathered at the crime scene was planted, including the victims bones which were located in a fire pit next to Avery's residence where he burned her body after dismembering her. In Avery's home was located the key to the victim's vehicle, which had Avery's DNA on it. Their story is I planted the key. I am being accused of breaking into our own courthouse and stealing a vial of blood that was used as an exhibit in Avery's first trial. Next I am accused of either killing the victim, or giving her to someone else who killed her and then planting her body at Avery's residence. I know this sounds unbelievable but you can't make this stuff up. The claim is that I stopped her on a traffic stop, then either killed her or turned her over to someone else who killed her. The allegation then goes on that I planted Avery's blood in her vehicle from the aforementioned vial, and planted Avery's sweat, (never explained how I came in possession of his sweat) on the hood release of the victim's vehicle. The claim then goes on that after planting the victim's vehicle and body at Avery's residence, law enforcement then entered Avery's residence, took a rifle from above his bed, (later proven to be the murder weapon) went outside and fired the rifle into the floor of the garage and then replaced the rifle over Avery's bed. If you are in disbelief I assure this is in all the court records for this case. NONE of this is true, Avery kidnapped this poor girl, assaulted her and then killed and dismembered her and burned her body in a fire pit. The defense continues, in part thru Netflix, to maintain and keep alive these lies to this day. Just last week Strang was on WTMJ radio saying these things I just mentioned. The trial was over 10 years ago, how much longer can the defense attorneys continue this crusade against my agency and me personally?? I picked out some of the emails I have been receiving as a direct result of the Netflix rubbish, I will forward them to you. Also I have recorded to disc voice messages that I receive daily, I can provide you with copies if you so wish. Again, I assure you everything I have told you here is part of the court record which is subject to open records. Thank you for your patience and time.

---

Lt. Andrew Colborn  
Manitowoc County Sheriff's Department

920-683-4216 Office

[AndrewColborn@co.manitowoc.wi.us](mailto:AndrewColborn@co.manitowoc.wi.us)

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**From:** Patrick O. Dunphy [mailto:██████████@██████████]  
**Sent:** Tuesday, January 12, 2016 1:41 PM  
**To:** Andrew Colborn <[AndrewColborn@co.manitowoc.wi.us](mailto:AndrewColborn@co.manitowoc.wi.us)>  
**Subject:** RE: Steven Avery Netflix Documentary

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I have studiously avoided watching the shows.

I do not know if you have a claim for defamation. But before I can comment it would be very helpful if you could detail not just what you claim is false but the episodes that contain the false statements. I can watch them directly rather than sitting through 10 hours of blind TV watching.

What is happening to you and your family is terrible and I will certainly give you some free time to determine if you may have the basis for a claim.

Patrick O. Dunphy

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# Exhibit 9

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

ANDREW L. COLBORN, )  
Plaintiff, ) Case No.  
vs. ) 19-cv-0484  
NETFLIX, INC., et al., )  
Defendants. )

CONFIDENTIAL  
VIDEOTAPED DEPOSITION OF LAURA RICCIARDI  
May 17, 2022

REPORTED REMOTELY BY:  
AMBER S. WILLIAMS, C.S.R. No. 1080  
Notary public

1           A.     Sorry.  I just spoke over you.  I  
2 apologize.

3                     We were -- we included that in the  
4 series, because how could we cover the Halbach trial  
5 without including the defense theory of framing?  I  
6 mean, they were -- they were explicit about that  
7 theory, and so we necessarily included it.  But by  
8 including it, we didn't adopt it.  We were not trying  
9 to communicate anything to the public about that; we  
10 were merely showing what we documented.

11           Q.     So there was no point of view that  
12 Steven Avery was innocent?

13           MR. VICK:  Objection.

14           THE WITNESS:  No.

15           Q.     (BY MR. BURNETT):  There was no point of  
16 view that documentary makers endorsed that Steven  
17 Avery had been framed by law enforcement?

18           A.     No.  As I said, we didn't take a  
19 position on -- on those things.

20           Q.     Did you portray the prosecution and the  
21 defense neutrally?

22           MR. VICK:  Objection.  Vague.  Best evidence  
23 rule.  Witness is not here as an expert.

24                     With that, you can answer if you  
25 understand.

1 THE WITNESS: I believe we took the same  
2 approach, it was a universal approach, to the  
3 storytelling at every stage, from inviting people to  
4 participate in the documentary to the way things were  
5 covered.

6 Q. (BY MR. BURNETT): My question was: Did  
7 you portray the prosecution and the defense  
8 neutrally?

9 A. I don't know what that neutrally --

10 MR. VICK: Let me -- just give me a moment to  
11 interpose.

12 Same objections as to your previous  
13 question.

14 Q. (BY MR. BURNETT): You don't know what  
15 it means to be neutral?

16 A. I was trying to define for you what our  
17 approach was, and --

18 Q. Right.

19 A. -- it was the same approach. It was a  
20 democratic universal approach. So yes, we -- we  
21 approached them in the same way. We -- we covered  
22 them in the same way.

23 Q. You picked neither side?

24 A. We did not take sides.

25 Q. Okay. Did -- did you include -- strike

1 that.

2 Did your -- do you understand the  
3 meaning of the word "protagonist"?

4 A. Yes, I do.

5 Q. Could you define that for us?

6 A. Sure. Would you like me to define it  
7 within the context of the series or would you like me  
8 to --

9 Q. We'll get to that. If you could just  
10 define the word generally.

11 A. Sure. I would say a main character or a  
12 principal subject.

13 Q. And you're familiar with the word  
14 "antagonist"?

15 A. Yes, I am.

16 Q. And what does that word mean?

17 A. A person or thing who stands in  
18 opposition to the protagonist.

19 Q. And is the protagonist -- strike that.  
20 Did "Making a Murderer" have a  
21 protagonist?

22 A. Yes.

23 Q. Who was the protagonist?

24 A. Steven Avery.

25 Q. Did the -- "Making a Murderer" have an



1 MR. VICK: Objection. Compound. Vague.

2 THE WITNESS: We would share cuts with  
3 Netflix, and they would provide feedback notes.

4 Q. (BY MR. BURNETT): And the feedback  
5 notes, what would they generally contain?

6 A. A range of things. But it was their, I  
7 think, questions and comments, general feedback about  
8 the cuts.

9 Q. Did -- did Netflix make suggestions and  
10 recommendations as to how to improve the documentary  
11 in those notes?

12 MR. VICK: Objection. Best evidence.

13 THE WITNESS: They made suggestions.

14 Q. (BY MR. BURNETT): Did you take them  
15 seriously?

16 MR. VICK: Objection. Vague.

17 THE WITNESS: We took them as suggestions.  
18 We -- we took them as suggestions.

19 Q. (BY MR. BURNETT): Did you ever state  
20 that you felt Netflix's suggestions and  
21 recommendations were extraordinarily helpful?

22 A. I'm sorry. Would you repeat that?

23 Q. Sure. Did you ever state that you  
24 thought Netflix's recommendations and suggestions  
25 were extraordinarily helpful?

1 and collaboratively." I mean, I, myself, have talked  
2 about -- I believe in life I've talked about it,  
3 having been a collaboration.

4 Q. So you thought it was a -- a  
5 collaborative work. And would you agree that you  
6 worked closely with the folks at Netflix to produce  
7 "Making a Murderer"?

8 MR. VICK: Objection. Vague.

9 THE WITNESS: I don't know what Lisa  
10 Nishimura means by "closely."

11 Q. (BY MR. BURNETT): Worked together  
12 perhaps, communicating openly and frequently. Would  
13 that describe how you and Netflix worked together?

14 A. I don't know if I would say  
15 "frequently." I mean, I -- you know, if I think  
16 about the workflow, we -- you know, we were working  
17 in separate locations. I think we were, you know,  
18 mainly communicating on phone calls. There was an  
19 occasional meeting, but, you know, for the most part,  
20 we -- Moira and I were most interested in, you know,  
21 being able to do the creative work, and then, at  
22 times we were required to share it with Netflix and  
23 that would, you know, lead to notes and  
24 conversations, and then we would go back and we would  
25 work creatively, and then -- it was that sort of

REPORTER'S CERTIFICATE

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I, Amber S. Williams, CSR NO. 1080,  
Certified Shorthand Reporter, certify:

That the foregoing proceedings were taken  
before me at the time and place therein set forth, at  
which time the witness was put under oath by me.

That the testimony and all objections made  
were recorded stenographically by me and transcribed  
by me or under my direction.

That the foregoing is a true and correct  
record of all testimony given, to the best of my  
ability.

I further certify that I am not a relative  
or employee of any attorney or party, nor am I  
financially interested in the action.

IN WITNESS WHEREOF, I set my hand and seal  
this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.



*Amber S. Williams*

AMBER S. WILLIAMS, CSR NO. 1080

Notary Public

Post Office Box 2636

Boise, Idaho 83701-2636

My commission expires June 1, 2027

# Exhibit 10

LICENSE AGREEMENT

This License Agreement ("Agreement") is entered into as of July 28, 2014 (the "Effective Date") by and between Netflix Studios, LLC, a Delaware limited liability company with its principal place of business at 100 Winchester Circle, Los Gatos, CA 95032 ("Netflix"), and Synthesis Films LLC, a New York limited liability company with its principal place of business at 1103 S. Kenmore Avenue, Los Angeles, CA 90006 ("Distributor").

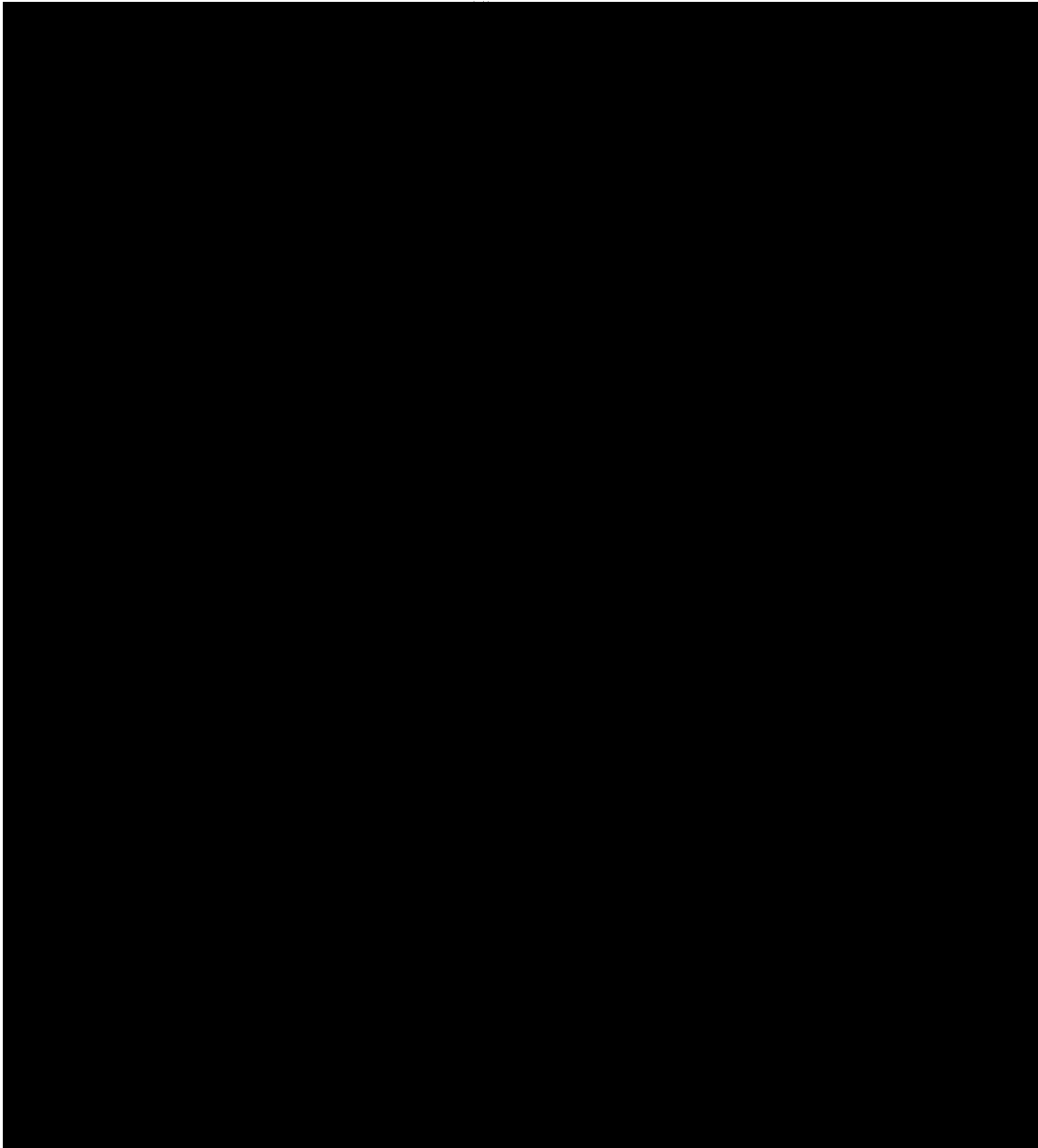
**Recitals**

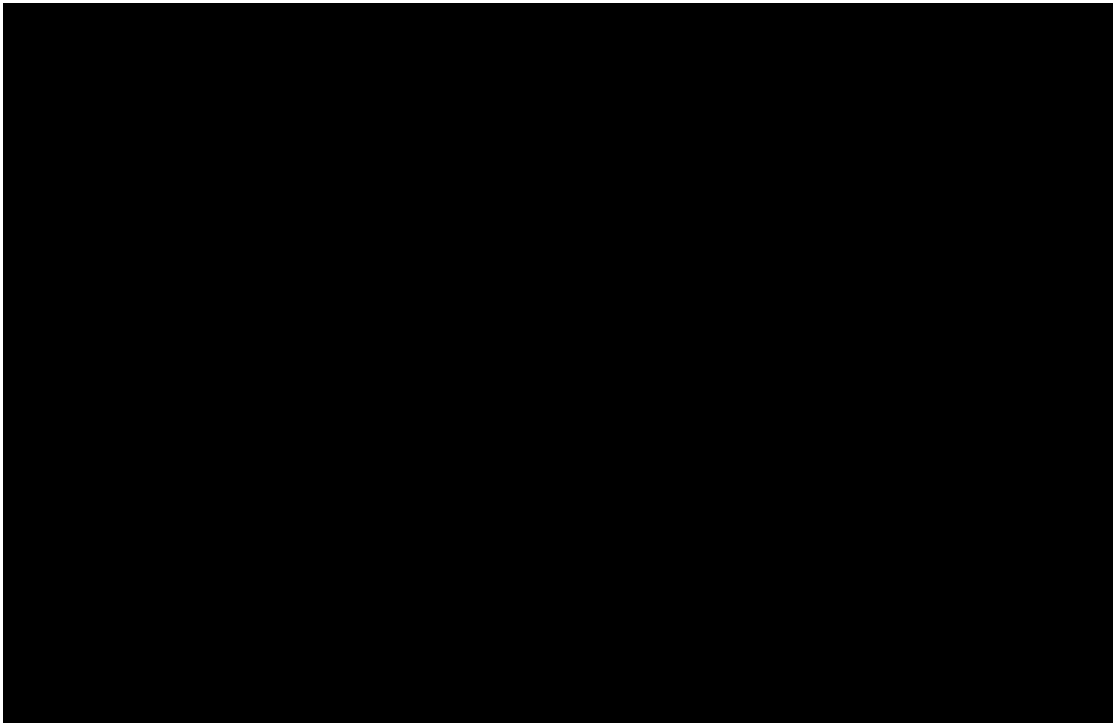
Netflix is a subscription entertainment service providing its subscribers with access to motion pictures, television and other digital entertainment products in a variety of formats.

Distributor is in the business of producing and distributing certain Episodes, as defined below.

Netflix and Distributor desire to enter into a relationship whereby Distributor will produce and deliver, and will grant Netflix, among other rights described herein, a license to distribute Episodes of the Series within the Territory, as defined below, all in accordance with the terms and conditions set forth below.

**Agreement**





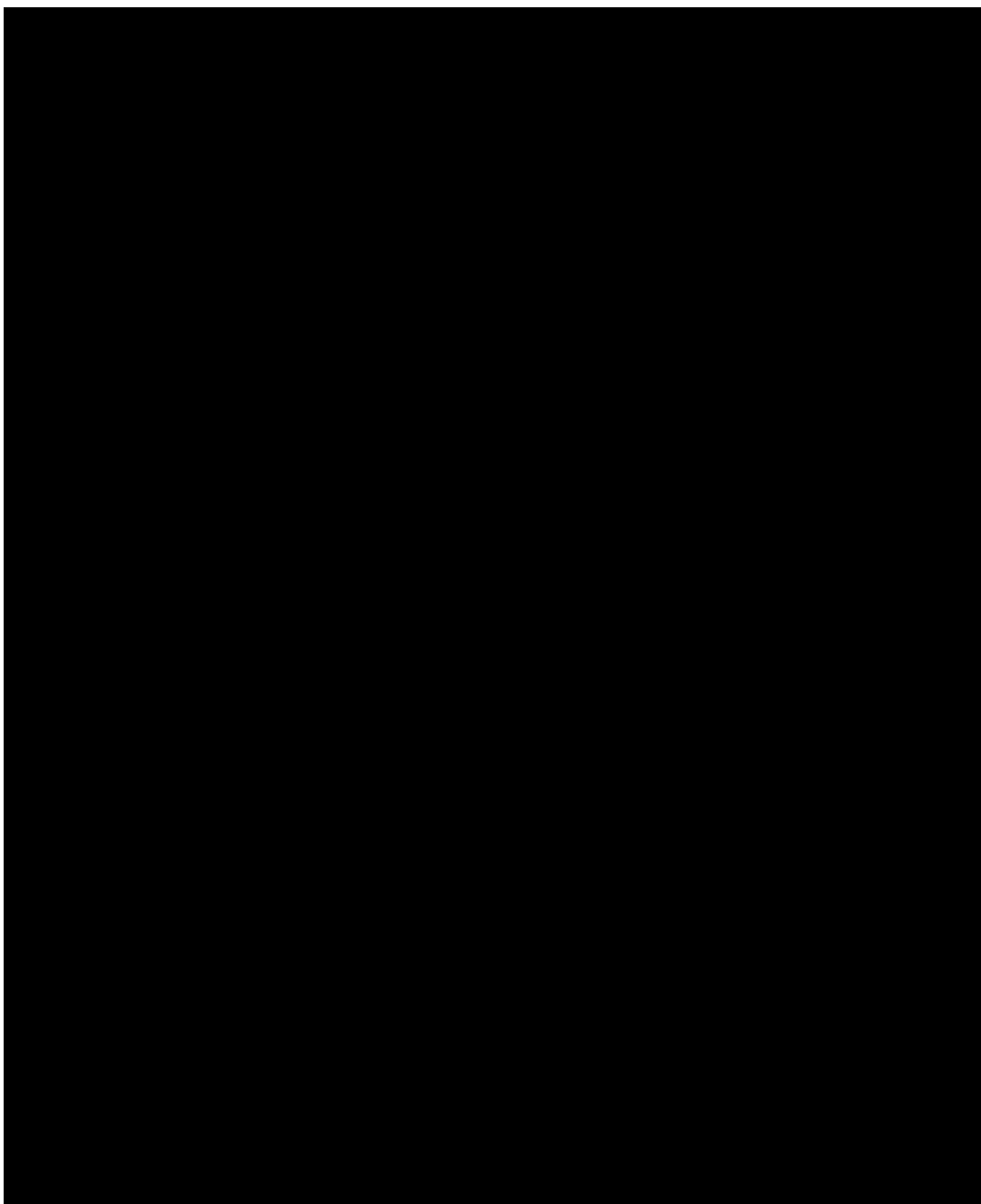
**6 Representations and Warranties; Indemnification; Limitation on Liability.**

**6.1** Netflix. Netflix represents, warrants and covenants that (a) Netflix has the full right, power, legal capacity and authority to negotiate, enter into and fully perform its obligations under this Agreement; (b) once executed by Netflix, this Agreement constitutes a valid and enforceable obligation of it; and (c) there are not now any liens, claims, encumbrances, legal proceedings, agreements or understandings which might conflict or interfere with, limit, derogate from, be inconsistent with any of Netflix's representations, warranties or covenants contained in this Section 6.1.

**6.2** Distributor. Distributor represents, warrants and covenants that (a) Distributor has the full right, power, legal capacity and authority to negotiate, enter into and fully perform its obligations under this Agreement, without the consent of any third party, including, without limitation, the right to offer for license and license Episodes hereunder, and there are no liens, claims of any type or nature, encumbrances (other than customary liens described in (i) any notice of assignment or interparty agreement or Completion Guaranty to which Netflix is a party, (ii) the Completion Agreement in favor of the Completion Guarantor so long as any such rights and liens are subordinated to the rights and liens of Netflix pursuant to the Completion Guaranty or documentation approved by Netflix and (iii) customary lab liens, subject to delivery of satisfactory laboratory control agreement(s) required hereunder), legal proceedings, agreements or understandings which could reasonably conflict or interfere with, limit, derogate from, be inconsistent with any of its obligations under this Agreement, including, without limitation, the right to offer for license and license Episodes hereunder; (b) once executed by Distributor, this Agreement constitutes a valid and enforceable obligation of it; (c) Distributor has and shall maintain at all times during the Term all necessary rights, including any copyrights and trademarks, titles, authorizations, releases, consents and interests, including, without limitation, from all third party rights holders for each Episode and Source Material, necessary to grant Netflix the licenses granted in this Agreement, including, without limitation, with respect to the Promotional Materials, and exclusively owns all rights in the Series and every element thereof, including, without limitation, all necessary rights in the Underlying Material and, any scripts (as applicable), screenplays (as applicable), teleplays (as applicable) and music included therein and has not previously transferred, assigned, encumbered, disposed of or granted to any third party any form of option to acquire any of such rights; (d) Distributor has and shall maintain binding agreements with the Key Elements to direct and provide editing services, as applicable, for no less than all Episodes of

Season 1, which shall contain waiver of injunctive relief provisions, and Distributor shall not amend, terminate, invalidate, rescind or waive any material obligations of such parties under such agreements without Netflix's prior written consent. (e) Distributor has satisfied and shall satisfy, in each case for the duration of the Term all third party obligations of any kind with respect to the Episodes (and associated Source Material) or any element thereof, and their distribution and exploitation in accordance with this Agreement, including, without limitation, all guild residuals, fees, deferred fees, contingent compensation, and contributions, third party licenses, royalties, participations, remuneration or other payments, and Netflix shall have no obligation for any such past, current or future charges or similar payments; (f) all Episodes shall be fully scored and all rights shall be cleared for use in all media (excluding theatrical), throughout the world, and Distributor shall obtain all necessary music clearances, rights and licenses in connection with the exploitation of the rights granted to Netflix hereunder, and shall make all payments required in connection therewith except for any public performance payments in connection with the musical compositions contained in the Source Material in connection with Netflix's exploitation of such Source Material; (g) the public performance rights (as that term is understood in the United States, also known as the "communication to the public" rights in certain other parts of the Territory) in the musical compositions contained in the Source Material are either: (i) controlled by the music performance rights organizations listed on attached Schedule D ("PROs") for each corresponding country or region in the Territory, from which licenses on commercially reasonable terms and conditions covering Netflix's transmissions of Source Material in all countries throughout the Territory are available, (ii) in the public domain; or (iii) controlled by Distributor or an affiliate of Distributor and not available for licensing through the PROs (in which event no additional clearance of, or payment with respect to, such rights shall be required by Netflix associated with Netflix's transmissions or other delivery of the Source Material hereunder); (h) Distributor shall make all payments which may become due or payable under any applicable guild or union collective bargaining agreement or under any other contract entered into by Distributor by reason of the permitted exhibition of the Series hereunder; and Netflix shall not have any responsibility or liability for any services, deferments, obligations or claims made for services provided or performed by, or rights granted to, any person in connection with the Series, nor any responsibility or liability for the making of payments to or on behalf of any person (including, without limitation, any union, guild, actor, writer, director, producer, craftsman, performer, collection society or governmental agency) by virtue of the use made of the Series hereunder, any trailer or other elements supplied by Distributor, or any non-film material supplied by Distributor, all residual and other payments to any such person being the sole responsibility and obligation of Distributor; (i) the Series (excluding the Underlying Materials that are in the public domain or other materials identified by Distributor and approved by Netflix prior to the Outside Delivery Date) is wholly original and not in the public domain and Netflix's distribution and other exploitation of the Source Material, including without limitation, the Series, and Distributor Marks in accordance with this Agreement shall not violate or infringe any rights of any third party, including, without limitation, any third party intellectual property rights, contract rights, rights of attribution or credit, moral rights (or similar rights in any jurisdiction), rights of publicity, and rights of privacy, or defame or constitute unfair competition against such third party; (j) the Source Materials delivered by Distributor hereunder shall be of first class quality, commensurate with the quality of delivery materials for a U.S. Premium Pay TV original program (e.g., HBO, Showtime, Epix, Starz, etc.) and the Production Budget shall be no less than Three Million Seventy-Five Thousand Dollars (\$3,075,000) as set forth in the Approved Proposed Production Budget; (k) Distributor shall contractually require all third party licensees of the Series (as permitted hereunder) to employ industry standard geo-filtering and encryption technologies when distributing the Series and Distributor shall proactively enforce such contractual rights; (l) the Series will be produced and delivered in compliance with the record keeping, certification and other requirements, as applicable, of Title 18 U.S.C. Sections 2257 and 2257A, each as amended, and all related statutory regulations and provisions regarding depiction of actual sexually explicit conduct and/or lascivious exhibition or simulated sexually explicit conduct, and the deliverables required to be delivered to Netflix pursuant to such provisions of law (and any other materials

reasonably requested by Netflix, in the form and substance requested by Netflix) shall include records that evidence such full and complete compliance; (m) Distributor shall provide Ratings information in accordance with Section 5.4 if required by a Ratings Body, and any such Ratings information delivered by Distributor to Netflix shall be true, complete and accurate; and (n) the Source Material and Distributor Marks, and the production thereof by Distributor or any third party, Netflix's distribution and other exploitation of same in accordance with this Agreement shall not violate any applicable law, rule or regulation (whether federal, state or local) or collective bargaining agreement; (o) the Series shall be truthful and accurate; and (p) the Series has been duly and properly registered for copyright in the United States or can be so registered, and the copyrights in the Series and the literary, dramatic and musical materials upon which the Series is based, which are included in the Series, are and will be valid and subsisting during the Term throughout the Territory. Distributor's representations, warranties and indemnities shall remain in full force and effect notwithstanding any approval or acceptance by Netflix of the Chain-of-Title Documents.





IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

SYNTHESIS FILMS LLC

By: Laura Ricciardi  
Name: Laura Ricciardi  
Title: Member

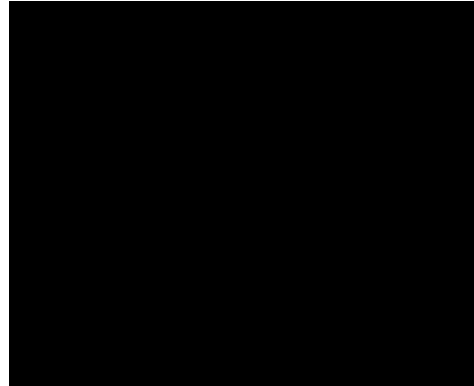
Address for Notice

NETFLIX STUDIOS, LLC

By: [Signature]  
Name: Lisa Nishimura  
Title: Authorized Signatory

Digitally signed by Lisa Nishimura  
DN: cn=Lisa Nishimura, o=Netflix, ou=US  
Date: 2016.08.20 09:42:48 -0800

Address for Notice:



*Signature Page  
(Making a Murderer)*

LA2354829\_2\_217849-10010

# Exhibit 11



Eleonore Dailly &lt;[REDACTED]&gt;

**Fwd: Seeking Line Producer for Eight-Part docuseries - Making a Murderer**

1 message

**Laura Ricciardi** <[REDACTED]>  
To: Eleonore Dailly <[REDACTED]>  
Cc: Moira Demos <[REDACTED]>

Mon, Jul 22, 2013 at 1:44 PM

FYI.

We'll respond later today as it would be great to receive some recs from Lisa.

Laura Ricciardi  
Synthesis Films LLC  
[REDACTED]

Begin forwarded message:

**From:** Lisa Remington <[REDACTED]>  
**Subject:** Re: Seeking Line Producer for Eight-Part docuseries - Making a Murderer  
**Date:** July 22, 2013 1:39:02 PM PDT  
**To:** Laura Ricciardi <[REDACTED]>  
**Cc:** Moira Demos <[REDACTED]>

Hi Laura and Moira,

Thank you so much for your email and your interest.

When are you hoping to bring on a Line Prod/Post-Super? And have you raised all of your budget to complete the film?

I am presently booked on a project through February/March of next year ... so I'm guessing the timing may not work. However, I may be able to recommend some folks. Let me know your general budget range for that position and I'll check around to see who may fit your needs.

Best,  
lisa  
[REDACTED]

On Mon, Jul 22, 2013 at 10:11 AM, Laura Ricciardi <[REDACTED]> wrote:  
Dear Lisa,

Attached you will find two documents that describe the documentary miniseries that we have been working on since December 2005. The series is entitled Making a Murderer and is structured around the experiences of Steven Avery, the only man in America ever to have been convicted of murder after having been exonerated through DNA evidence of another crime (please see the attachments for a more detailed description of the series).

[Case 1:19-cv-00484-BHL](#) [Filed 09/16/22](#) [Page 2 of 3](#) [Document 279-11](#)

The series will be released as an 8-part Netflix World Premiere Exclusive.

The series is 90% shot and we currently have rough cuts of the first 3 episodes.

To date this project has been exceedingly independent. The series has been entirely produced, directed, shot and edited by my partner Laura Ricciardi and myself. This past spring Eleonore Dailly came on as an executive producer. Now with the support of Netflix we are eager to bring on collaborators.

We will be working with two edit teams here in LA and will taking a few production trips to Wisconsin for the remaining shooting during the fall and winter.

We are looking to bring on an LA-based Line Producer and Post-Production Supervisor the help shepherd the project toward delivery in May 2014.

We first learned of your work when we saw a video of you at the Countdown to Zero screening at Sundance, and your bio leads us to think you could be a great fit for this project.

If you think you might be interested in joining the team we can send you additional materials and perhaps we can set up a time to meet this week.

We look forward to hearing from you!

Sincerely,

Laura Ricciardi & Moira Demos

Laura Ricciardi  
Synthesis Films LLC

[Redacted]

--

.....  
lisa remington | [Redacted]  
.....

# Exhibit 12

# D O N A L D S O N C A L L I F

November 17, 2015

VIA E-MAIL

Michael Griesbach  
[REDACTED]

**RE: SYNTHESIS FILMS, LLC / MAKING A MURDERER / RELEASE**

Dear Mr. Griesbach:

My name is Lisa Callif of the law firm Donaldson + Callif, LLP. We are legal counsel for Synthesis Films, LLC ("Synthesis"), the producer of the documentary series about Steven Avery currently entitled "*Making a Murderer*" (the "Series"). I am writing to you with regard to your interview with Synthesis on January 23, 2010, which you gave with the express understanding that it might be used in the Series, subject to Synthesis' discretion (the "Interview"). I understand that although you signed a shoot release agreement on January 23, 2010 (the "Release"), you are now requesting that the Interview, whether in whole or in part, not be used in the Series.

In the Release, which I have attached to this letter for your convenience, you irrevocably granted to Synthesis the right to photograph you and to use your "picture [and] recordings of [your] voice" in the Series. That Release also expressly stated that you "waive any right to inspect the finished work or approve the use to which it may be applied." Additionally, in an email you sent on March 17, 2015, you acknowledged that the Series was picked up for distribution. However, you made no request for removal of the Interview from the Series at that time. Synthesis has acted in reliance on the Release for over half of a decade, incorporating a piece of the Interview into the Series, and shooting crucial scenes which specifically rely upon your statements in the Interview.

Based on your express consent to be filmed in connection with the Series, Synthesis has a legal right to use the Interview in the Series. United States case law is quite clear on this point. In order to have a viable lack of consent or personal rights claim, you would have to show that there was some type of invasion of privacy or perhaps some type of fraud in the inducement, meaning you were fraudulently induced to act in a particular way. You could also assert false light or defamation, but only if you were in fact painted in an inaccurate and/or defamatory manner, which is not the case.

As you have mentioned, you and Synthesis share a common goal of drawing public attention to police and prosecutorial misconduct of the type exhibited by the local authorities in

MICHAEL C. DONALDSON

LISA A. CALLIF

DEAN R. CHELEY

CHRISTOPHER L. PEREZ

MARISA S. KAPUST

400 South Beverly Drive, Suite 400,  
Beverly Hills, California, 90212  
Office 310-277-8394 Fax 310-277-8370

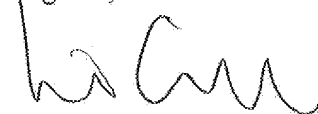
New York Affiliate:  
Gray Krauss Stratford Sandier Des Rochers LLP  
New York, NY 10017-1122, www.gksdrl.com 212-996-6700

Steven Avery's wrongful conviction for the rape and assault of Penny Beerntsen. The sole portion of the Interview used in the Series speaks only to that wrongful conviction in the case of Penny Beerntsen. Your opinions in the Interview as it is depicted in the Series are unrelated to later points made in the Series which suggest that Steven Avery may have been wrongfully convicted in the murder of Teresa Halbach. Moreover, Synthesis in no way relied upon your book, "The Innocent Killer: a True Story of a Wrongful Conviction and its Astonishing Aftermath" in the production of the Series.

In sum, based on the signed Release, your appearance in the Interview, and the fact that Synthesis justifiably and reasonably relied on your actions when obtaining distribution for the Series, Synthesis has a legal right to use the Interview in the Series.

I must note that this letter is not a complete statement of my client's rights and remedies with respect to this matter, all of which are hereby expressly reserved. Please contact me directly if you have any questions or concerns. I look forward to hearing from you.

Regards,



LISA A. CALLIF

LAC/ejr

cc: Laura Ricciardi

Encl. Interview Release

PRODUCTION COMPANY: SYNTHESIS FILMS LLC, 55 Linden Blvd. #4B  
Brooklyn, NY 11226  
TELEPHONE NUMBER: (917) 749-7030

**Shoot Release Form for Untitled Film/Video Project**

I, Michael Griesbach, hereby acknowledge that I am participating in a motion picture film or video being produced by SYNTHESIS FILMS LLC (hereafter, "Company") as part of the Untitled Film/Video Project.

**SHOOT RELEASE:** For good and valuable consideration, the receipt of which from Company is hereby acknowledged, I hereby irrevocably grant to Company, its licensees, agents, successors and assigns, the right, but not the obligation, in perpetuity throughout the world and in all media, now or hereafter known, to photograph me and use (in any manner Company or its licensees, agents, successors, or assigns deem(s) appropriate, and without limitation) in and in connection with the Untitled Film/Video Project, by whatever means exhibited, advertised, publicized or exploited theatrically, on television or otherwise:

1) my picture, silhouette or other facsimiles of my physical likeness, still photographs of me, recordings of my voice and all instrumental, musical or other sound effects produced by me; and/or

2) the appearance of the location or property known as: MA, of which I am the owner and/or manager or other individual with the power to so grant; and/or

3) the song or music, known as N/A, performed by \_\_\_\_\_, for which I have the authority to grant\*\*.

\*\*Use of song or music by the Company is strictly limited to the film/video referenced herein.

I hereby waive any claim for further compensation in connection therewith except as described in this document.

Further, I waive any right to inspect the finished work or approve the use to which it may be applied.

I hereby certify and represent that I have read the foregoing and fully understand the meaning and effect thereof and, intending to be legally bound, I have set my hand this 23 day of

JANUARY, 2019.

Michael Griesbach

Name

Signature





# Exhibit 13

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

ANDREW L. COLBORN, )  
Plaintiff, ) Case No.  
vs. ) 19-cv-0484  
NETFLIX, INC., et al., )  
Defendants. )

CONFIDENTIAL  
VIDEOTAPED DEPOSITION OF ADAM DEL DEO  
April 26, 2022

REPORTED REMOTELY BY:  
AMBER S. WILLIAMS, C.S.R. No. 1080  
Notary public

1 something really terrific. I was really struck in  
2 that conversation, which I shared -- the focus on --  
3 that they had on wanting to use the Steven Avery case  
4 as a look at the criminal justice system itself.

5 I was struck by the fact, which I  
6 communicated I believe in that meeting, that Steven  
7 had spent 18 years in prison, that someone could  
8 state at trial that they were so convinced that he  
9 had committed this heinous act, this rape, and that  
10 the criminal justice system got it wrong, that  
11 through DNA testing -- which for me at the time --  
12 you know, a lot of this, I'm -- I was learning about  
13 after seeing -- I had a lot of questions after seeing  
14 the first two cuts, but I was really struck with  
15 their depth of knowledge and curiosity to kind of dig  
16 into this case and use it as a lens to look at the  
17 criminal justice system in America.

18 So I expressed that with Lisa at the  
19 time. I was, again, very impressed. Laura and  
20 Moira, I had learned that they had met at Columbia  
21 film school. I was very impressed at how well they  
22 were articulated and how they wanted to go in eyes  
23 wide open and capture, you know, accurate, factual  
24 events, really follow the story from the Steven Avery  
25 perspective and also from the perspective of the

1 police officers involved in the case, Manitowoc, and  
2 let -- let the subjects capture in an objective way  
3 what was happening and to be able to put forth these  
4 issues in the criminal justice system, put those  
5 forward to a broader audience.

6 So that was my recollection of that  
7 first meeting with them, primarily.

8 Q. And after that meeting, at some point  
9 you, in terms of you acting in your role, were asked  
10 to do more with respect to -- or to become more  
11 involved in the series; is that correct?

12 A. Yes.

13 Q. And what were you initially asked to do?

14 A. I was initially asked to work with Laura  
15 and Moira to come up with a budget that we felt would  
16 achieve the objective of the series, to provide any  
17 support that they needed. You know, they were  
18 already shooting; they already had a pretty strong  
19 team. But to the extent that I could be helpful in  
20 terms of any prepositions, helpful in terms of  
21 budgeting, I would be a general resource for them and  
22 also work with them to get primarily, I think, the  
23 budget in shape, that -- that we could move forward  
24 with the project.

25 Q. Were you asked to work with any others

1 in front of me, but that's what -- generally  
2 speaking.

3 Q. Yeah. So -- and eventually we're going  
4 to go through some e-mail messages and notes that  
5 might help refresh your recollection on that. I'm  
6 not trying to hold you to that estimate at this  
7 point; I'm just trying get a general sense.

8 When you did -- or, strike that.

9 Was there ultimately a Netflix creative  
10 team for the "Making a Murderer" project?

11 A. At the outset it was -- myself and Lisa  
12 would be the creative team.

13 Q. And then eventually did it grow to  
14 include others at Netflix?

15 A. Yes.

16 Q. And one of those individuals was Ben  
17 Cotner; is that correct?

18 A. Yes.

19 Q. Was there anyone else that you  
20 considered part of the creative team as it evolved?

21 A. Marjon Javadi.

22 Q. And what was her title at that time?

23 A. Her title was coordinator for content.

24 Q. And Mr. Cotner, what was his title at  
25 that time?

1 A. Director of content.

2 Q. Was he a co-director of content with  
3 you?

4 A. We both had the same title, so maybe you  
5 can clarify. Is that what you meant by your  
6 question --

7 Q. Yes.

8 A. -- were we both directors? Yes.

9 Q. Were there more directors of content  
10 than you and Mr. Cotner in your department at that  
11 time?

12 A. Yes.

13 Q. And -- but did you all have the same  
14 function? Strike that.

15 Did you all have the same job  
16 responsibilities?

17 A. Generally speaking, yes.

18 Q. With respect to the Netflix creative  
19 team, was there anyone else who ultimately  
20 participated in the -- the main focus of the work  
21 other than Ben, Marjon, Lisa, and yourself?

22 A. Not to my knowledge.

23 Q. Did you each have different roles with  
24 respect to the work that you were doing on "Making a  
25 Murderer"?

1 would be important for "Making a Murderer" viewers to  
2 understand the context of the search at the Avery  
3 property on November 8th and Mr. Colborn's  
4 involvement.

5 MS. WALKER: Yeah, I think your question  
6 assumes it was not in the documentary. And I  
7 think -- I -- well, if the witness feels like he can  
8 answer your question -- I'm not instructing him not  
9 to answer it.

10 THE WITNESS: Yeah, I don't know what  
11 context -- whether this was or wasn't used, I don't  
12 recall whether it's in. But I wouldn't be making  
13 that determination. You know, Laura and Moira were  
14 the filmmakers. They were looking at the footage --  
15 the trial footage, you know, all the assets they had.  
16 They would be the ones to make the call as to what  
17 ends up in the documentary or not.

18 From our role, the creative team, we  
19 were giving notes and feedback based on the cuts that  
20 were coming in.

21 So to the extent this exists, this  
22 doesn't -- I've never seen this. Again, I don't know  
23 if this is in the documentary or not, but I  
24 wouldn't -- it wouldn't be my role to suggest that  
25 something would be in the series from the trial

1 specifically.

2 If there was a cut and comment on it, we  
3 would give feedback as to whether or not creatively  
4 we felt it was working. But to the extent there's a  
5 specific passage from the trial, I wouldn't make that  
6 determination.

7 Q. (BY MS. BARKER): Did you -- with  
8 respect to the "Making a Murderer" broadcast and your  
9 involvement, what materials did you review? What  
10 source materials did you review during the production  
11 of "Making a Murderer"?

12 A. We looked -- yeah, we looked at the cuts  
13 that came in.

14 Q. Did you ever have occasion to review any  
15 of the -- any of the depositions that were given by  
16 deponents in the Avery civil trial?

17 A. No.

18 Q. Okay. Do you know whether Benjamin  
19 Cotner ever reviewed any of those?

20 A. I don't know.

21 Q. Directing your attention to page 48 of  
22 56 in the same document, and I'm directing your  
23 attention to the fourth line from the bottom,  
24 there's -- and I'll represent to you, again, that  
25 this is a copy of the trans- -- of the transcript



1 from the Avery criminal trial with omitted testimony  
2 highlighted as represented in Mr. Colborn's pleading  
3 in this case.

4 The question is: With respect to  
5 Mr. Kratz's question "Have you ever planted any  
6 evidence against Mr. Avery," if the plaint- --  
7 assuming that the plaintiffs -- that Mr. Colborn's  
8 response was "That's ridiculous. No, I have not,"  
9 would you agree that it's a different response if  
10 it's as indicated at the end of that page, which  
11 states, "I have to say that this is the first time my  
12 integrity has ever been questioned, and no, I have  
13 not"?

14 MS. WALKER: Object to the form of the  
15 question. The transcript speaks for itself.

16 THE WITNESS: I don't know. I'm just reading  
17 this for the first time, so I haven't seen this  
18 before, to the best of my knowledge, to make a  
19 determination as to whether or not -- in a 10-hour  
20 series, whether a line here or there should be in the  
21 series or not. I've no way of making that  
22 determination.

23 Again, Laura and Moira, we -- we trusted  
24 them. They were steering us. We were looking at the  
25 cuts as they were coming, so -- on an ad hoc basis

1 Q. And are you able to say, based on your  
2 experience in documentary filmmaking, what the  
3 purpose would be for taking footage of a subject and  
4 replacing it with other footage in a trial context  
5 that is nonverbal?

6 MS. WALKER: Objection to the extent you're  
7 asking about something we just saw, and that  
8 misstates or mischaracterizes the evidence. If  
9 you're asking a hypothetical, the witness can answer.

10 THE WITNESS: Yeah, I -- I can't answer that  
11 based on looking at this raw footage and then the  
12 secondary clip. Just not enough context around it.

13 You know, Laura and Moira, we trusted  
14 them to edit the show and -- and create the show that  
15 they thought was best. So I'm not in a position to  
16 comment -- to make a snap judgment here today as to  
17 whether or not a piece of footage that's raw footage  
18 should be swapped out or used within the context of  
19 the series. It's just -- yeah, I wouldn't -- I don't  
20 have enough knowledge to -- to -- of that to -- to  
21 make that determination.

22 Q. (BY MS. BARKER): In your -- given --  
23 strike that.

24 Given your experience in documentary  
25 filmmaking, do you believe that it is -- would be

1 County law enforcement officers planted evidence to  
2 frame Steven Avery for murder?

3 MS. WALKER: Same objections.

4 But you can answer.

5 THE WITNESS: No.

6 Q. (BY MS. BARKER): Does the "Making a  
7 Murderer" series express an opinion that Manitowoc  
8 County law enforcement officers planted evidence to  
9 frame Steven Avery for murder?

10 MS. WALKER: Objection. The documentary  
11 speaks for itself. This witness's opinion as to how  
12 reasonable viewers interpreted what it said is  
13 irrelevant.

14 THE WITNESS: No.

15 Q. (BY MS. BARKER): Does "Making a  
16 Murderer" assert that Andrew Colborn planted evidence  
17 to frame Steven Avery for murder?

18 MS. WALKER: Same objections.

19 THE WITNESS: No.

20 Q. (BY MS. BARKER): Does "Making a  
21 Murderer" express an opinion that Andrew Colborn  
22 planted evidence to frame Steven Avery for murder?

23 MS. WALKER: I'll make the same objection  
24 that the documentary speaks for itself and that this  
25 testimony on what it expresses is not relevant.

1 THE WITNESS: No.

2 Q. (BY MS. BARKER): Does "Making a  
3 Murderer" assert that Andrew Colborn participated in  
4 a conspiracy to frame Steven Avery?

5 MS. WALKER: Same objection. The documentary  
6 speaks for itself.

7 THE WITNESS: No.

8 Q. (BY MS. BARKER): Does "Making a  
9 Murderer" express an opinion that Andrew Colborn  
10 participated in a conspiracy to frame Steven Avery?

11 MS. WALKER: I think you've asked that one  
12 but I'll raise the same objection. The documentary  
13 speaks for itself.

14 THE WITNESS: Yeah, I think you asked the  
15 question. I think I answered it.

16 Q. (BY MS. BARKER): I phrased it  
17 differently actually. So I asked you if he  
18 participated and this is whether it expresses an  
19 opinion.

20 MS. WALKER: Same objection.

21 THE WITNESS: Yeah, ask it one more time just  
22 so I answer that.

23 MS. BARKER: Yes. Madame Court Reporter,  
24 could you read back that question?

25 THE COURT REPORTER: "Does 'Making a

REPORTER'S CERTIFICATE

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I, Amber S. Williams, CSR NO. 1080,  
Certified Shorthand Reporter, certify:

That the foregoing proceedings were taken  
before me at the time and place therein set forth, at  
which time the witness was put under oath by me.

That the testimony and all objections made  
were recorded stenographically by me and transcribed  
by me or under my direction.

That the foregoing is a true and correct  
record of all testimony given, to the best of my  
ability.

I further certify that I am not a relative  
or employee of any attorney or party, nor am I  
financially interested in the action.

IN WITNESS WHEREOF, I set my hand and seal  
this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.



*Amber S. Williams*

AMBER S. WILLIAMS, CSR NO. 1080

Notary Public

Post Office Box 2636

Boise, Idaho 83701-2636

My commission expires June 1, 2027

# Exhibit 14

**TO:** MAKING A MURDER CREATIVE  
**FROM:** NETFLIX CREATIVE  
**RE:** MAKING A MURDER NOTES - Episodes 1&2, 3, 4  
**DATE:** November 20th, 2014

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**MACRO NOTE:**

Making A Murderer has all of the components to be an epic series with the potential to engage global viewers and to potentially affect public opinion over these two live cases. From day one we've been captivated with this unbelievable story and the incredible level of research, access, and information you have successfully amassed over the years. Currently the public appetite for crime based non-fiction has never been more primed. With the strong cult following of crime radio programs including "Serial" beginning to explode and our internal knowledge of an extremely high profile field/courtroom crime series set to debut in the marketplace in 2015, the opportunity and stakes have never been higher. Making A Murderer has all the elements to be the best of the lot, the story itself and surrounding footage is an absolute treasure trove.

The macro note is that the elements are all there, but the organization, structure and pacing of the parts needs to be re-examined and elevated entirely. The story begs for a more sophisticated editing style which will provide for an immersive and all-encompassing experience for the viewer including deft and unexpected foreshadowing of key elements, pitch perfect call-backs of evidence and breathtaking reveals.

We believe it's of the utmost importance to identify and employ the primary editing role at this time to address episodes 1 - 4 while you continue to shape episodes 5 - 8.

**Critical Editor Suggestions:**

1. ROCK PAPER SCISSORS TEAM - Angus Wall (SOCIAL NETWORK, GIRL WITH THE DRAGON TATTOO) and/or Grant Surmi (Cut TABLOID for Errol)
2. James Haygood (THE LONE RANGER, SEVEN, UNSCRIPTED) - loves docs
3. Kevin Tent (GIRL INTERRUPTED) - very interested in docs.
4. Fernando Villiena (EVERY LITTLE STEP) - Strong and accomplished doc editor.
5. Paul Crowder (DOGTOWN, ZBOYS)
6. Brad Fuller (S.O.P) - Cut many Errol Morris docs. Solid and steady.
7. Andrew Hulme (THE IMPOSTER) - Accomplished editor.
8. Chris Figler (MAD MEN, BIG LOVE, UNSCRIPTED) - Loves docs.
9. \*\*As requested, waiting on additional MOM editor suggestions from directors

**OPENING TITLE SEQUENCE/GRAPHICS/VFX:** Currently, we need a great opening title sequence to establish a strong visual identity for the series. As we have discussed and agreed, finding the right person and/or company to handle the work with the critical eye to

create a heightened look to the overall series. Please provide resumes of those candidates who you'd like to consider. We'll do the same on our end to provide resumes as well of those we recommend.

**RHYTHM/BALANCE:** Currently, the cutting style in the episodes feel novice at best. Overall, from episode to episode and from scene to scene, many of the the sections feel out of balance as though they don't have a symbiotic relationship. In other words, there lacks an overall cohesiveness. Some sections seems overdeveloped, and others come across underdeveloped, and others simply go on too long. There needs to be an elevated approach to this terrific information - the effect should be heightened, intense, and entertaining. Further, should also drive and hold dramatic tension. Again, let's work to bringing a new expert editor to enhance the great work that has already been established.

**GRAPHIC LOWER THIRDS TEXT:** By using designed font or other VFX design, let's try to identify and mark all the various characters, specifically the sheriff's department staff so the audience can track all individuals throughout. In the last pass, often we would have to stop the take to make sure we were understanding who the characters were and if we had already seen them earlier in the series. Again, the use of cool ID/lower thirds text will help this tremendously.

**DRONE PHOTOGRAPHY:** The opportunity to use drone photography is exciting. It gives a new cinematic feel to the junkyard. However, currently it feels like its clustered on pods and used in an arbitrary way. In the next pass, let's discuss how to best strategize the drone footage for it's strongest impact. Let's explore utilizing them as a strong, strategic transitional devices.

**MUSIC:** Currently, it feels like sometimes the music works, sometimes it's off, and other times simply too slow of a pace. All in all, we do need to get a composer on board that understands a thriller atmospheric score.

## EPISODE 1 & 2

### GENERAL

**SET UP:** This first two episodes of the series plays as a compelling narrative with amazing twists and turns. The disconnect is the set up of the episode and where it ends - the beginning does not allude to what the chapter/episode will be exploring and feels muddled in the middle.

**CHARACTER(S) INTRODUCTION** - We want to understand how each person comes in and out of the story and their role, instead of it feeling like interviews are just inserted; let's make sure each "lead" character has a straight-forward introduction (perhaps a title card) and then



consistently labeling them throughout the story. The consistency of the characters can be marked as transition points to help the audience keep everything straight. Sometimes who is involved with what feels confusing as the story progresses.

**INTRODUCTION:** The first five minutes gives us a peek into how this town has treated the Averys before the crimes. However, instead of having the first thing heard being everyone's impression of Steven, it may be more powerful to have Steven be the first voice the audience hears, for example when he is talking to Jodi in jail from episode 3 about how he is wrongly accused.

Let's also tighten up the beginning. In the next pass, let's try to make clear distinctions from section to section and create some transitional devices. An example is the section prior to meeting Sandra Morris for the first time. Once we meet Sandra Morris we should try using a transitional device to demarcate that we are moving into a new section of the story.

**EPISODE 1 AND 2 (currently in one episode)** - Further down in the notes we suggested times to potentially split the episode. It currently runs at 1:18:03. Where is the break for episode 1 into 2 in the first cut? Suggestions given in the specific notes below.

**CHAPTERS:** There are 4 key parts of this section that lead up to Teresa's murder: The police/community's dislike for Steve/Averys, the public exposure allegations, the Penny Beernsten rape allegations, and then Steve suing the county. When revisiting we should establish these chapters - at the moment, it feels like a long run-on sentence rather than beats of an arc.

**RUNNING TIME:** As discussed, let's revisit the running times for each episode (notably the pilot). Let's generally target 90 minutes for two (45min each).

## **SPECIFIC**

2:33 - There's a weird sound jump here. Check this spot with sound.

5:23-6:42 - We should perhaps use a tape deck when we are hearing Steven Avery talk throughout the series. It should be a stylized tape deck something that is unique and interesting for this project. The first time we should use it is when Steven Avery is giving testimony about Sandy Morris. Specifically, when he says he is upset with her that she was spreading rumors about him.

8:30 - Do we have any great family pictures of the Avery's here? Let's make them look like a very happy family.

11:05 - Are there any pictures of Sandy Morris and Susan Dvoreck together? This would establish them as very good friends.

12:00 - Perhaps show/cut an intense scene of Steven being arrested here.

12:47 - "Seven months after Steven's arrest" - This should be a transition card rather than subtitle.

16:28 - What are they showing as the background before introducing the image of Dean as Steve is on the phone - why not show Dean at the beginning?

19:10 - Do we have any shots of the town getting rabid about the trial? Newspapers, TV clips, or other witnesses separate of the defense attorney talking about the town? Better to see than just hear Reesa Evans.

19:35 - Who are the police? The lawyer says that the police told the sheriffs county that they have the wrong guy but it's not certain who the police are.

23:04 - Cut back to Steven when his dad says "I didn't do it!"

20:30 - We need to make a clear distinction between the Manitowoc police department and the sheriff's department. Is there a visual aid they can help us with this? Let's discuss.

23:25 - It should hit harder when Steven is convicted to 32 years in prison. That should really hit like a ton of bricks.

23:31 - We don't need this much of a set up to the prison. The images feel repetitive.

25:12 - "If I didn't I'd admit it right away" - maybe play this at the beginning of the pilot as we introduce Steve, giving the audience a voice to hear. Hearing/Seeing the accusatory is a strategic mechanism to draw an audience into the story of the character who may be wrongly accused.

29:30 - Can we see some of the excerpts described in the court of appeals? If we are showing some of the court of appeals statements, it might make them resonate more.

31:32 - Card re: Wisconsin Innocence Project - can we get more context what it is so the audience is aware of what they do?

32:33 - Gregory Allen "hit" should feel bigger, not subtle.

32:40 - Let's show the process, legally, of Steven Avery getting out of prison as opposed to just showing him walking out. Let's build up of this and instill a little delayed gratification in the release of Steven.

34:20 - Let's show more verite scenes of Steven when he gets home from prison - let this play out more.

34:33 - A transitional card going into Reesa's statement that the cops didn't apologize or acknowledge their mistake would make this feel smoother.

35:05 - Do we have anyone separate if Reesa that knew the Sheriffs' we're pissed that Steven got off?

36:29 - Good lead in to highlighting Denis Vogel. Any footage of shots or documents of Dennis Vogel trying Gregory Allen two years before the Penny Beernsten case? We need better visuals here when we are hearing Vogel had to have known it was Allen.

38:57 - Let's introduce the Avery Task Force on a stronger note to highlight what it does so it doesn't get lost in the lull of his accusations later on.

39:34 - Penny Beernsten statement is very strong. Let's hold a beat here.

40:00 - The photos of Steven and his family feel displaced. Also, the music tonally feels like it's off. Generally, it's an awkward and disjointed scene.

40:30 - Label WI State Rep Mark Gundrum.

41:30 - We need a graphics sequence here - let's explore and discuss.

44:43 - This could be perhaps a good place to technically end episode 1.

48:00 - This could be an alternative place to end episode 1: at the end of the deposition about Andrew Colborn's telephone call about Gregory Allen.

49:30 - How do we, the audience, know Colburn was contacted? Why does Colburn even mention it? Did it come up from the person who called him? This is confusing.

52:00-56:00 - The pacing feels slow. We get that the Manitowoc branch is under scrutiny. It shouldn't feel this long.

52:27 - The evaluation (Deposition October 26,2005) runs so slow. Is there a way we can set this up in a swifter manner? It lulls.

55:00 - Seems very thin that Colburn not having specific knowledge of who called him would be the key to the case. Who called Colburn? No email? Not fax? Could they track the call? If you are Colburn, why even disclose?

56:30 - This could be a cut off point as well for Episode 1 into 2 - when Teresa Halbach is stated missing.

57:36 - When Teresa is speaking about whenever she dies - this feels like this is a solid intro into episode 2 or 3 / whatever the next cut would be. Let's discuss.

1:00:00 - is there any raw footage of Steven's reinterview that's on the news after Teresa Halbach was murdered? Very interesting that Steven invites the police into his house without hesitation. Would be great to see the raw footage around that if the new station still has it.

Music is weak over Teresa Halbach's mother. Let's revisit and strengthen it.

1:02:00 - The Halbach search feels like it could be more kinetic. Let's look to add energy into this section.

1:03:29 - Pam Sherm's call should have subtitles.

1:04:19 - "Do we have a body or anything yet?" - no "y" in the subtitle for anything.

Note: We see the police video inside of Avery's home, but we should have a card to preface that it was not warranted and out of nowhere.

1:09:25 - This was a good card regarding the Avery's not allowed to be on their property for 8 days.

1:09:40 - Better music over this scene.

1:12:25 - Transitional card to segue into the evidence found

1:15:40 - This cop is unnerving and this is a powerful scene. You hear in the cop's voice how accusatory and manipulative he is. The fact that he says "they know nothing about you (Steve)" is unveiling.

## EPIISODE 3

### GENERAL

**INTRODUCTION** - The segue from the first two episodes into the third flows, but let's explore reframing it and establishing more of a solid, concrete introduction into episode 3. Perhaps replay that clip about Teresa speaking about dying at the beginning of the episode? It sets an ominous tone that juxtaposes Steve's voice later on the phone with Jodi telling her he wants out and to move out of town.

**CHARACTERS** - Will we learn more about Brendan and Jodi's respective background in their relationship with Steve as the series progress? It would be great to know a bit more about their characters to understand why Jodi is undoubtedly loyal to Steve and why Brendan fell into this, perhaps, misleading state. Let's also explore inserting a formal title card when lead characters are introduced (i.e. Dean Strang) to highlight the importance they play in the series and the case.

**B FOOTAGE** - Certain set up images and anecdotes feel repetitive. Let's revisit so certain scenes and statements don't lull the pace. For example, having the series of relatives say he's innocent throughout the episode feels tiresome. The scene where the parents read the letters highlights the opposing viewpoints of what the town thinks vs what they believe. That is strong enough - we don't need to later see his mother and brother distressed about his incarceration.

**ENDING** - We like that it ends close to Brendan's statement "What if it's different" to his mother, regarding his version of the story vs. Steve's. This propels us to be curious about what will happen next in the state.

### SPECIFIC:

2:33 - Leading into the courtroom can be cut in half.

8:40 - Insert a transitional card before his parents' statement.

10:48 - The scene of his brother in the bar can be cut out. We get it, the family believes he's innocent.

15:03 - Transitional card needed.

16:16 - Steven on the phone with Glenn - are there different images we can use leading up to Dean Strang entering the building?

19:53 - "I hope the truth comes out on this so we can find out who did it." Hold a beat after this statement is said. It's powerful and supports his innocence and sympathy for Teresa's death.

21:23 - Is there anything we can use/show to clarify whether or not the cops had a warrant to search his property and allude to the fact that they may have planted something when they were there without permission?

26:19 - Cut straight to the courtroom (27:13) instead of watching everyone pile into hear Brendan's verdict.

32:53 - Transition Card / Insert the card that is at 33:17 here before Jodi is picked up from jail.

44:26 - Reesa Evans' statement should transition into the cops interrogating Jodi and Brendan. Don't need Yvonne's statement. Begin again at 45:53 with Jodi's statement and then the interview conducted by Detective Mark Weigert. Too many of these statements that are saying something similar (aka Steve is innocent) slows down the pace and we want to let this scene with the cop and Brendan play out.

53:59 - This is a key moment in this episode and the case when Brendan says "because I didn't think of it" after the cop points out he didn't mention Teresa was shot in the head. Let this sit a beat.

57:10 - When Brendan says: "what happens if his story is different...they got into my head" - this is a moment to hang onto to further suggest the story is unclear from all parties involved against Steve Avery. Hold this beat to let it sink in.

## **EPISODE 4**

### **GENERAL**

**INTERROGATION:** Brendan's interrogation during this episode serves as na intricate piece to the truth of the accusation of both him and Steven. We see from both Tom and Mark their manipulative ways to spin Brendan's reaction into something that is more positive on their end (ie. Steven being guilty) vs what the reality may be. Especially at 30:56 where they use his relationship with his mother to manipulate him telling a potential falsehood. These interviews and his conversation with his mother need to be intercut more effectively.

**PACE & TIGHTENING:** Again, a new editor can help push forward the pace and intercut Brendan's interrogation in a more thrilling and dramatic manner: to include his appeal for a new lawyer, and the conversations with his mother - once claiming he's guilty, once not. Also the blood being found and the needle add incredible elements to this case. There is so much

good content in this episode that pushes the story forward, we need to feel that forward movement more.

**TONE & TENSION:** Needs to feel more intense and atmospheric. In other words, we need to hold more tension since, currently, it feels flat and lags in spots as we go through Brendan's interviews and discourse.

### **SPECIFIC**

22:31 - This is a turning point here - Brendan not putting Teresa in the statement.

25:16 - The interrogation scene with Brendan and Mike O'Kelley could've moved much faster. Understandably you have to hold beats at times, but it felt too flat and elongated.

33:32 - After this conversation with Brendan and his mom, let's hold a beat and include a title card to the next chapter.

43:59 - Date and title card here before Barb speaks to Brendan.

46:14 - This dialogue between Brendan and his mom (Barb) highlights Brendan's vulnerability and how easily manipulated he can be. This is great to have.

47:09 - Before we go into the explanation of Brendan's letter being submitted, can we have a card prefacing what we're about to dive into?

54:12 - Loren's statement is effective, but feels out of place: "That perfect murder story." Is there another place in this episode we can insert her interview of why the Steven Avery case is compelling?

1:04:40 - This section about the blood in the car (with none of Avery's fingerprints in the car) should be earlier in the episode. We want to rapidly build up to this moment because we become hooked then Steven Avery may have been framed.

1:15:45 - Let's hold a beat on the image of the needle hole in the test tube. This is the major turning point.

# Exhibit 15



5:40 -  
solid underlying music / atmospherics

Some kind of dark undertone should punctuate the first time we meet Sheriff Petersen. We see a young photo of him reflecting the time of Steven's first arrest dissolving into his deposition. We should sense that something is afoot.

24:30 – 24:45  
music bed under the phone call with Steven is directionally solid. The change up from the lulling guitar helps the pace

25:20: Reesa interview about the illegal actions of the Manitowoc police station, specifically the Sheriff keeping Steven away from his phone call, his attorney and his rights. Punctuate musically within the guitar music bed

27:20 – the only time in 20 years that I've seen a Sheriff get involved that early – punctuate, rather than have the comment be part of a roll of facts. More ominous.

28:00 – so out of character for Steven to do it, but people believed he did – bc he's an Avery. Hard out with single punctuation.

31:48 – The Sheriff was told, "you have the wrong guy" – punctuate. You need to know about this guy Gregory Allen – dread.

34:10 – When Walter Kelly is recounting the Bergner disclosure to Kocourek re: Gregory Allen and the employees going to Vogel about Gregory Allen, let's punctuate at a key point rather than having it be consistent throughout.

36:00 – Allan talking about Steven being convicted and knowing that he's innocent – that he was with him. This music feels off... again too lulling

Potentially a different musical shift specifically when sentences are chiron'd.

Weird audio of Dorothy and Allan talking over each other at 38:20

43:00 Punctuate moderately - some hope at the discovery of DNA evidence; fingernail evidence provides potential new hope

45:40 – Steven Glynn talking about how this case is a perfect example at how the system is set up to perpetuate a bad conviction, and that you would have thought that Steven Avery was the most guilty person in the history of the criminal justice system – punctuate.

50:00 – finally Steven gets the Innocence project on board. We're re-entering the pubic hair / sex crimes kit – music should be wildly punctuated leading to reveal! They got a cold hit! Gregory Allen! Keith Findley delivers all of this information very succinctly, calmly, and overly-evenly. The music must do the heavy lifting to make one realize the magnitude of this information.

Steven walking out of prison directly after this development should have more triumphant tone.

54:22 – discovery that Denis Vogel was aware of Gregory Allen should be punctuated

57:40 – law enforcement is vulnerable. . . . ominous punctuation

59: really compelling recounting of the Gregory Allen information that should have been investigated and known is told in a very measured and overly sleepy way – assist with stronger musical bed rather than repetitive drum beats, in particular the realization that Allen has sexually assaulted others while Steven was wrongfully imprisoned, should be far greater punctuation.

1:02 - Is there something more dramatic that's appropriate for the Penny Beersten

***1:02 – the acoustic guitar style jingle happy tune has never been really great for me – thoughts??***

***1:05 – discuss different quality to the guitar music here vs. above at 1:02***

1:06 into 1:07 – more effective use of built up to verdict (though not quite perfect)

1:07:30 – musical bed over drone footage, moving in the right direction. Build, and atmospheric.

1:09 – you could end up getting charged with murder – WAY more punctuation required.

Peaks and valleys!

# Exhibit 16

**From:** Adam Del Deo <[REDACTED]>  
**Sent:** Sunday, August 23, 2015 2:49:50 PM  
**To:** Benjamin Cotner <[REDACTED]>  
**Cc:** Lisa Nishimura <[REDACTED]>  
**Subject:** Re: notes for Murderer

---

In just looking at the document again, I stand corrected, I think the second page of the notes are in fact from an older cut, not the latest version.

Also, for clarity, below are the notes I put in today.

-

6:59 - Dean Strang - At "Would Lieutenant Link lie?" - perhaps a quick cut away to a Link (photo or footage) would be impactful since it would put a face to him in this defining moment. Take a look at it both ways and see what works better.

-

9:05 - Probably best to ID both Lenk and Colborn in the two shot photo.

-

13:05 - 13:48 Consider cutting Jerry Buting's post trial epilogue section. From a pacing perspective, it's a bit slow and there really isn't any significant new information he adds that wasn't just covered in the closing statements

-

18:29 - When Steven says "If they finding me guilty, it's gonna be hard.....why I have my family go through all of this, and everything else...." is powerful but doesn't resonate as strong as it could juxtaposed against the B-roll shots of his parents only. Maybe add a few shots/photos of his kids and ex-wife and girlfriend to remind the audience what Steven has lost already going away for a crime he didn't commit and what he may lose yet again. The additional shots may add some further emotionality to the sequence.

-

26:37 - 28:55 - THE VERDICT - The reading of the guilty verdict of Steven still doesn't feel climactic enough given the entire series has been building to this moment. Perhaps enhancing the music and/or cutting to other members of the Avery family in the courtroom showing strong disappointment on their faces (conversely, maybe adding any shots of Kratz, Colburn, Fassbender, etc. and their team showing satisfaction would work too), and an overall intensifying of the cutting style would help drive this into a more climactic moment. Currently the beat emits anger and we feel injustice was done, but given the overall investment made in watching 8 hours thus far, the audience should be feeling more intense anger, sadness, bewilderment, and perhaps even every fury at this jury decision. Take a look and see if it can be ratched up.

-

37:28 - Off of Mr. Beatz interview, do we have a photo or any footage of

Ken Kratz getting an award for winning this case? If so, it would be satisfying and impactful to use it.

On Sun, Aug 23, 2015 at 2:30 PM, <[REDACTED]> wrote:

> I think the second page is left over from the last round. Mine were less  
> than one page, not sure what Adam has added.

>  
>  
>

> On Aug 23, 2015, at 2:26 PM, Lisa Nishimura <[REDACTED]>  
> wrote:

> The notes for Ep8 seem to have changed / gotten longer.

>

> I think there may be a mash-up of previous notes and current notes. Can  
> you both take another look at it. Currently, the notes are running off the  
> page for Episode 8, and there is a second page title 8.

>

> I believe the 2nd page of notes for 8 are from a previous screening.

>

> Please advise and then I can send through notes for 8 & 9.

> <[https://docs.google.com/presentation/d/1SJPtq2miuPcUCufUD-iDpAVUbJlfdAzKFgzCltczDJw/edit#slide=id.ga29c94257\\_0\\_206](https://docs.google.com/presentation/d/1SJPtq2miuPcUCufUD-iDpAVUbJlfdAzKFgzCltczDJw/edit#slide=id.ga29c94257_0_206)>

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# Exhibit 17

# Making a Murderer

CURRENT:

Episode 8 - 45min 23sec

SUGGESTIONS:

Cold open: Allan walking around barn looking for Steven's name on the floor. Dean talks about the fact that S.A. never committed these crimes: "What you can hope to get is your liberty back, eventually."

- Closing arguments.
- Buting, Dean say he was framed.
- Kratz says shouldn't matter if key was planted!
- News reports. Dolores talks to S.A. (b-roll)
- Jury leaves for night. Juror is replaced.
- S.A. talking on tape about how he feels.
- Family warned about blowback.
- Verdict.
- Dean/Buting sad, believe killer is on the loose.
- Allan talks about Manitowoc winning.
- Colburn makes statement.
- Scott T: He had it coming.
- Buting says 7 votes for innocent at start.
- Excused Juror feels terrible.
- Commentary from Pete, Kim and Stephen Glynn.
- Brendan's trial in 2 weeks. New lawyers discuss.

New ending: Brendan is led into court and we hear his call with Barb.



## Episode 8 - Detail 08.23.2015

- 4:30 - 9:27 - The closing arguments are running too long to sustain engagement. Is there any way to trim them down? The content is great, but 5 minutes of straight speech is too much. Perhaps cut Strang's lines about Lenk lying since we covered that in trial? Do we need as much detail about Buting's theory on the burn barrels?
- 6:59 - Dean Strang - At "Would Lieutenant Lenk lie?" - perhaps a quick cut away to a Lenk (photo or footage) would be impactful since it would put a face to him in this defining moment. Take a look at it both ways and see what works better.
- 9:05 - Probably best to ID both Lenk and Colborn in the two shot photo.
- 13:05 - 13:48 Consider cutting Jerry Buting's post trial epilogue section. From a pacing perspective, it's a bit slow and he doesn't add any significant new information which was not covered in the closing statements.
- 17:32 - Explanation of replacing the verdict is much more clear! Great job.
- 18:14 - Buting's commentary still seems unnecessary here
- 18:29 - When Steven says "If they finding me guilty, it's gonna be hard.....why I have my family go through all of this, and everything else...." is powerful but doesn't resonate as strong as it could as currently juxtaposed against the B-roll shots of his parents only. Maybe add a few shots/photos of his kids and ex-wife and girlfriend to remind the audience what Steven has lost already for going away for a crime he didn't commit, all of which is on the line yet again. The additional shots may add some further emotion to the sequence.
- 26:37 - 28:55 - THE VERDICT - The reading of the guilty verdict of Steven still doesn't feel climactic enough given the entire series has been building to this moment. Perhaps enhancing the music and/or cutting to other members of the Avery family in the courtroom showing strong disappointment on their faces (conversely, maybe adding any shots of Kratz, Colburn, Fassbender, etc. and their team showing satisfaction would work too), and an overall intensifying of the cutting style would help drive this into a more climactic

## Episode 8 - Detail

(cont.)

moment. Currently the beat emits anger and we feel injustice was done, but given the overall investment made in watching 8 hours thus far, the audience should be feeling more intense anger, sadness, bewilderment, and perhaps even fury at this jury decision. Take a look and see if it can be ratched up.

- 27:59 - Great use of music to subtly accentuate when Steven chokes up here!
- 33:30 - 34:30 - Music is lulling. Would a version of the cue at 18:42 work here as well?
- 37:28 - Off of Mr. Beatz interview, do we have a photo or any footage of Ken Kratz getting an award for winning this case? If so, it would be satisfying and impactful to use it.
- 37:53 - 39:44 - Pete and Kim and Stephen Glynn together is too much commentary, please trim.
- 41:21 - new atmospheric and haunting music under Brendan's walk into the court is much better

## Episode 9 (1hr3min)

## SUGGESTIONS:

Cold open: Buting quote: the question is whether Brendan is going to confess to a murder he didn't commit.

- Kratz opening statement.
- Mark opening statement.
- Play BD's first statement.
- Weigert
- Lots of discussion of his coercion.
- Only play first half of his confession.
- Kayla's retraction. TH brother talks to press.
- Brendan testifies.
- Tape of his call to mom, he says he made it up.
- Mike Halbach talks to press.
- Closing arguments. Judge reads jury instructions
- Judge reads verdict. Mom freaks out.
- Strang comment.
- Dolores cries.
- Theresa Halbach video.
- Mike Halbach reads statement in SA sentencing.
- S.A. reads his own statement.

Cliffhanger: Judge reads statement for Steven and how dangerous he is. Dean comments: "Tragic lack of humanity." Buting: [Could happen to any of us.]

## Episode 9 - Detail (1hr3min)

- 4:00 - Still think that someone should explain that Kratz claims Teresa was murdered in a completely different location in Brendan's case. This is shocking and not completely obvious unless it is pointed out.
- new music under the end of Kratz's opening statement is powerful.
- 7:39 - 8:50 - It might be better to take out the audio playback of Brendan's first interview. It is hard to understand and slows things down.
- 15:00 - during the smoke break with Barbara, Richard Mahler, Carla Chase and Peter Dassey, the comments from Carla and Peter don't really add to the conversation meaningfully. Richard's point about the lack of DNA evidence and Barbara saying that Weigert is lying about giving her the opportunity to be present during Brendan's interrogation are the key bits. Consider trimming, especially because there is a solid segment with Peter Dassey later in the episode.
- 17:43 - Is there any footage or documents (maybe a corporate training video) from John E. Reid & Associates showing their interrogation techniques? It may sell the line attorney Fremgen better.
- 39:57 - 40:06 - awkward pause here as he is putting the slide up.
- 41:00 - 41:17 - Would it be possible to cut this setup of Brendan denying talking to Kayla and just start with him saying "How is it that you and Kayla came up with seeing body parts in the fire?"
- 44:44 - 44:58 - Consider taking out shots of them walking into the courtroom.
- 51:20 - Good "danger" music when Colburn is walking him out.
- 53:55 ID both Colburn and Petersen - amazing , given the conflict of interest, that they are now walking Brendan out of court.
- 54:15 - Could we subtitle what Barb is yelling in this section? Who does she say set it up?
- 1:01:05 - ID that Colburn is walking Steven Avery out of the court. Again, huge conflict of interest given he was always a suspect in tampering with evidence.
- Playing Teresa's home video in the courtroom during the sentencing is affecting. Separate from this, when will we see the video of Teresa talking about her own death?

# Exhibit 18



**From:** Benjamin Cotner <[REDACTED]>  
**Sent:** Thursday, July 23, 2015 11:32:22 PM  
**To:** Adam Del Deo <[REDACTED]>  
**Cc:** Lisa Nishimura <[REDACTED]>  
**Subject:** Re: MAM Episode 3 Notes

---

Adding this note for the music at the crucial moment:

56:43 - After he says "By being honest you can at least sleep at night" it would be nice to bring in an emotional music cue - this is really sad that they are doing this to him - and it could carry us through until we drop out the music at 57:47 when Barb says "Did you?" so that the silence is deafening when he says "Not really...they got into my head"

On Thu, Jul 23, 2015 at 11:22 PM, Benjamin Cotner <[REDACTED]> wrote:

> I think it is a really valid point but I would rather leave it in for now  
> - it is something we can always pull out later, but I am so happy that they  
> finally have a point of view. I hope people know that it is just a theory...

>  
> On Thu, Jul 23, 2015 at 11:01 PM, Adam Del Deo <[REDACTED]> wrote:

>  
>> I hear you. Let me try to clarify.  
>>  
>> I think the statement as Jerry currently communicates it comes across, to  
>> me, as a matter of fact the officers did it (as oppose to highly likely  
>> they did it). In other words, I think if Jerry's statement involving the  
>> officers can come across as a highly possible/very likely scenario (since  
>> the officers had a very strong motive to kill Steven) it would be  
>> convincing that someone else, most likely one of/some of the officers, were  
>> involved.

>>  
>> I think we're saying the the same thing. However, I just wanted to make  
>> sure Jerry isn't saying the officers killed as a matter of pure fact since  
>> there's no physical evidence to really prove the officers were there,  
>> rather just very strong motive. Take a look at Jerry's statement again and  
>> see if you agree. If not, leave the way it is.

>>  
>> Thanks,  
>> Adam

>> On Thu, Jul 23, 2015 at 10:36 PM, Benjamin Cotner <[REDACTED]> wrote:

>>  
>>> I will do a last pass and draft an email for you, Lisa, to review and  
>>> send in the morning.

>>>  
>>> Adam, I am kind of worried that this note goes contrary to the direction  
>>> we've been pushing them in. I've been under the impression that we are  
>>> desperate to say that someone else could have done it. I'm afraid that if  
>>> we tell them to soften something it is going to really confuse the  
>>> filmmakers. Is there a specific element that you think is overly

>>> subjective? I don't think subjective is necessarily bad, but if it is  
>>> completely unfounded then you might be right. Let me know what you think  
>>> and I will happily add if that is what you meant.

>>>

>>>

>>>

>>>

>>>

>>> On Thu, Jul 23, 2015 at 10:27 PM, Adam Del Deo <[REDACTED]>  
>>> wrote:

>>>

>>>> Ben/Lisa:

>>>>

>>>> This episode made great progress and, for me, after a long period of  
>>>> years I feel like it's finally starting to take great and impactful shape.  
>>>> Agree with your notes, well done. Just one piece of feedback to add before  
>>>> sending.

>>>>

>>>> - 20:33 - 20:57 - In this sequence, it feels like Jerry Buting, on an  
>>>> almost definitive basis, is accusing the officers. Although I think the  
>>>> officers have the strongest motive, I think Jerry's statement come across  
>>>> at fact. ..they thought, for sure, we're going to make sure he's  
>>>> convicted." It may be worth soften his statement so it doesn't come across  
>>>> so subjective.

>>>>

>>>> Ben, can you add that.

>>>>

>>>> Great work - this is going to be a great series.

>>>>

>>>> Thanks,

>>>> Adam

>>>>

>>>>

>>>>

>>>> On Tue, Jul 21, 2015 at 8:18 AM, Benjamin Cotner <[REDACTED]>  
>>>> wrote:

>>>>

>>>>> Notes on Episode 3 Fine Cut in the Deck  
>>>>> <[https://docs.google.com/presentation/d/1SJPtq2miuPcUCufUD-iDpAVUbJlfdAzKfGzCltczDJw/edit#slide=id.ga29c94257\\_0\\_31](https://docs.google.com/presentation/d/1SJPtq2miuPcUCufUD-iDpAVUbJlfdAzKfGzCltczDJw/edit#slide=id.ga29c94257_0_31)>

>>>>>

>>>>> Also pasting text here in case you can't read the deck where you are:

>>>>>

>>>>> Structure notes:

>>>>>

>>>>> Cold Open Changed...The new cold open is great, really turns the  
>>>>> tables on Steven with the \$450k payment being cancelled and law enforcement  
>>>>> closing in on him. And the music really drives it home!

>>>>>

>>>>> Preliminary hearing is getting tight. Great

>>>>>

>>>>>

>>>>> Good closing - very clear that Brendan is being forced to testify  
>>>>> against Steven.

>>>>>  
>>>>> Detailed notes:  
>>>>>  
>>>>>  
>>>>> -  
>>>>>  
>>>>> 3:30 - Music is great - really ups the stakes.  
>>>>> -  
>>>>>  
>>>>> 10:30 - Music under news clips is effective, really keeps tension  
>>>>> up, especially after the poignant moment of SA saying "poor people lose" -  
>>>>> which is great without any score.  
>>>>> -  
>>>>>  
>>>>> 12-13:00 - Family all repeating they didn't think he could have  
>>>>> done it - too many. Maybe lose Yvonne?  
>>>>> -  
>>>>>  
>>>>> 13:30-13:50 - People seem to get confused between the \$450k  
>>>>> awarded by the legislature (before being cancelled) and the \$425k  
>>>>> settlement from the \$36m lawsuit. Maybe a simple graphic could track  
>>>>> Steven's various avenues for recourse and each of their outcomes.  
>>>>> -  
>>>>>  
>>>>> 14-1430 - Like the townspeople commenting in the pool hall, but  
>>>>> probably one too many. The guy in the middle seems the least expository  
>>>>> (first woman mentions the key being planted, the last specifically says  
>>>>> that the town couldn't afford the lawsuit so they had to get rid of the  
>>>>> problem).  
>>>>> -  
>>>>>  
>>>>> 17:15 - The underscore here is incredibly sleepy.  
>>>>> -  
>>>>>  
>>>>> 20:00-22:00 Strang/Butin inspecting the junkyard is pretty bulky  
>>>>> scene, could be tightened.  
>>>>> -  
>>>>>  
>>>>> 25:40 - Good creepy underscore.  
>>>>> -  
>>>>>  
>>>>> 35:28 - Jodi gets out of jail...is there any way to quickly  
>>>>> establish earlier on that she has been in jail through all of this? (this  
>>>>> is same note from last cut - thoughts?). A lot of her walking from jail to  
>>>>> car and from car to trailer - could tighten.  
>>>>> -  
>>>>>  
>>>>> 42:00-43:00 - Dolores v Barb scene isn't really clear. Do we need  
>>>>> it?  
>>>>> -  
>>>>>  
>>>>> 46:00 - Yvonn isn't necessary, Reesa says it more effectively.  
>>>>> -  
>>>>>



>>>>> 49:15 - The calendar graphic feels very strange - not sure what it  
>>>>> is trying to get across.  
>>>>> - 59:30 - Could really ratchet up the music - the score from the  
>>>>> open for example was more intense and might work here. The world just  
>>>>> closed in on Brendan...  
>>>>>  
>>>>>  
>>>>>  
>>>>  
>>>>  
>>>  
>>  
>

# Exhibit 19

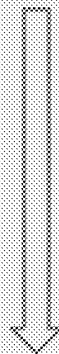
CURRENT:

## Episode 5.

SUGGESTIONS:

Cold open:

- Drop sexual assault charges against S.A.
- Day 1 of trial.
- Opening statements (a lot about VM messages)
- Det Jacobs call (do we have a body?)
- S.A. questioned about T.H.'s appointment.
- Bobby says he was asked to help get rid of body.
- Debate about VMs.
- Judge blocks from talking about other suspects.
- Dean asks about roommate.
- Ryan H admits to figuring out her password.
- Boss (Sheriff?) says to search Avery property.
- Review of finding Rav4 and what followed (Pam)
- Dolores shows us where the car was found.



Cliffhanger: Colburn testifies about calling in the license plate before the Rav4 is discovered.

## Episode 5 - Detail (57:50 min)

08.28.2015

00:58 - Should the card say "develop a NEW chemical test"?

20: 52 - The addition of music under Bobby Dassey's testimony when he says, "I saw Teresa walk toward Steven's trailer" is really effective! Can we explore the use of this subtle, almost subconscious use of music in other key testimony. (e.g. Ryan Hillegas testimony or Fassbender testimony when he admits that he did not question Scott the roommate). Given the density of the testimony footage, it would be a good technique to further employ.

27:00 The much abridged interview with Dolores and Allan after the Bobby Dassey testimony section is far more effective.

28:00 "In a pre-trial hearing about a third party liability, Judge Willis rules that the Defense cannot offer any alternative suspects to be jury by name except Brendan" - Is there a way to simplify this card? The audience may, perhaps, need just a little more clarity on "third party liability." Please consider.

42:45 - With re: to Jerry, do we need to hear him give follow up commentary say "this was a peculiar witness"? It's pretty obvious Hillegas a peculiar witness via his testimony.

47:52 - Like the cards saying that Earl gives permission - this helps!

54:20 - Setting Colburn up as the potential cop to plant the car works really well now. Sensational and strong end to this episode.



## Episode 5 - Detail (57min)

### PREVIOUS NOTES:

This episode has come a long way. The new edits around the blood vial are much improved, however the top of the episode still feels very slow to start because of the opening statements, but once the ball gets rolling it uncovers a lot of the evidence. It is doing a much better job of painting the picture that there were several other potential suspects who were not investigated.

What is the context of him saying "If the defense wants to put forth their defense then they do so at their own peril."? This statement feels clunky, out of place and perhaps unnecessary.

07:05 – Buting and Strang discussing the jury questionnaires – they're frustration is coming through in an almost pissy/sarcastic way and feels pretty long.

8:30 – Something bumps in the cut of Dolores watching the news coverage, something missing in the stitching to make it a convincing cheat.

## Episode 5 - Detail (cont.)

09:00 – 09:50 – Check the chyron - it reads Feb 12, 2005 first day of court. I believe this is meant to be 2007. Do we need the b-roll of the empty courtroom and the press room? Music scales up over this rather than over people entering courtroom. As a result, it lulls back down before Kratz' opening statement.

**09:50 - 12:45 – Kratz' opening statement goes on a long time and seems to meander a bit. Review to tighten - specifically?**

**11:45 - Please recall at this early stage - they don't know if a body is involved in this case, was to find Teresa Halbach - remove. Go straight to the photo & remembering the humanity**

12:45 – 13:00 – Do we need the judge giving instructions not to discuss the case?

15:30 – “Both were questioned about their own activity and conduct with respect to Mr. Avery's imprisonment.” Is there a sound byte here that references that this is in relation to the older rape charges? The year is easy to miss and this could be confusing for people not really familiar with the timeline.

15:30 – 19:55 – All of Strang's opening statement is really important, but look at tightening – even tiny trims will help. This much talking in a courtroom begins to make for a really dry episode. Perhaps music could help? This episode is naturally so courtroom heavy that we need to try really hard to help people through it.



## **Episode 5 - Detail (cont.)**

23:15 – Great cut between Bobby Dassey testimony and the news coverage – and the music nails it!

26-27:00 – Well cut/music works to show the press' doubt on the Bobby Dassey testimony in contrast with the Judge's ultimate decision not to call a mistrial or instruct the jury to disregard. Would look to have the music hit slightly harder w/the card stating that the judge does not call a mistrial or direct the jury to disregard.

28:20 - How important is it to have this interview w/Dolores and Allen re: Bobby Dassey? She says, "half of that stuff isn't even true, implying that half of it is - feels too vague to make a point."

36 – 36:45 – They are arguing about whether or not the judge will allow the cell phone testimony in front of the jury, but we don't see his decision.

37:30 – 38:15 – Strang's comments seem a bit preachy and obvious – do they really further the story or raise a question that the material doesn't naturally raise?

49:00 – Did Pam and Nicole search the junkyard after the Sheriffs got the Averys' permission? Did Steven give them permission?

53:00 – The Tammy Webber information is interesting, but without knowing who she is or how much weight this holds it could be confusing. Do we have more information on who she is or should we consider taking this out?

The Colburn ending is terrific! - can we add music to help emphasize further? He goes from being so sure and then is caught in a clear lie about the origin of the car make and model.

## **Episode 5 - Detail (cont.)**

Question - where are we utilizing the Teresa Halbach home video of her talking about life, and how she would feel if she died now? Is there a strategic place to put within this episode or do you have plans to utilize strategically elsewhere? It's extremely powerful, particularly once the viewer has established a connection.

It should be knowable when Teresa made that video. Do we have that information? Could we accurately lay it within an episode to coincide with the actual events of that time.

**Was it ever administered as evidence in the trial? If so, when?**



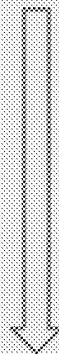
## CURRENT:

## Episode 6.

## SUGGESTIONS:

Cold open: Card says one day after Brendan's arrest there is a press conf. Kratz describes how S.A. instructed Brendan to cut T.H.'s throat. Police search residence and garage for new evidence. Kratz claims physical evidence now makes sense.

- Bullet found in garage - Lenk was present.
- No T.H. DNA found in trailer or garage.
- Bobby only thing placing her inside.
- Skull fragments.
- Sherry: blood on bullet matches despite botching
- Defense tried to have labwork monitored, denied.
- Everyone reiterates there would have been blood
- Bones and barrels conversations.
- Bloody hair in trunk.
- Timeline debate (Bobby D, bus driver, Scott T.)



Cliffhanger: School bus driver has a different timeline than Bobby. Lawyers explain that the prosecution still hasn't put forth a theory about when and where she was killed.

## Episode 6 - Detail (60 min)

**08.28.2015**

Approx. 9:40 - Let's discuss a graphical timeline in this area to clarify key points of evidence/milestones being laid out from the Fassbender questioning and testimony? Lots of facts coming so this could provide a stabilizing effect.

13:20-14:22 - Please consider trimming down Allan entering the courtroom here.

17:46-18:15 - Possibly cut down this montage of b-roll.

29:57-30:35 - Buting's commentary is weak here - he doesn't make his point articulately and we spent so much time in court with him arguing this already that this seems redundant. Can we cut Jerry's post follow up (Specifically, the "...they think we're a bunch of country bumpkins" section. But, again, ideally all of it.)

Close:

We would love to discuss the close. Coming off of the extraordinary cliff hangers in episodes 4 & 5 with the blood vial and Colburn on the stand, the relative weight of Lenk just taking the stand feels a little light. Can we discuss if there is a little more weight we can provide around the Lenk narrative, the close feels a bit abrupt.



## Episode 6 - Detail (59min)

### PREVIOUS NOTES

- Opening chyron - propose to change to read that Kratz and Pagel HOLD a press conference (versus held) to keep it present tense.
- 1:20 - Music at end of Kratz' press conf is fantastic.
- 08:02 - Good sound design punctuation on the end of Remiker's testimony, can we further add a musical cue when it's confirmed that Remiker saw Lenk on the property?
- 16:20 - Do we need this press conf from Kratz? Seems it would be powerful to go straight to photo of Teresa.
- 22:24 - Possible to trim down people entering courtroom/walking around press room and get straight back to Sherry?
- The entire burn barrel testimony is still very long.
- 46:00 - **Dorothy and Allan visiting Steven; is this scene necessary?**
- 48:37 - 49:39 - Buting isn't very concise here. Is it possible to do some dialogue trims and get him to the point faster?
- 58:45 - Are there too many quotes at the end? Could we end with Buting's line "I'm still waiting."? That might achieve the same result as "Spring it on us at the last minute.", but without the redundancy.
- You've just come off terrific cliffhanger closes with the blood vial in ep 4, and Andy Colburn caught in a lie in ep 5. Comparatively, this close doesn't feel as impactful or urgent. One suggestion would be to pull up the open of 7, eg Manitowoc police being on site when they weren't supposed to be part of the investigation.

## Episode 6 - Detail (59min)

key moments of testimony where **music cues can be added**:

- Ryan - 1) has Teresa's vm pw 2) can't remember what time of day he saw Teresa last
- Sherry Culhane - 1) confirming that Fassbender specifically asked her to try to find DNA of Teresa in Steven's trailer. 2) Her deviation from protocol. 3) She never found Teresa's DNA in Steven's trailer AND also did not find Brendan Dassey's DNA there either
- Scott Tadych - after he is so confident about the time he left (2:45), then Dean has him read his statement to police 16 months earlier, time is 3:15 and the flames are 3 ft. versus 10 ft.
- Bobby Dassey - testimony about being so confident that he and Scott ident one another precisely at 2:45, but under oath say that the two of them did not coordinate or talk about this statement.

# Exhibit 20

**From:** bcotner [REDACTED]  
**Sent:** Friday, September 18, 2015 1:16:34 PM  
**To:** Laura Ricciardi <[REDACTED]>; Moira Demos <[REDACTED]>; Lisa Dennis <[REDACTED]>; Mary Manhardt <[REDACTED]>  
**Cc:** Lisa Nishimura <[REDACTED]>; Adam Del Deo <[REDACTED]>  
**Subject:** Episode 8

---

Moira, Laura, Lisa and Mary,

The structure of Episode 8 is solid and the emotional verdict scene is very powerful, but the energy of the episode is very flat. This could largely be a music issue. All of the other episodes have a roller coaster quality while not being overly manipulative. We feel that music could help this episode get to the same place. We would love to discuss on the call the idea of enhancing the score in the closing argument scene and/or the deliberation scene. The deliberation scene in particular is an area that could ratchet up the score to create movement at this crucial turning point.

We also would like to discuss the role of Dolores in this episode. The way you have set it up, she is such a great emotional anchor to this episode. We see her still holding out hope that Steven will come home. We are wondering and would love to discuss whether there is a way to complete this sentence by enhancing her arc in this episode. We aren't sure if it is even possible, but something like moving up the scene from Ep10 where she is looking at houses for Steven. Maybe not this, but something like this to drive up the emotional stakes for Dolores. Maybe something where we see her showing more emotion after the verdict? Would love to discuss...

Some specifics:

4:50 - 13:20 - Cutting back and forth between the defense and prosecution for the closing arguments is an effective way to streamline the arguments and really punctuate the important points, but this is just as long as it was before and there are so many points being made that the important ones are getting lost. It would really be worthwhile to take one more pass at cutting any non-essential clips. For example, could you look at these specific spots?:

-This quote is all summary and very broad. Kratz: "You should see by now the stark difference between the state's facts between our reliance on the facts and the defense relying upon speculation." You could just use the line: "The physical evidence, the DNA evidence, the eye-witness testimony, the scientific evidence, the big fire that Mr Avery had, common sense all point to one person."

-Buting's line: "If you believe that those police officers put that key in his room. Then that's it - it's over. Case over. Because you can't rely on anything else they have given you." - This feels choppy and kind of goes without saying.

-Could you add some sound design (noting that you don't want to editorialize with music), but maybe just some atmosphere or light beat playing under could help punctuate the important bits and help this very long segment move along?

11:49 - There is a remnant frame or two in one of these cuts.

21:00 - It seems like you added something at the top of the scene with Buting and Strang reading their emails/headlines out loud. Something about Jerry Buting Journal? It bumps a little bit because it isn't really clear what they are talking about. It was smoother before.

24:22 - Love this juxtaposition of Steven now vs 1985.

# Exhibit 21



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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

ANDREW L. COLBORN, )  
)  
Plaintiff, )  
)  
vs. )  
)  
NETFLIX, INC., et al., )  
)  
Defendants. )  
\_\_\_\_\_ )

Case No.: 19-CV-0484

C O N F I D E N T I A L

VIDEO-RECORDED DEPOSITION OF LISA NISHIMURA  
Los Angeles, California  
Friday, April 29, 2022

REPORTED REMOTELY BY:

NATALIE ALCOTT-BERNAL, CSR No. 13105

1 Q Were you involved in specific types of films or  
2 what -- at that company?

3 A The company released a relatively wide array of  
4 independent film, everything from documentary to  
5 independent film across multiple genres.

6 Q And, so, did you do editing, for example?

7 A I've never been an editor.

8 Q Were you involved in production?

9 A Occasionally.

10 Q In what roles did you play with respect to  
11 production?

12 A Providing creative feedback.

13 Q How long did you hold the role of general  
14 manager?

15 A Approximately three to four years.

16 Q And then what was the next job that -- oh.

17 A I just want to say that's my best recollection.

18 Q Sure. I'm sorry.

19 What was your next position after that role?

20 A I left the company after that role.

21 Q And did you join another company?

22 A I did.

23 Q And what company was that?

24 A Netflix.

25 Q And what position were you hired into at

1 Q Do you know whether anyone else on the Netflix  
2 creative team reviewed the assembled footage that they  
3 had?

4 A I don't know with any certainty.

5 Q Do you recall reviewing any assembled footage at  
6 any time -- or strike that.

7 Do you recall reviewing any raw footage at any  
8 time while you were working on the Making a Murderer  
9 series?

10 A I'd like to clarify how you define "raw  
11 footage."

12 So, you see here when they refer to "assembled  
13 footage," you know, that is what the filmmakers do;  
14 right? So, they had been working on the project for  
15 many, many years, and I imagine, at that point, had  
16 hundreds, if not thousands of hours of footage.

17 So, we would review material, but material as  
18 provided by the filmmakers in an assembled form. So,  
19 edited by them.

20 Q Thank you. I appreciate that clarification.

21 When you refer to material that you reviewed,  
22 what type of material did you review for the series  
23 during the course of production other than actual cuts?

24 A It was primarily cuts.

25 Q The second -- the next paragraph in that page

1 meaning there was, like, a living quarter and a place to  
2 sit outside, and you could eat, and there was an office.  
3 It was sort of a combined creative space where they did  
4 have some editing stations as well.

5 So, one could go there to meet and have a cup of  
6 tea and just talk. One could go and meet, and they could  
7 screen a episode for you. It was sort of a multi-use  
8 creative space.

9 Q Do you recall whether any -- or strike that.

10 Do you know whether anyone from the Netflix  
11 creative team participated in any of the edits made at  
12 the Synthesis offices?

13 A No. All of the editing was controlled purely by  
14 the filmmakers.

15 Q Did you -- do you know whether anyone's ever  
16 present from the Netflix team during that process?

17 A I don't have a direct recollection. But I --  
18 you know, at a certain point in the production there were  
19 multiple editors working at any time. And I wouldn't --  
20 I would imagine there might be an occasion when I was  
21 there having a meeting and there were editors working in  
22 another room potentially.

23 But to be clear, no one on my team is a trained  
24 editor. And the software and the actual mechanism of  
25 editing is not one that I myself or anyone on my creative

1 team is trained in.

2 Q Have you ever attempted editing?

3 A No, I have not.

4 Q Directing your attention to the next page in  
5 Exhibit 5, CA -- sorry. Strike that.

6 Directing your attention to the next page in  
7 Exhibit 5, NFXCOL 1909.

8 A I have it.

9 Q That document consists of a -- an e-mail message  
10 from Laura Ricciardi to you and to Adam Del Deo, dated  
11 November 14, 2013; is that correct?

12 A Yes.

13 Q And that e-mail states, "...attached for review  
14 and approval the series outline for MAKING A MURDERER."

15 Do you see that?

16 A I do.

17 Q And that was sent by -- or it's signed by Laura  
18 and Moira; correct?

19 A Yes.

20 Q The -- and when I say "signed," I meant that is  
21 the signature block, but it's typed; correct?

22 A Correct. Yes.

23 Q So, following that document in Exhibit 5, there  
24 are 20 pages Bates-stamped NFXCOL 1910 through  
25 NFXCOL 1929.

1 understand.

2 THE WITNESS: I don't quite understand. I  
3 believe that this is probably more around intent that  
4 makes more sense to discuss with the filmmakers.

5 BY MS. BARKER:

6 Q I'll restate the question.

7 If Mr. Colborn alleges that -- among other  
8 things in this case, that physical representations of him  
9 were changed in response to various questions during his  
10 testimony at the Avery trial, if that's the case, what  
11 would be the purpose for changes that are strictly  
12 relating to the physical appearance of Mr. Colborn rather  
13 than changes that, for example, reduce the time devoted  
14 to a particular moment in the trial?

15 MS. WALKER: Same objections.

16 You can answer.

17 THE WITNESS: I don't personally have any  
18 knowledge of changes that are made, and, so, it's hard  
19 for me to speculate on motive for change.

20 BY MS. BARKER:

21 Q Right. But I'm -- you -- strike that.

22 You give and gave a considerable amount of  
23 guidance to the filmmakers during the making of Making a  
24 Murderer; correct?

25 A Sure. We were partners.

1 parties.

2 Do you see that?

3 A I do.

4 Q And would you say that there were, in fact,  
5 regular consultations between Netflix and Synthesis with  
6 respect to the progress of Season 1 of the series?

7 A I would. We were in pretty regular contact.

8 Q And there will be some discussion of some  
9 documents that also refer to calls. So I just want to  
10 let you know that in advance. But my question,  
11 specifically, is whether there was a weekly or a,  
12 approximately, weekly status call between Netflix and  
13 Synthesis, which then became Chrome, during the  
14 production of Making a Murderer?

15 A We were in pretty regular contact. I would say  
16 the form of that contact would vary. So, certainly, some  
17 calls. Sometimes it was done through e-mail. So, I  
18 don't know that we were every single week on a phone  
19 call, but we were in contact.

20 Q The next sentence states Netflix also --  
21 "Netflix shall receive copies of selected footage as  
22 reasonably requested by Netflix."

23 Do you see that?

24 A I do.

25 Q Do you have a recollection of any requests for

1 selected footage that were made by anyone from Netflix?

2 A You know, because -- and I think it states it in  
3 the agreement -- the directors/the creators had been  
4 working on the project so long, that the vast majority of  
5 any footage we were seeing were either in cut form or  
6 sequenced or assembled in some way. So just to be clear  
7 on how I define footage in this regard.

8 Q Okay. So with that clarification, you may have  
9 seen footage?

10 A We saw cuts, certainly, as described in the  
11 schedule.

12 Q Understood.

13 As you -- sorry. Strike that.

14 Do you have a specific recollection of  
15 requesting any footage that -- for comparison with the  
16 footage as assembled by the filmmakers?

17 A No.

18 Q Directing your attention to the next page  
19 Bates-stamped NFXCOL 128.

20 A Shall I read it?

21 Q I'm specifically directing -- yes. I'm  
22 specifically directing your attention to the first  
23 sentence under the heading "Meaningful Consultation."  
24 But you can feel free to read as much of it as you would  
25 like.



1 wrong. It looks like it's a paragraph return. It's a  
2 formatting issue under the section called "Cold Open."  
3 Again, I haven't done a side-by-side. But --

4 Q Okay.

5 A -- I believe there's a possibility that that --  
6 the words are actually all the same and that a paragraph,  
7 a carriage return, was entered in between those two.

8 Q Okay. Yes. That's what I'm trying to figure  
9 out, is if there's --

10 A I don't know if there are substantive changes  
11 inside the actual document itself. But that's -- at a  
12 first glance, is what it appears to be.

13 Q Typically, when you would prepare notes for a  
14 special episode and version and in a format, say, such as  
15 this, would there be changes to those notes after they  
16 were forwarded to the team?

17 A Not by intent. I mean, it's a Google Doc that  
18 everyone has access to. So, you know, again, everyone's  
19 a little bit different in the way they like to format  
20 their notes, which you've probably noticed, looking  
21 through material. But once we sent it -- you know, the  
22 notes are a basis to start a discussion with the  
23 filmmakers. So that's why there's multiple versions.  
24 So, normally, we just progress into the next round and  
25 have a next round of notes and a new cut to discuss.

1 about them that may have been provided to you, you either  
2 don't know or don't recall; is that correct?

3 A I don't know.

4 Q Then, directing your attention forward in the  
5 document to the page that is -- has page 55 of 56 in the  
6 folio at the bottom.

7 A Okay. I'm there.

8 Q At the bottom of the page, above the page number  
9 "12," that's printed on the page, there's a -- some  
10 bracketed highlighted text that starts with "Strang,"  
11 colon. Do you see that?

12 A I'm not -- I see "Strang." I'm just not sure  
13 which line you're referring to.

14 Q Right now I'm referring, for reference, to the  
15 very last reference to "Strang" on that page. The one  
16 that is opposite of where "This call sounded like  
17 hundreds of other..."

18 A Oh. At the very bottom?

19 Q Yes.

20 A Yes. I see the line.

21 Q Okay. And then above that there's bracketed  
22 text that says, "sustained objection omitted." Do you  
23 see that?

24 A I do.

25 Q And then above that there's another paragraph

1 them out loud.

2 A Oh.

3 Q To yourself. Sorry about that.

4 A That's okay. Thanks.

5 I've read the lines.

6 Q Thank you.

7 Another -- so representing to you, also, that  
8 Mr. Colborn's allegation in this document -- and specific  
9 to this passage -- is that the lines that are in yellow  
10 highlight were edited out or removed from the  
11 representation of that passage in Making a Murderer,  
12 Episode 5.

13 And my question is: Do you agree that removing  
14 the yellow highlight lines from that passage would effect  
15 the meaning of the testimony provided by Mr. Colborn?

16 A It's hard, looking at this out of context and  
17 not recalling the scene specifically. But I believe  
18 that, again, just reading this for the first time, that  
19 Colborn successfully makes his point saying, "I should  
20 not have been and I was not looking at the license  
21 plate." So I believe he made his point.

22 The removal of these other lines are more  
23 succinct, but he's clear in his position. And speaking  
24 to the macro, you know, the jury found Steven Avery  
25 guilty. So I think they must have heard this as well.

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CERTIFICATION OF COURT REPORTER  
FEDERAL JURAT

I, the undersigned, a Certified Shorthand Reporter of the State of California do hereby certify:

That the foregoing proceedings were taken before me at the time and place herein set forth; that any witness in the foregoing proceedings, prior to testifying, were placed under oath; that a verbatim record of the proceedings was made by me using machine shorthand which was thereafter transcribed under my direction; further, that the foregoing is an accurate transcription thereof.

That before completion of the deposition, a review of the transcript [X] was [ ] was not requested.

I further certify that I am neither financially interested in the action nor a relative or employee of any attorney of any of the parties.

IN WITNESS WHEREOF, I have this date subscribed my name.

Dated: May 13, 2022



Natalie Alcott-Bernal, CSR

CSR No. 13105

# Exhibit 22

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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN

- - -

ANDREW L. COLBORN,

Plaintiff,

vs.

No. 19-CV-484

NETFLIX, INC., CHROME MEDIA, LLC,

f/k/a SYNTHESIS FILMS, LLC,

LAURA RICCIARDI, and MOIRA DEMOS,

Defendants.

-----

CONFIDENTIAL DEPOSITION OF

LISA DENNIS

LOS ANGELES, CALIFORNIA

WEDNESDAY, AUGUST 17, 2022

REPORTED REMOTELY BY:

ANITA A. SHENIAN, CSR NO. 12325

VERITEXT LEGAL SOLUTIONS ASSIGNMENT NO. 5343861

1 that this is necessary and will be addressing the pacing  
2 at our next pass."

3 What is "suspense pacing"?

4 A. I can't speak to that unless I look at the  
5 episodes. I don't know what that means. It's  
6 completely out of context for me.

7 Q. Uh-huh.

8 A. Right? I don't even remember how long that  
9 episode was, but it doesn't speak to anything.

10 Q. Let me just ask you generally, because I  
11 understand you don't remember this -- well, is it fair  
12 to say that you don't remember writing this E-mail?

13 A. No.

14 Q. Had you ever heard the phrase, "suspense  
15 pacing," or use it in any of your other work prior to  
16 Making a Murderer?

17 A. I see notes in regards to pacing all the time.  
18 It's a very -- yeah, all the time.

19 Q. And, in general, what does pacing have to do  
20 with? What does it mean?

21 A. It has to do with the way that you're moving  
22 the viewer through the story.

23 Q. So in September of 2014, we would agree there  
24 were discussions about how the viewer was being moved  
25 through the story, through Episodes 1 through 3?

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STENOGRAPHIC REPORTER'S CERTIFICATE

I, ANITA A. SHENIAN, CSR No. 12325, Certified  
Shorthand Reporter, certify;

That the foregoing proceedings were taken by me  
remotely at the time and place therein set forth, at  
which time the witness was put under oath by me;

That the testimony of the witness, the questions  
propounded, and all objections and statements made at  
the time of the examination were recorded  
stenographically by me and were thereafter  
transcribed;

That the foregoing is a true and correct transcript  
of my shorthand notes so taken.

I further certify that I am not a relative or  
employee of any attorney of the parties, nor financially  
interested in the action.

I declare under penalty of perjury under the laws  
of California that the foregoing is true and correct.

Dated this 22nd day of August, 2022.



ANITA A. SHENIAN, CSR No. 12325



# Exhibit 23

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN

---

ANDREW L. COLBORN,  
Plaintiff

NETFLIX, INC.,  
CHROME MEDIA, LLC, f/k/a  
SYNTHESIS FILMS, LLC,  
LAURA RICCIARDI, and  
MOIRA DEMOS,  
Defendants.

Case No. 19-CV-484

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**PLAINTIFF'S RESPONSES TO NETFLIX, INC.'S  
FIRST SET OF INTERROGATORIES**

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**NOW COMES** the Plaintiff by his attorneys, and responds to the above-referenced Interrogatories as follows:

**GENERAL OBJECTIONS**

To the extent that any of the Interrogatories call for information which is protected by the attorney-client privilege, work-product doctrine or otherwise immune from discovery, Plaintiff hereby objects to furnishing any such information and such information is not being provided.

To the extent that any of the Interrogatories go beyond the scope of Fed.R.Civ.P. 26, Plaintiff objects and will comply only to the extent of the obligations set forth therein.

Discovery and investigation are continuing in this matter and Plaintiff reserves the right to amend and/or supplement these responses accordingly.

Subject to the foregoing objections and the specific objections asserted below, Plaintiff respectfully submits, without in any way conceding relevancy, or admissibility, the following responses to the Interrogatories:

**INTERROGATORY 1:** Identify all facts that you believe support your allegation that Netflix published the Challenged Statements with knowledge of their falsity or with reckless disregard of their truth or falsity.

**RESPONSE:** Plaintiff objects to this Interrogatory as calling for information the details of which are in Defendants' exclusive possession pending discovery that has not fully been provided to Plaintiff and pending an opportunity to depose Defendants and their current and former employees and agents. As recognized by the United States Supreme Court in *Herbert v. Lando*, 441 U.S. 153 (1979), the specific details regarding the events leading up to publication of defamatory material are normally within the possession of defamation defendants, and therefore, discovery should be permitted to defamation plaintiffs regarding those issues. Prior rulings in this case have established that Plaintiff articulated a plausible basis for the allegations in the Second Amended Complaint that Netflix, Inc. worked with Laura Ricciardi and Moira Demos to make false and defamatory statements and omissions about him in MAM and MAM2. Accordingly, Plaintiff is entitled to responses to discovery requests seeking further information from Defendants.

Plaintiff further objects that service of contention interrogatories such as this interrogatory is normally recognized as appropriate only near the end of discovery in order to avoid the use of such devices as vehicles for prematurely attempting to invade the mental impressions / work product of opposing counsel.

Subject to and without waiving his objections, Plaintiff responds that the following facts referenced in documents produced by Defendants to date, and/or reasonable inferences therefrom, support the conclusion that Netflix published the "Challenged Statements" with actual malice (knowledge of falsity or reckless disregard for their truth or falsity):

Netflix 210 (marked as CONFIDENTIAL pursuant to the Protective Order): Netflix employee Adam Del Deo raised questions internally regarding the weight of the call that Plaintiff received in or about 1995, noting that it seemed "very thin that Colborn not having special knowledge of who called him would be the key to the case . . . . if you are Colborn, why even disclose." Nonetheless, Netflix employees acknowledged that the phone call and "the subsequent flow of information to other figures" in the Sheriffs Department is "something we keep going back to throughout the series" and suggested using techniques to buttress the point. Netflix 293 (marked as CONFIDENTIAL pursuant to the Protective Order). Netflix introduced the idea of a chart to emphasize "connections between various law enforcement officers." Netflix 329 (marked as CONFIDENTIAL pursuant to the Protective Order).

Netflix 213, 215 (marked as CONFIDENTIAL pursuant to the Protective Order): Netflix directed those working on the project to "hold a bit longer" on Plaintiff's face in an episode, to emphasize his allegedly looking "caught," even though it might involve "Court footage that may not exist."

Netflix 219 (marked as CONFIDENTIAL pursuant to the Protective Order): Netflix employees worked to edit the series through a point of view that sought to establish Sheriff's Department



employees as conspirators; for example, they directed that materials be reviewed specifically for what they could use to show that “the Sheriffs’ were pissed that Steven got off.” Similarly, at Netflix 222 (marked as CONFIDENTIAL pursuant to the Protective Order), they say, “Is there anything we can use/show to . . . allude to the fact that [law enforcement officers] may have planted something when they were [on the Avery property] without permission?” Netflix also looked for ways to telegraph alleged bad intent of law enforcement officers to viewers, indicating that the end to an episode should make it “explicit that in the next episode the cops are going to seek revenge” for Avery’s exoneration from the earlier rape conviction. Netflix 329 (marked as CONFIDENTIAL pursuant to the Protective Order).

Netflix 219 (marked as CONFIDENTIAL pursuant to the Protective Order): Netflix employees suggested and approved graphics and inserts that were used to highlight Plaintiff at key moments and to spotlight his alleged connection to accusations made by the series, as outlined in Plaintiff’s response to Netflix’s second motion to dismiss.

Netflix 227 (marked as CONFIDENTIAL pursuant to the Protective Order): Netflix employees’ “plot points” summary extracted from the original outlines provided to them summarizes the points in a way that is far more slanted and unsupported than the original outlines’ characterization of events, stating, for example, as one plot point, that “cops covered up evidence about Gregory Allen” – *i.e.*, the telephone call that Plaintiff received but properly reported to his superior. In that same summary, the Netflix employee (Adam Del Deo) concedes that the 1995 phone call was to him, “a weak revelation.”

Netflix 212, 237 (marked as CONFIDENTIAL pursuant to the Protective Order): Netflix employees were deeply involved in editing and deciding which materials should be cut or shortened in the editing of MAM episodes, including using techniques to “intercut” dialogue.

Netflix 241-43 (marked as CONFIDENTIAL pursuant to the Protective Order): Netflix employees were deeply involved in determining the music to accompany MAM episodes. Further, as established by Netflix 339 (marked as CONFIDENTIAL pursuant to the Protective Order), they made these decisions specifically to “emphasize further” the accusations in the series and to inflame viewers against Plaintiff. Similarly, they included edits to ensure that the music “really up[ped] the stakes” to further inflame audience members against Plaintiff and others. *See* Netflix 296 (marked as CONFIDENTIAL pursuant to the Protective Order). Netflix wanted a “thriller atmospheric score.” Netflix 216 (marked as CONFIDENTIAL pursuant to the Protective Order). *See also* Netflix 273 (directing that music be made more intense in Episode 5 and 6); Netflix 287 (approving as good “danger” music the scoring accompanying images of Plaintiff walking Plaintiff out of court). Under Wisconsin law, the MAM broadcasts are to be considered in their entirety, including audio and visual elements, by the trier of fact.

Netflix 264-65, 284-85 (marked as CONFIDENTIAL pursuant to the Protective Order): Netflix employees specifically sought images of Plaintiff that would further inflame viewers to dislike him, as evidenced by their search for “shots” of Plaintiff “showing satisfaction” with the Avery verdict in order to promote in viewers feelings of “intense anger, bewilderment, and even fury”; to make viewers “VERY upset!” and to see if those feelings could be “ratched up.” For similar reasons, Netflix employees crafted the series to include shots of and identify Plaintiff walking Avery out of court after the verdict. Netflix 267 (marked as CONFIDENTIAL pursuant to the

Protective Order). Netflix employees characterized Plaintiff in their internal communications as a “suspect” in “tampering with evidence” despite the absence of any charges alleging that and based strictly on the accusations of the defense team for a then-accused murderer who were for obvious reasons desperate to deflect blame from their client. Netflix 268 (marked as CONFIDENTIAL pursuant to the Protective Order).

Netflix 288: Netflix employees acknowledged that the key falling on the floor was “weaker evidence” of the alleged conspiracy to plant evidence and that some of the points in the series appeared initially to be “grasping for” evidence of a conspiracy, acknowledging, for example, that it could “just have been a simple oversight that [James] Lenk didn’t sign in” at an Avery property search; proposing adding a graphic / timeline to help buttress the weight of the accusations.

In addition, Netflix employees helped to craft the series to “[set] Colborn up” as the “potential cop to plant the car,” indicating that the recrafted draft episode that incorporated their suggestions “works really well now.” Netflix 274-78 (marked as CONFIDENTIAL pursuant to the Protective Order).

Netflix employees debated whether comments by Jerry Buting, one of Avery’s defense lawyers, went too far in inciting viewers to believe not only that Sheriff’s Department officers conspired to plant evidence, but also that they went so far as to kill Teresa Halbach in order to convict Avery – a conclusion that some of the callers who left threatening messages for Plaintiff apparently drew from the series. Netflix 294-95 (marked as CONFIDENTIAL pursuant to the Protective Order). They specifically referenced the phrase Buting used, “we’re going to make sure he’s convicted,” which was incorporated in the series (Netflix 294-95 marked as CONFIDENTIAL pursuant to the Protective Order). In this exchange, Netflix employees stated:

**Adam Del Deo:**

. . . .

In this sequence, it feels like Jerry Buting, on an almost definitive basis, is accusing the officers. Although I think the officers have the strongest motive, I think Jerry’s statement come across at [sic] fact. ..they thought, for sure, we’re going to make sure he’s convicted.” It may be worth soften his statement so it doesn’t come across so subjective.

Ben, can you add that.

Great work – this is going to be a great series.

**Benjamin Cotner:**

I will do a last pass and draft an email for you, Lisa, to review and send in the morning.

Adam, I am kind of worried that this note goes contrary to the direction we’ve been pushing them in. I’ve been under the impression that we are desperate to say that someone else could have done it. I’m afraid that if we tell them to soften something it is going to really confuse the filmmakers. . . . I don’t think that subjective is necessarily



bad, but if it is completely unfounded then you might be right. Let me know what you think . . .

**Adam Del Deo:**

I hear you. Let me try to clarify.

I think the statement as Jerry currently communicates it comes across, to me, as a matter of fact the officers did it (as oppose to highly likely they did it). In other words, I think if Jerry's statement involving the officers can come across as a highly possible/very likely scenario (since the officers had a very strong motive to kill Steven) it would be convincing that someone else, most likely one of/some of the officers, were involved.

I think we're saying the same thing. However, I just wanted to make sure Jerry isn't saying the officers killed as a matter of pure fact since there's no physical evidence to really prove the officers were there, rather just very strong motive. Take a look at Jerry's statement again and see if you agree. If not, leave the way it is.

**Benjamin Cotner:**

I think its a really valid point but I would rather leave it in for now – it is something we can always pull out later, but I am so happy that they finally have a point of view. I hope people know that it is just a theory ...

Netflix 294-95 (marked as CONFIDENTIAL pursuant to the Protective Order).

Netflix employees participated in editing the treatment of Plaintiff's call to dispatch to make it appear that Plaintiff was "caught in a lie" through the omission of testimony as described in Exhibit B to the Second Amended Complaint, even though earlier drafts of the outline for those episodes only described the call as showing that Plaintiff had "called in" the vehicle prior to its discovery. Netflix 339 (marked as CONFIDENTIAL pursuant to the Protective Order).

Plaintiff further notes that the foregoing facts, reflected in just the small set of documents produced to date, are eminently consistent with the allegations in the Second Amended Complaint. Moreover, they are troublingly inconsistent with the arguments and representations that Netflix made in the brief submitted in support of its initial motion to dismiss in these proceedings.

In addition, Netflix republished accusations that are included in the "Challenged Statements" that were obviously made by biased sources, including the following:

Statements by Avery, his relatives, and friends, to the effect that Plaintiff and Sheriff's Department officers conspired to frame Avery, as detailed in Exhibit A to the Second Amended Complaint;

Statements by Avery's attorneys and investigator to the effect that Plaintiff and Sheriff's Department officers conspired to frame Avery, as detailed in Exhibit A to the Second Amended Complaint;

Statements by unidentified bar patrons, to the effect that Plaintiff and Sheriff's Department officers conspired to frame Avery, as detailed in Exhibit A to the Second Amended Complaint.

Netflix's production to date establishes that Netflix employees knew that these statements went too far when making unproven accusations, *see, e.g.*, Netflix 294 (marked as CONFIDENTIAL pursuant to the Protective Order), but included them in MAM anyway. In addition, the series outline specifically acknowledged that Avery, "his family" and "a few LOCALS" believed that he was being framed but had "no way of proving it." Netflix 147 (marked as CONFIDENTIAL pursuant to the Protective Order).

In addition, Plaintiff filed and referenced a sampling of publicly available media and internet articles and materials in his brief in response to Netflix's initial motion to dismiss and in the supporting Declaration of George Burnett.

Discovery and investigation are ongoing, and Plaintiff reserves the right to supplement his response as may be appropriate.

**INTERROGATORY NO. 2:** For each material fact that you allege was omitted from Making a Murderer or Making a Murderer 2, (1) state the omitted fact, (2) identify all facts that you believe suggest, indicate or prove that Netflix was aware of the omitted fact and (3) identify all facts that you believe suggest, indicate or prove that Netflix had knowledge that omission of the fact would cause Making a Murderer or Making a Murderer 2 to be false or that Netflix omitted the fact with reckless disregard of the series' falsity.

**RESPONSE:** Plaintiff objects to this Interrogatory as vague as to whether it calls for descriptions of information omitted in MAM1 or 2 that Plaintiff contends was defamatory to him or to omitted information that was included as context for the false and misleading nature of the series as a whole. Plaintiff further objects to this Interrogatory to analyze information the details of which are in Defendants' exclusive possession pending discovery that has not fully been provided to Plaintiff and pending an opportunity to depose Defendants and their current and former employees and agents. As recognized by the United States Supreme Court in *Herbert v. Lando*, 441 U.S. 153 (1979), the specific details regarding the events leading up to publication of defamatory material are normally within the possession of defamation defendants, and therefore, discovery should be permitted to defamation plaintiffs regarding those issues. Prior rulings in this case have established that Plaintiff articulated a plausible basis for the allegations in the Second Amended Complaint that Netflix, Inc. worked with Laura Ricciardi and Moira Demos to make false and defamatory statements and omissions about him in MAM and MAM2. Accordingly, Plaintiff is entitled to responses to discovery requests seeking further information from Defendants. Moreover, this Interrogatory requests that Plaintiff analyze documents partially produced by Defendants only 10 days prior to the date of this response and as to which there has not been adequate time to analyze the documents in the context of the matters described in the Second Amended Complaint.

Plaintiff further objects that service of contention interrogatories such as this Interrogatory is normally recognized as appropriate only near the end of discovery in order to avoid the use of



such devices as vehicles for prematurely attempting to invade the mental impressions / work product of opposing counsel.

Subject to and without waiving his objections, Plaintiff responds as follows:

- Netflix omitted from the portion of the MAM series that contains the quoted statements from Avery attorney Steven Glynn, reproduced at Dkt #105, pp. 30-31, the facts that Plaintiff transferred the call to the Detective Division and contacted a supervisor after receiving the call in 1995. Stating these facts in conjunction with Glynn's statements was necessary in order to prevent Glynn's statement, independently and in context with the other statements by Glynn that were contained in MAM, from being interpreted as accusing Mr. Colborn of making no report to a supervisor after receiving the call in 1995. While this fact is later mentioned in deposition testimony excerpts, it is too distant in time and too obscured by the manner of its presentation to reasonably correct the false impression given to viewers by Glynn's statements. The communications and statements by Netflix employees as contained in the second production of documents, including the specific documents identified in response to Interrogatory No. 1, and especially communications between Lisa Nishamura, Ben Cottner, and Adam Del Deo, establish that Netflix employees were deeply involved in editing and reviewing the contents of MAM, including, but not limited to, quotations by "characters," including Avery attorneys. These communications establish that Netflix employees were attempting to "ratchet up" the drama and include a "point of view" that accused law enforcement officers of grave misdeeds, even though they also knew that the revelation of the 1995 phone call was "weak."

These communications include the following:

- Netflix 219 (marked as CONFIDENTIAL pursuant to the Protective Order): Netflix employees worked to edit the series through a point of view that sought to establish Sheriff's Department employees as conspirators; for example, they directed that materials be reviewed specifically for what they could use to show that "the Sheriffs' were pissed that Steven got off." Similarly, at Netflix 222 (marked as CONFIDENTIAL pursuant to the Protective Order), they say, "Is there anything we can use/show to . . . allude to the fact that [law enforcement officers] may have planted something when they were [on the Avery property] without permission?" Netflix also looked for ways to telegraph alleged bad intent of law enforcement officers to viewers, indicating that the end to an episode should make it "explicit that in the next episode the cops are going to seek revenge" for Avery's exoneration from the earlier rape conviction. Netflix 329 (marked as CONFIDENTIAL pursuant to the Protective Order).
- Netflix 227 (marked as CONFIDENTIAL pursuant to the Protective Order): Netflix employees' "plot points" summary extracted from the original outlines provided to them summarizes the points in a way that is far more slanted and unsupported than the original outlines' characterization of events, stating, for example, as one plot point, that "cops covered up evidence about Gregory Allen"



– *i.e.*, the telephone call that Plaintiff received but properly reported to his superior. In that same summary, the Netflix employee (Adam del Deo) concedes that the 1995 phone call was to him, “a weak revelation.”

- Netflix 212, 237 (marked as CONFIDENTIAL pursuant to the Protective Order): Netflix employees were deeply involved in editing and deciding which materials should be cut or shortened in the editing of MAM episodes, including using techniques to “intercut” dialogue.
- Netflix 264-65, 284-85 (marked as CONFIDENTIAL pursuant to the Protective Order): Netflix employees specifically sought images of Plaintiff that would further inflame viewers to dislike him, as evidenced by their search for “shots” of Plaintiff “showing satisfaction” with the Avery verdict in order to promote in viewers feelings of “intense anger, bewilderment, and even fury”; to make viewers “VERY upset!” and to see if those feelings could be “ratched up.” For similar reasons, Netflix employees crafted the series to include shots of and identify Plaintiff walking Avery out of court after the verdict. Netflix 267 (marked as CONFIDENTIAL pursuant to the Protective Order). Netflix employees characterized Plaintiff in their internal communications as a “suspect” in “tampering with evidence” despite the absence of any charges alleging that and based strictly on the accusations of the defense team for a then-accused murderer who were for obvious reasons desperate to deflect blame from their client. Netflix 268 (marked as CONFIDENTIAL pursuant to the Protective Order).
- Netflix 288: Netflix employees acknowledged that the key falling on the floor was “weaker evidence” of the alleged conspiracy to plant evidence and that some of the points in the series appeared initially to be “grasping for” evidence of a conspiracy, acknowledging, for example, that it could “just have been a simple oversight that [James] Lenk didn’t sign in” at an Avery property search; proposing adding a graphic / timeline to help buttress the weight of the accusations.
- In addition, Netflix employees helped to craft the series to “[set] Colborn up” as the “potential cop to plant the car,” indicating that the recrafted draft episode that incorporated their suggestions “works really well now.” Netflix 274-78 (marked as CONFIDENTIAL pursuant to the Protective Order).
- Netflix 294-95 (marked as CONFIDENTIAL pursuant to the Protective Order): As quoted in response to Interrogatory No. 1, above, Netflix employees debated whether comments by Jerry Buting, one of Avery’s defense lawyers, went too far in inciting viewers to believe not only that Sheriff’s Department officers conspired to plant evidence, but also that they went so far as to kill Teresa Halbach in order to convict Avery – a conclusion that some of the callers who left threatening messages for Plaintiff apparently drew from the series. Netflix 294-

95 (marked as CONFIDENTIAL pursuant to the Protective Order). They specifically referenced the phrase Buting used, “we’re going to make sure he’s convicted,” which was incorporated in the series (Netflix 294-95 marked as CONFIDENTIAL pursuant to the Protective Order).

- Netflix 339 (marked as CONFIDENTIAL pursuant to the Protective Order): Netflix employees participated in editing the treatment of Plaintiff’s call to dispatch to make it appear that Plaintiff was “caught in a lie” through the omission of testimony as described in Exhibit B to the Second Amended Complaint, even though earlier drafts of the outline for those episodes only described the call as showing that Plaintiff had “called in” the vehicle prior to its discovery. Netflix 339 (marked as CONFIDENTIAL pursuant to the Protective Order).

It is reasonable to infer from these facts that Netflix employees not only had knowledge that the omission would cause the series to be false and omitted the fact with disregard of the series’ truth or falsity, but specifically sought to create a better “story” by omitting facts that would cause viewers to doubt that officers conspired to frame Avery.

- Omissions from Court testimony: It is likewise reasonable to infer that the Netflix employees who were deeply involved in editing the dialogue and who repeatedly sought to revise the episodes so that the dialogue moved faster, *see* Netflix #212, 237 (marked “Confidential” pursuant to protective Order), and who viewed the revised versions of the episodes, were and had to be aware that the courtroom testimony presented in MAM omitted most of the statements made in the yellow-highlighted portions of Exhibit B to the Second Amended Complaint. Because the following omissions changed the responses in ways that are readily identifiable as substantive and as affecting viewers’ perceptions of Plaintiff’s credibility, the only reasonable inference is that Netflix employees who were participating in the edits to the series did so to create in the series an impression contrary to the content and appearance of the omitted testimony, and therefore, with knowledge that the omissions would cause MAM to be false or omitted the facts with reckless disregard of the series’ truth or falsity:
  - Dkt #105, p. 47, omission of testimony by Plaintiff reflecting surprise that he had missed the key in earlier searches.
  - Dkt #105, pp. 47-49, omission of testimony by Plaintiff that the person who called him appeared to incorrectly assume that the caller had reached a law enforcement officer, rather than a jailer, and that he transferred the call to the Detective Division at the Sheriff’s Department.
  - Dkt #105, p. 48, omission of testimony by Plaintiff, in response to the question (“Have you ever planted any evidence against Mr. Avery,”) stating in positive terms, “That’s ridiculous. . . .”

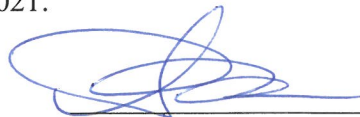


- Dkt #105, p. 49, omission of testimony describing Plaintiff's background as an evidence technician, as relevant to his participation in searches of the Avery property.
- Dkt #105, p. 51, omission of testimony indicating that Plaintiff wrote a statement about the prior call after directed to do so by a superior, contrary to Glynn's assertion that it was done simply because Plaintiff allegedly recognized a prior mistake.
- Dkt #105, p. 52, omission, again, of testimony by Plaintiff that he transferred the prior call to the Detective Division.
- Dkt #105, p. 52, omission of testimony, "That is why I didn't do one" as to question about a report about the prior call.
- Dkt #105, pp. 54-55, omission of testimony in which Plaintiff acknowledges that he asked in the call whether the vehicle in question was a "'99 Toyota," apparently to enhance the "caught in a lie" impression that Netflix employees wanted here
- Dkt #105, p. 55, omission of testimony in response to question whether Plaintiff had been given the license plate number by an investigator prior to the call to dispatch, in which Plaintiff indicated that while he didn't remember the entire content of the conversation, "he must have," and substituting instead a negative response, to make it appear that only after the negative response did Plaintiff concede the truth of the statement in response to further questioning.
- Dkt #105, p. 55-56, omission of the actual question that Plaintiff was answering in the affirmative with respect to the call to dispatch and substituting instead a different question to which an affirmative answer appeared to be an admission of the defense interpretation of the call to dispatch.

Discovery and investigation are ongoing, and Plaintiff reserves the right to supplement his response as they proceed. In particular, evidence regarding Netflix's specific activities and participation in editing MAM was only provided 10 days prior to this response. Plaintiff anticipates supplementing this response as analysis of that material continues and as additional material is produced.

**AS TO OBJECTIONS:**

Dated this 6<sup>th</sup> day of October, 2021.




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# Exhibit 24

## GENERAL

LENGTH: Currently, the cut feels very long. At its current state of over an hour and 40 minutes, we feel the next pass should target to be much closer to one hour. At this juncture, this doesn't feel like a cut of the episode but rather a really long rough version (which it may very well be). The courtroom scenes are too drawn out, which slows the pacing and narrative experience for the viewer.

COURT SCENE: The back and forth between the state lawyer and Avery's lawyers lags. It must be more concise. Is there a way we can quicken these beats to give more momentum to the overview of this specific trial while still allowing an audience to take in the information for their own reference? For example, it takes 4 minutes to finally get to the point that Dean makes at 21:30 that after the 7th search of his home, the officer found the key.

COLD OPEN: This is strong so far. Great quote in Steve's voiceover that's used. It feels timely and appropriate for where we are in the series.

INTERROGATION INTERVIEW FOOTAGE: This interrogation between Steven Avery and the police officer (please label who this is) that is interwoven throughout the trial day needs to be given more context of when & where it was taken. While the footage label is there, a card describing the set up before the first clip of the series is introduced would be extremely helpful throughout the trial footage.

LABELING: With so many characters in and out of the story, it's important to stay consistent with labels throughout the series so the audience can keep track. At least at the beginning of the episodes, let's apply initial labels, even with his mother and family members that we recognize.

CLIP OF BOTH DEFENSE ATTORNEY'S OUT OF COURTROOM: The two shot interview of both defense attorney's, Dean Strang and Jerome (Jerry) Buting, feels out of place. The tone and look feels different from the other in-court footage. In addition, the prosecuting attorney's aren't given the same opportunity ability to post-summarize the trial so it feels like a subjective device. Please consider losing this two shot footage throughout.

3:13 - Let's hold a beat longer on this card about the pre-trial publicity. The language is verbose from the previous cards so we want to give the audience a chance to comprehend the information given before going into the next scene.

4:14 - Please label.

6:57 - The dismissal of those accounts is a good turning point to the next chapter. Great use of the title card to sum up that court scene and preface what trial is next.

10:01 - Please label.

21:02 - We need to get to this point much quicker about the discovered key and the 7th search of Avery's home. Is there a way to intercut or pull specific dialogue to expedite the scene without affecting the overall lead up? Let's discuss.

24:53 - Can we have a card placed here before going into this interview shots to provide a bit more context? It's a bit confusing.

25:23 - What's the difference between Angela and Dawn at Auto Trader? Is there more context/background that can be provided explaining why the specific two are chosen for the trial?

27:21 - The statement here clarifying that Dawn cannot confirm or deny that Theresa did not leave the Avery property to complete other hustle shots is important in the case. Again, we need to get to key points like this at a more succinct pace.

30:44 - "Bobby's vehicle is gone" - let's hold a beat on this. This is Brendan's older brother that we're about to hear from, and his statement will sound more confident (whether accurate or not) than Brendan's.

33:04 - You can cut out the news footage here before Dean speaks.

45:59 - 47:03 - Can we have subtitles during this call?

47:37 - Can we hold a bit longer on Colburn's face here. He looks caught. Same at 48:10 - 48:25. We know that this is court footage that may not exist. Just a suggestion.

49:54 - This is a turning point with the tape and Colburn getting caught in a lie (at least allegedly). Can we bring out the fact that the tape didn't have a timecode on it, especially when Dean says "it was given by the Manitowoc Police".

1:06 - 1:10 - This exchange between Jerry and Lynn runs way too long. Is there a way we can shorten this to get to the point about Steven's files? It's easy to lose focus here.



# Exhibit 25

**GENERAL:**

The cut continues to show strong progress. The introduction of key & additional characters earlier in the episode create a level of investment and intrigue for the viewer that is quite effective. Further you've done a great job establishing the city and county areas surrounding Manitowoc, and the socio/demo dividing lines which become a character unto themselves. Stronger set up of Steven, particularly childhood photos and the way you establish his IQ level is extremely helpful in informing how he might uniquely process everything he is about to encounter. Also the addition of the interview with the woman who was assaulted by Gregory Allen while Steven Avery was wrongfully behind bars is extremely powerful in expressing that the mis-policing affected far more than just Steven.

As previously discussed, these notes are provided based upon what we have seen to date. We believe that we all understand that the timing & pacing of information reveals in any given episode may shift depending upon outer episodes, that said let's dive into this latest cut of the pilot episode.

**SET-UP:** This new cold open is working more effectively to show Steven coming home after his first exoneration. In addition, we better understand Sandy Morris' role more in the initial "alleged danger" of Steven Avery. Great job ending on 1:38 with "Be careful, Manitowoc County is not done with you." - it sets the tone well.

**OPENING TITLE SEQUENCE:** The goal would be for this opening title sequence to be unique and iconic. We like the direction, but would like to explore further.

**TRIAL OF PENNY BEERNSTEN:** We need to get through the trial of Penny Beernsten faster. The beats can't lag. It needs to move in a swifter manner where the audience is getting fact after fact.

**MACRO/END:** For discussion once the outer episodes are more established, do we currently give 'just enough' information about the possibility of how Steven's blood may have arrived in Teresa Halbach's Rav to compel you to the next episode? or should we tip a hat a little more to the idea of the tampered blood vial. Currently, the main reference is Steven's vehement interrogation tape saying that tons of his blood was taken during his incarceration. Similar note for the discovery of the key. Let's note to discuss once 3-5 are more solidified.

**PILOT TIMESPAN:**

We'd like to have an open discussion about the best way to introduce this series to viewers. Over the past year, we have all grown very accustomed to the notion of the combined episodes 1 -2 pilot, however given the level of complexity - from sheer number of characters, to the 2-decade+ span of time, and the extreme detail of evidence that is being presented to a first time viewer, we'd like to discuss strategically whether the narrative is best expressed as two separate episodes. There are moments when the density of detail feels rushed, and perhaps the breathing room afforded by two full and separate episodes may better support this level of ambitious storytelling. Again, we have the great benefit of our distribution platform where all episodes will be made available simultaneously,

therefore the traditional notion of an extended network/linear pilot is not required in the same way.

Part of us feels if we're going to treat this as a true crime procedural and get into the nitty gritty details of the court scenes, which for true fans will have some appeal, we should split the pilot into 2 proper episodes and allow the nuance and details of some key testimonies to show the extreme bias and frankly in some cases - pretty damning testimony coming out of some key law enforcement. If we feel its smarter to keep the 2-ep extended pilot, then we think we need to push for more editing and pacing at the cost of losing some testimony nuance. Let's discuss what's in the best interest of the story.

If we ultimately feel the combined 1-2 pilot is the better route, we should be more selective about which court scenes are necessary and how much of these scenes need to be played out to have the impact the audience needs - it's incredible footage to have for such a story, but allowing them to run in an extended way can, at times, hinders the audience's ability to digest the facts and react. In other words, we would want to examine a further edit to the scenes while retaining the vital information and dramatic impact.

**MUSIC:** Confirming that overall the music is still temp. The score will have an incredibly powerful effect throughout every element of this series, so let's make sure to be highly aligned on the vision overall.

**SPECIFIC:**

3:53 - Can you ground the viewer on where within the trial Judge Fred Hazelwood is speaking at this point? It's floating a bit temporally. Also, can we make a stronger connection to his association to Steven's run-ins with the law from the outset. We see at 1:00:06 his name pop up on Gregory Allen's file again - let's find a way to provide more of a specific indicator with respect to his involvement is with the characters.

5:00 - Ident modern day Sandy Morris as she looks so different now.

11:20 - Review for repeated photograph usage, this photo is used multiple times as noted below

12:25 - Review for repeated photo usage.

14:28 - Great job setting up his family and transitioning to what's next.

14:51 - Not necessary to say "Penny was the fitness instructor at the YMCA here in Manitowoc," The line feels shoehorned. Further, this is mentioned later in the cut that Penny works at YMCA. (is this specifically to justify why she is jogging on the beach?)

16:29 - More context on Walter Kelly? Was he involved with the trial or investigation around Penny Beersten? Why did we choose him to be an appointed interview? Perhaps we can apply an extended descriptive note on these characters and their connection to the situation they're describing.

22:00 - Who is the male v/o in this section - is it an actual radio news reporter? Ident.

22:08 - Third time we're seeing the same photo used.

25:13 - Let's specify that he's the attorney for this case at the time.

25:32 - This excerpt on Gregory Allen - can we play this out a bit more?

22:42 - Consider pulling the shot of Steven's dad in the golf cart during this transitional sequence. He looks so much like Steven at certain points of his life, that it's a bit confusing particularly as it follows his sister saying, "it was so out of his character but people wanted to believe he did it b/c he was an Avery".

27:00 - Assuming that we'll be working to refine the graphic treatments of timelines.

27:45 - 4th time we see the same photo.

30:00 - Who brought Penny Beernsten roses in the courtroom before the verdict is rendered?

40:00 - Review music bed under the new DNA evidence and battery of evidence to make it even more extreme when he is denied his appeal by Judge Hazelwood.

43:00 - Just a note that for some of the Steven phone call recordings - they currently pan 100% to the left. (We're sure this will be adjusted in final sound mix, just an FYI).

46:54 - Can we have more context on the Wisconsin Innocence Project - even if it's a quick flashcard?

47:40 - Cold DNA hit; key point of elevated music / dramatic pause.

50:40 - typo - Michael Griesbach (MI)

52:23 - This is a key moment to highlight regarding discovering Gregory Allen's history and how it may have been overlooked. The underscore music helps heighten this moment. Can we get to this part quicker?

1:00:40 - Here too where we see fact after fact about all the preceding clues that would've pointed to Gregory Allen to be, at the very least, put on trial instead of Avery - we need this to move faster and for the audience to be feel shocked by what has just been revealed rather than listening and processing. The revelation and how appalling the ignorance is should have a harder hit - and this can be achieved by a quicker pace and this point expressed sooner rather than later. We're now an hour into the pilot and still haven't wrapped up the first misled conviction.

1:06:54 - Better transition into Steven Avery walking into court with his fiance. It's a monumental moment for him and for what his identity stood for pre-Teresa Halbach, post-Beernsten release. Let's set it up a bit more - perhaps a card before.

1:09:33 - 1:20:58 - The chapter of Steven's filing a complaint and bringing the officers (Kocourek, Vogel featuring Rohrer, Colburn, Petersen, Kusche and Dvorak) to court highlighting how they essentially ignored evidence that suggested Gregory Allen was guilty over Avery as well as almost curating Steven's conviction runs way too long. It holds important facts but could be a quick 2-3 minute scene ending with the Steven's lawyer summarizing all of this up by saying, "They made the case against Steve Avery themselves." (which he says at 1:20:58). We don't need 10 minutes of courtroom dialogue - instead, let's find a way to showcase each person, prime dialogue stated, and move forward to the next. At it's current length, we lose sight of the "why" of this scene. 1:35:33-1:36:00 provides a solid timeline of all those deposed - let's use this sooner.

1:26:00 - Timeline for Andrew Colborn phone call re: Gregory Allen - update graphic.

1:26:45 - Odd swell of music under Griesbach's testimony on Colborn.

1:32:10 - Music doesn't feel quite right.

1:33:45-1:33:48 - The junkyard scenes intercut here feel out of place.

1:30 - 1:34 - Key courtroom case where we're hitting a peak moment for Steven where all the evidence is lining up in his favor to support a big civil suit, and even Glynn describes it as a high - let's really work with the pacing of edit (and music) to make this an extreme high, and then huge visceral transition with the introduction of Halbach. Can we replace the static low-res images of Vogel and Kocourek with moving images of them that freeze for effect?

1:34:22 - Hold a beat here before transitioning into the tape of Teresa leaving a voicemail on Avery's machine. This is the next chapter of Steven's story. We should discuss the best way to transition from winning his complaint to what's about to happen next.

1:35:20 - This particular scene where Teresa Halbach talks about dying before 30 is perhaps one of the eeriest. Is it more effective to have it placed here before transitioning into the search for her, or at the end of the episode to leave it with a bit more of an eerier effect?

1:35:30 - Update timeline graphic.

1:45:45 - Who is in that quick shot with Kent Kratz right after he says he's there to abolish any concern for conflict of interest?

1:47:12 - The cop saying "We should take all of those shoes in case we have any unsolved burglaries with foot impressions" will leave an audience speechless as well as set up the audience being skeptical over whether Avery is guilty in a new scenario. Who is this female officer?

1:48 - Review the music here for more impact. Provide viewer with some context of connection with Mishicot and Calumet County in relation to Manitowoc.

1:54:00 - Odd hold on young male journalist during press conference.

# Exhibit 26

## GENERAL

You cover a tremendous amount of ground in Episode 7! As discussed on our call, we would like to review your first pass of Episode 8 to see if there is a way to allow a bit more breathing room for each of the distinct storylines (i.e. Steven's narrative and Brendan's narrative) across these last two episodes. Both of their trials and convictions feel like they deserve a little bit more of their own moments of true disbelief and shock to fully capture the gravity of each individual case. We believe there may be an interesting structural opportunity to intercut the two cases, playing with timing of the reveals to increase anticipation and engagement, all while staying true to the facts of the case. It could be a highly creative and effective form of storytelling and a compelling way to wrap the end of the series.

**PACING:** We know this is the first cut; lengthy trial material is always tricky to determine what must be included and what can be left out. However, one of two things should be considered. A. Either cut the total running time down which would involve a lot of trimming of both the prosecuting and defense attorneys (also, better use of intercutting the opposing sides of the table) B. cut the episode into two. First being Steven's Episode, and the next being Brandon's - If this were considered, to be clear there wouldn't be additional monies since conceptually the idea would be to divide them with minor impact.

**MUSIC:** In this version, it's underutilized. As this episode has a large opportunity to shape overall impact of the episode, look to punctuate musically in a more strategic manner.

**AVERY TRIAL:** Currently, with the closing statements being presented straight through at the top of the episode, it is not playing as immediately engaging or riveting as the previous episodes. We don't feel as emotionally connected, and the first real visceral connection to Steven is at minute 31:30 when his guilty verdict is read.

**DASSEY TRIAL:** This section is way too long and faces pacing issues. We know we need to get to points such as Fassbender manipulating Brendan, and hearing the voice recordings that clearly show he's being bullied. We should get through this in a much quicker manner so we don't lose the audience's attention. While all details are important, let's brainstorm a more efficient way to lay out this trial. For instance, at 1:21:00, we get to Brendan's confession and honest raw appeal that he didn't see anything - these moments are captivating and we need to feel a quicker anticipation so the audience can digest. The hour's pacing set up needs a refreshed approach.

**BRENDAN'S STORY LINE/FAMILY :** Per our discussion, let's find a better way to balance out both Steven's verdict and Brendan's verdict - Brendan's storyline and the information is all very powerful, especially his direct family element, but gets lost in all the information being thrown at the audience. Let's explore both the family ties as well as their resulting verdicts.



SPECIFIC:

11:50 - Dean Strang's statement here about Steven Avery being given reasonable doubt should hit harder.

12:28 - 18:07 - Steven's trial drags. Is there a way we can clip bits and pieces together?

27:38- 28:4 - Whose camera is this on Steven so intimately, interviewing him about how he feels about the length of the trial? Is Jerry interviewing him? Can we please clarify?

28:50 - Maybe we can add a music/momentum shift here since the decision is coming in - is there away to better build anticipation? Feels flat given the enormity of the moment.

29:00 - Strange image of man on phone in hallway with v/o of "20 hours of deliberation, the jury has a verdict." Perhaps switch this out.

31:58 - Guilty of murder. Non guilty of mutilating the corpse. Guilty of a possession of a firearm - when these verdicts are stated you see how Steve is genuinely distraught.

However, can the reading of the counts be more impactful. This is such a large moment and doesn't carry the emotionality weight it should. This the the moment of "Making a Murderer."

36:20 - Richard Mahler - excused Avery Juror: feels like there's much more that can be done with him. He makes a brief appearance later in the episode, but is there more to flesh out?

55:00 - The jury does not see the last 1 hour and 38 minutes of the recording. This last section of the tape includes when Brendan is informed that he is being arrested and when he talks to his mother.

Do our viewers ever learn why did the defense agrees to this? Does Barb Yonda ever get the opportunity to refute the testimony of the detective and tell the jurors that she tried to be present for Brendan's interrogation and was denied?

58:37 - It might be effective to intercut Brendan's confession with Ray Edelstein and Det. Mark Wiegert - seems like a great opportunity to elevate the piece with some creative editing.

1:00:23 - "We love the police" statement by Halbach's brother is a bit haunting. Are there more images we can of his family during this statement?

1:05:21 - Kayla's trial is one of the most powerful scenes. Great job.

1:09:32 - Brendan's trial begins. Can we get here faster?

1:17:44 - Brendan's statement here "I never saw her there," is a turning point - realizing there is a potential that it was all made up or manipulated by the police. How can we elevate this a bit more?

1:33 - Brendan walking on shackles should have music.

1:36 - Brendan's verdict is anti-climatic and not as emotional as it should be considering the investment into the series the audience has made.

1:36:32 - What is it here that Brendan's mom says when she gets out of the car before she leaves? Can we place subtitles?

1:36:56 - This is helpful. Let's also apply a summary card at 31:58 after Steven's verdict was decided.

1:44:00 - When Judge Willis states to Steven, "Society would never be safe from your crimes." - it's infuriating. Steven was innocent from his last eviction. Judge Willis is on the side of society - he's biased. How can we bring this out more?

That said, The fact that the judge doesn't mention Steven was wrongly convicted, is awful. Can we foreshadow the judge is biased, good or bad - maybe something more to be had with this? Again, that judge feel very biased - it's surprising and sad.

# Exhibit 27

# Making a Murderer

**Status:**

1. The series is amazing. It is a major accomplishment to lay out such a complex case in such a clear and suspenseful way.
1. Some structural & pacing challenges may not support full audience engagement for such a long view that at times gets very granular.

**Goals:**

1. Identify final overall series structure which supports the most impactful, compelling and revelatory storytelling, including:
  - Ideal number of episodes (9-10?)
  - Ideal length of episodes (recommending 50 minute target, no greater than 60)
  - Best opens and closes (see specific notes in Structural Breakdown).
  - Red Herrings.
  - Expand the emotional range for the viewer throughout the series. We want to feel the swells of hope, the rage of injustice, the horror of the defenseless. Viewers across the globe should be in tears and shouting at their screens throughout.
2. Music and gfx aren't being utilized effectively yet for the next pass we should take it to the next level and bring in reinforcements for the areas that aren't yet getting there.
3. With final overall episode structure in place, tighten each episode to most effective cut (see detailed notes).
4. Eliminate the storylines that aren't serving the greater good.

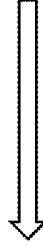
**CURRENT:**

**Episode 1.**

**SUGGESTIONS:**

Cold open: S.A. gets out of prison. Background that he was wrongfully imprisoned for 18 years. Cousin says: "Be careful... They aren't even close to being finished with you."

- S.A. files civil rights suit against Sheriff and DA.
- Jump back to Sandra deposition.
- S.A. background.
- Dispute with Sandra, S.A. charged with felony.
- Penny B is attacked.
- Police mishandle and Penny points to S.A.
- S.A. arrested, Sheriff keeps him from lawyer.
- Background on S.A.'s alibi.
- Information about Gregory Allen.
- S.A. found guilty.
- Hard on family. Parents stick by him. Lori leaves.
- New evidence - fingernails not enough.
- Pubic hair found. Matches Gregory Allen.
- Evidence of police misconduct.
- S.A. back to normal life, meets Jodi.



There should be a more explicit ending that makes it clear that in the next episode the cops are going to seek revenge. We should have a really tight Episode 1 with a strong cliffhanger that immediately engages the audience to come back for Episode 2. Currently, the suggestion that they might charge him with murder is very subtle and the audience might think everything is resolved. This line is impossible to understand without any context. (also could consider ending with the cliffhanger of whether or not the DNA matches S.A., this would be the ultimate pull-back for watching Ep2 but would mean changing the cold-open)

Cliffhanger: S.A. is released: "Don't bring a lawsuit against Sheriff's department in a community where you still live or you could get charged with murder."



## Episode 1 - Detail (1hr 9min)

- 1:45 - we end the cold open with Steven's cousin saying, "Manitowoc County is not done with you, they're not even close to being finished with you". The viewer has yet to get their bearings - we should explore adding graphical treatment to these powerful words going into the title treatment.
- 21:00 - Emphasize the relationship between Sheriff Kocourek's wife and Penny B so that we establish a motive for him to interfere in the investigation.
- 31:47 - The fact that the police had been following Gregory Allen is established (somewhat out of the blue) during the investigation. This set-up seems to undermine the revelation later, when his DNA is matched, that the police had been following him and hid this information. It could be more shocking to reveal later in the episode who Gregory Allen was and how evidence of his presence was known by the Sheriff's dept.
- 37:15 & 40:55 - There are two chunks that both talk about the parents sticking by him. This is something we return to several times through the series, so we should just be judicious about which of these is the most effective and sufficient.
- 41:50 - The explanation of the appeals system might be unnecessary - we should probably assume the audience has a basic understanding of this.
- 45:30 - Stephen Glynn talks for a while about how the decision shows how much the system is weighted against the presumption of innocence, but we never see the decision for ourselves - is there a way to pull out a representative quote from that decision that could be shown while he is talking? He also talks about how S.A. pays a heavy price for not caving under pressure, but this is already really clear.

## Episode 1 – Detail Cont. (1hr 9min)

- 51:00 - The exoneration of Steven should be a much more emotional turn of events. After 18 years it should be heartbreaking that he is finally out. Music and edits should build-up and pay-off in a much bigger way.
- - Public Integrity Bureau investigation report goes into a lot of detail and might be hurting the momentum of the episode's conclusion (over 4 minutes).



CURRENT:

Episode 2.

SUGGESTIONS:

Cold open: Homevideo of T.H.

- S.A. files \$36m lawsuit against Manitowoc.
- Civil suit trial.
- Police sketch mishandled.
- Legislature about to pay his \$450k.
- Colburn received phone call in 1995, no report.
- More testimony.
- City will be on the hook for damages.
- Teresa Halbach goes missing.
- Search party - they find the Rav4.
- Cop asks if they have S.A. in custody yet
- Calumet County takes over the investigation.
- Police search S.A.'s house.
- Manitowoc only used for support resources.
- Key found.
- S.A. is questioned and arrested.
- Keep S.A. away from lawyer. Lie about location.
- Kratz says the evidence hasn't been tainted.

The cold open of T.H. is very confusing and too far ahead of her disappearance to make the connection. Perhaps open with the image of the article saying that S.A. is suing the law enforcement agencies and Walter Kelly (Ep2 - 3:19) explains everything up until he says that it is for \$36m. And it would save the TH video to use later to greater effect during the trial (eg around Ryan's testimony).

The police sketch and Judy Dvorak scenes are explained in such detail in Episode 1 that it is less of a bombshell here. Would it make more sense to hold the reveals for this Episode?

The testimony about this phone call and report (which we touch on several times throughout the series) is confusing as it relates to who within law enforcement knows what/when - could a graphic help chart the related events and make it less necessary to keep repeating the story?

Cliffhanger: S.A. DNA on the key and in the blood. S.A. in handcuffs entering courtroom.

Potentially add Allan's quote from the top of Ep3 saying "They framed an innocent man just like they did 20 years ago" to the cliffhanger here.

## Episode 2 - Detail

- 5:55 - What Walter Kelly is saying about the AG's report is very interesting, but he is very slow and unclear in his diction - probably it ultimately isn't necessary. It could even be as simple as saying "they felt like they were talking law enforcement to law enforcement so were fairly candid."
- 14:00 - The phone call that Colburn receives and the subsequent flow of information to other figures in the Sheriff's department is something we keep going back to throughout the series. It would really help to create a graphic that can be built on throughout the series as new information is added to this topic. It would really help keep clear what the connections are and highlight when new information is revealed. It could also help minimize the amount of time we need to spend explaining it multiple times.
- Also, is there any record that Gregory Allen was in the Brown County prison when they made the phone call to Colburn? Maybe add his mugshot from that prison to the graphic as well, to drive home the fact that they are letting a known rapist go free while Steven rots in prison.
- 17:30 - There is probably more testimony of the police that we need at this point regarding the phone call.
- 22:50 - This Michael Grierbach testimony doesn't really seem necessary.
- 24:00 - Who is the person who is circled in the courtroom clip?
- 25:00 - Not sure what the montage of courtroom exteriors and testimony clips is doing here. (55 seconds for just a short VO) - and this conversation about the impact on the city is somewhat redundant - it could probably be tightened.

## Episode 2 – Detail Cont

- 27:20 - Stephen Glynn gives a very wordy and dry reveal that Teresa Halbach is missing. There should be a bit of a tonal shift and dramatic tire-screech when the bombshell is dropped that someone is connecting S.A. to a murder. He says it in an almost incidental way. Are there other options? News clips? Make this a visceral experience that a woman is missing and people are searching for her and the world is closing in on Steven
- 32:30 - Search party lasts for almost 2 minutes. Maybe it could be cut down by 1 minute and have Mike Halbach's interview as partially VO instead of on screen the whole time.
- 42:40 - Not sure if we need the search party again since the car has already been found. It is clear that they are still looking for the body, but the focus now has shifted to the Avery property and since the search party isn't involved in that we could probably cut this entire minute out and get straight to finding the body and key.
- 45:00 - There should be more of a creepy, suspenseful tone when the bones and teeth are shown.
- End - Use lower-thirds to ID the cops that are questioning S.A.

CURRENT:

Episode 3.

SUGGESTIONS:

Cold open: S.A. denies and gets handcuffed in interrogation room. Allan Avery saying they are taking an innocent man and making him guilty just like 20 yrs ago.

Since Ep2 ends with him shackled going into courthouse, is it necessary to have him handcuffed here? Other ideas would be to start with teasing the fact that the key wasn't there the first several times they searched the room or start with the media turning on S.A. - making him into a monster.

- Start of pre-trial.
- Key wasn't there when they first searched.
- Court finds probable cause.
- Gov signs Avery reform. Discuss changing name.
- Media repaints S.A. a monster. Town reacts.
- Family gets hate letters.
- Judge sets bail high.
- Family visits.
- S.A. settles lawsuit to get money for defense.
- Halbach family files lawsuit to tie up money.
- Buting and Strang join - talk about police framing.
- Brendan is detained.
- Kratz details Brendan's version of crime.
- Jodi out, Chuck reacts, Allan says family torn.
- Brendan coerced and charged.

Cliffhanger: Brendan's mom says that if he testifies against S.A. he gets 20+ years with parole, but if he doesn't he could get life with no parole.

This is a great cliffhanger, but should drive harder on the fact that B.D. might testify against S.A. and is essentially being blackmailed to do this.

## Episode 3 - Detail

- Opening - Use lower-thirds to ID the cops that are questioning S.A.
- 08:44 - Coverage of the Governor signing the Avery Reform Bill (and the state senator discussing) is definitely interesting, but it is a bit granular and might not move the story forward at all. This might not be information that the audience need and could save us almost two minutes.
- 13:55 - Chuck playing pool could be trimmed. The local woman and man giving the community perspective is good, but could stand on its own. This five minute chunk (including Steven's phone calls and Chuck in the junkyard) could be delivered in a few quick soundbites contrasted with the media coverage of Steven as a monster to show that there is a division of opinion between the establishment and the poor community. Could be really driven home if capped with Steven's quote (18:40) "Poor people lose".
- 19:19 - Do we need the scene of them visiting him in prison? We already get that the family is standing behind him and don't see why he would do this.
- 25:15 - 28:15 - Bringing in Strang & Buting should be a glimmer of hope and feel somewhat triumphant - here are two great lawyers coming to his rescue, but this three minute segment doesn't capture that. This could really be tightened up and enhanced by a good music cue.
- 41:56 - Jodi gets out of jail...is there any way to quickly establish earlier on that she has been in jail through all of this?
- 47:28 - Allan complaining about the loss of business and Chuck saying that he doesn't think Steven is guilty are both somewhat repetitive from other scenes - maybe a tighter version, but it feels like it might be overkill.

CURRENT:

Episode 4.

SUGGESTIONS:

Cold open: S.A. on phone over B-roll: "Brendan said all of this. I feel sorry for him...It'd probably make somebody look like a monster...Nothing good can come out of this.

It's tough to understand in a cold open what S.A. is talking about - there is too much distance between this call and the previous episode's material that gives it context. Would it be possible to tease something that is coming ahead rather than recap?

- New atty (Len) for B.D. - he is terrible.
- Jodi finds phone calls w/S.A. on day of murder.
- Eval. of blood and key DNA, evidence from car.
- Try to throw out B.D.'s confession.
- Len/O'Kelley push B.D. to confess.
- B.D. meets with police then calls mom.
- Police say easier to kill S.A.
- State tries to change death penalty, trial delayed.
- Jodi ordered not to see S.A.
- Family tries to get B.D. a new lawyer - denied.
- Judge tells Len to withdraw.
- Family check in.
- Recap of Penny B set-up.
- Lenk.

Maybe it would be better to bring some of the innocence project's explanations about why this was so egregious from Ep10. It would help clarify the fact that Michael O'Kelley is supposed to be working FOR B.D. and also deal with it in one place instead of multiple times. And ending on such deep analysis of the issue is somewhat anti-climatic. Splitting it up between this section and the hearing for the new trial would possibly be more efficient.

Cliffhanger: Blood vial is discovered to have been tampered with.

## Episode 4 - Detail (1hr20min)

- 21:25 - Can the card identifying O'Kelly make it more clear that this guy is supposed to be helping Brendan? Would it also be out of the question to bring in the Innocence Project from Ep10 here to really explain why this was so egregious?
- 38:34 - The fact that media affects the jury is important could probably more concise - we get it. Might also be too much news coverage of whether framing is possible or not. It sets up the "We could just kill him" quote, but probably could be set up with just one or two quick clips.
- 42:00 - The death penalty conversation takes up a lot of oxygen. Is there any way to streamline it or lose it altogether? We already get so much about the jury being influenced by the media/culture. Almost five minutes is a big chunk when this episode is currently at 1hr20min
- - Dolores driving around the junkyard and the aerial atmospherics could all be tightened a lot. This four minute segment should probably be 30-40 seconds.
- - Pete talking about Manitowoc causing rape and they were most definitely biased to be investigating this case. It feels like this has been covered elsewhere?
- - This major dramatic moment of the tampered with vial being discovered could really have more impact with the right score.

CURRENT:

Episode 5.

SUGGESTIONS:

Cold open: S.A. enters courtroom. Buting discusses EDTA. Cards explain motion to exclude and judge denies and that State asks Judge to allow FBI to test for EBTA. Courtroom debate about EDTA testing. Judge allows testing.

- Drop sexual assault charges against S.A.
- Day 1 of trial.
- Opening statements (a lot about VM messages)
- Det Jacobs call (do we have a body?)
- S.A. questioned about T.H.'s appointment.
- Bobby says he was asked to help get rid of body.
- Debate about VMs.
- Judge blocks from talking about other suspects.
- Dean asks about roommate.
- Ryan H admits to figuring out her password.
- Boss (Sheriff?) says to search Avery property.
- Review of finding Rav4 and what followed (Pam)
- Dolores shows us where the car was found.

Cliffhanger: Colburn testifies about calling in the license plate before the Rav4 is discovered. Dolores drives around junkyard pointing out where they could have brought the car in.

Feels like Buting is stumbling over what he is saying in this cold open. Maybe something less technical in the open? Maybe something that would hint at another possible suspect?

Great cliffhanger, but the effect is dulled by having Dolores pointing out the layout of the junkyard. We would recommend ending the episode before the Dolores scene.



## Episode 5 - Detail (1hr10min)

- 15:00 - Lots of b-roll of people entering the courtroom. Opening statements are somewhat unruly. Everything they say is interesting, but most of this is covered really well in other sections. It might be more impactful to hit one or two points on each side that really summarize the spirit of what is happening. It seems like the voicemail
- 19:45 - Buting really rambles in this section - we could probably massage this into a much more succinct summary of what to expect in the trial. (three minutes and then straight into their opening statement which reiterates many of the same points)
- 23:00 - Defense Opening statement has the same issue as the prosecution's. Together the opening statements take up the majority of the first 30 minutes.
- 30:40 - Shows S.A. being interrogated about making the appointment in Barbara's name. This occupies a large part of the opening statement also - is there a more efficient way to get through the fact that the prosecution was trying to make it look like he was hiding his own name while the defense says he has a valid reason. This also seems like a minor part of the evidence base and it is hard to illustrate what exactly they mean, so it may be worth trimming this debate out.
- 36:30 - Bobby Dassey's testimony about Steven asking to hide the body - this could really be clarified by a graphic so that it is clear why it is so important to know whether this happened on the 3rd or on the 10th. And why the prosecution acted so improperly.
- They mention that T.H. had been receiving harassing phone calls, but they never identify you the harrassing caller was. Surely they had the phone records ...can we explain who it was or why they couldn't identify that person if that is the case?

## Episode 5 – Detail Cont.

- 41:00 - The debate about TH's voicemail inbox being full and how we know that some were deleted and who had access to the voicemails could all really benefit and be laid out more efficiently with a graphic - probably can replace the actual phone records which don't really convey any information. (this is currently a 7 ½ minute section, plus it circles back again with the ex-boyfriend's testimony)
- 56:30 - In the Weigart call, he references the "boss" called - is there a way to get across who exactly the boss is?
- - We don't really need the interrogation of S.A. about how the truck could have gotten in or the footage of Dolores showing us the area. It really kills the effect of the Colburn license plates bomb.

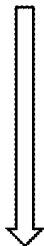
CURRENT:

Episode 6.

SUGGESTIONS:

Cold open: Card says one day after Brendan's arrest there is a press conf. Kratz describes how S.A. instructed Brendan to cut T.H.'s throat. Police search residence and garage for new evidence. Kratz claims physical evidence now makes sense.

- Strang & Buting disc. poisoned jury pool.
- Bullet found in garage - Lenk was present.
- No T.H. DNA found in trailer or garage.
- Bobby only thing placing her inside.
- Skull fragments.
- Evidence montage.
- Sherry: blood on bullet matches despite botching
- Defense tried to have labwork monitored, denied.
- Everyone reiterates there would have been blood
- Bones and barrels conversations.
- Coroner dismissed.
- Family check-in. TV might influence jury.
- Bloody hair in trunk.
- Timeline debate (Bobby D, bus driver, Scott T.)



The timeline conversation is important, but also confusing and might not be the best hook to end the episode on. Would it be worth hinting that there is evidence that Lenk (or the cops in general) planted the evidence so that is tee'd up for Ep7?

Cliffhanger: School bus driver has a different timeline than Bobby. Lawyers explain the timelines don't match up.

## Episode 6 - Detail (1hr5min)

- 08:58 - Strang rambles for too long about the fact that there was no reason or need for Manitowoc county to be present. Some of the audio could lap over the b-roll of Allan entering the courthouse which seems to also be too long.
- 17:30 - Kratz' press conf about there being a homicide with gunshot to the head seems unnecessary. Doesn't give any new information.
- 18:10 - Montage of video evidence also seems to be floating without any connection to the testimony from Sherry - maybe it could be tightened by pre-lapping her audio "can you identify this exhibit in front of you... it is a lead bullet fragment." This might give the video evidence context and also tighten all of this courtroom evidence.
- 20:50 - Not sure what the source material you are cutting around is, but it feels like the timing of cutting to Buting's reaction to Sherry's testimony "I believe my DNA was introduced to the sample when I was talking" line could be timed for more of a comedic effect.
- 21:12 - Everything in the prosecution's press conference is just reiterating what was said in court and the reporter jumbles the question - it hurts the momentum. Buting says what happened much more succinctly, but again the reporter's question isn't important. What is important is Strang/Buting saying that this is why we asked to be present (almost three minutes of press conf).
- 24:42 - Excessive b-roll around the courthouse.

## Episode 6 – Detail Cont.

- 29:55 - This press conf could be trimmed down - in general we keep going back and forth between courtroom testimony and press conferences - they really need to be surgical in terms of explaining only things that need to be explained or giving new information. Even just having something like the reporter asking "do you really think that plays well with the jury?" give some context to how the outside world is interpreting the events, but anything that is redundant should be trimmed down or at least tightened a lot. Same with Strang/Buting explaining things such as Buting here who doesn't make a very clear point.
- 32:29 - In this stretch Buting, Steven, Allan, Strang and Pete each say essentially the same thing "there would have been blood" - this is repetitive. (this along with Sherry confirming that there was no blood and the subsequent press conf together add up to 6 ½ minutes)
- 39:55 - Could we use graphics to clarify and streamline the bone / burn pit analysis? (over 11 minutes)
- 45:35 - The side story of the coroner is interesting, but it might be something we could take out for the overall betterment of the episode. She is thrown out so quickly and we never get to hear from the county why she wasn't assigned the case and since she didn't investigate the case makes wonder why we would hear her testimony...as the other county's investigators and prosecutors were used, it almost makes sense that the Manitowoc Coroner wouldn't be used.
- 51:23 - We've already heard about the Avery Bill, so do we really need Allan talking about it again (or them going to prison to visit again)?

## Episode 6 – Detail Cont.

- 52:49 - Do we really need Buting/Strang talking about the jury being influenced by the press? It seems like this is pretty clear from everything we've already seen. With so much trial to get through, this seems like another road bump.
- 55:50 - Scott, Bobby and the school bus driver testifying about the timeline runs very long and isn't entirely clear. Could a graphic help lay out exactly why this is important and allow us to get through their testimony more quickly. (this is almost 10 minutes)

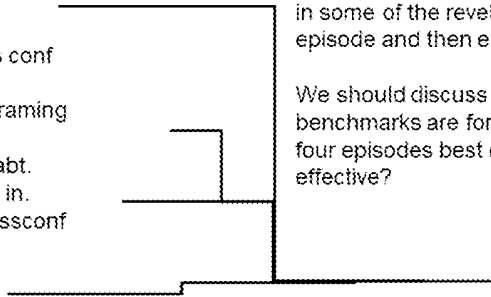
CURRENT:

Episode 7.

SUGGESTIONS:

Cold open: B-roll of police cars - "FBI is going to assist in investigation...Manitowoc provided resources. That is their only role." Allan says "They had Stevie picked. They set him up. They weren't even supposed to be investigating.

- Debate abt Manitowoc PD being at crime scene.
- Buting & Strang point to Lenk as framing.
- Press conferences re police reputations.
- More testimony on Colburn conflict & press conf
- Buting est. that EDTA test is bogus.
- Log shows Lenk didn't sign in - he denies framing
- Call with Dolores (family check-in).
- Judge rules EDTA admissible. Press conf abt.
- S.A. call saying they are trying to keep him in.
- Direct FBI testimony, pressconf, cross, pressconf
- S.A. decides not to testify, pressconf.
- Motion to dismiss false imprisonment.



Lots of really interesting mini-bombshells in this episode. Nothing that has significant impact on shifting our view of whether anyone is guilty or not. Would it make sense to really tighten this and bring in some of the revelations from Episode 8 to this episode and then end Episode 7 pre-verdict?

We should discuss Ep 7-10 and what the best benchmarks are for where each episode ends. Is four episodes best or would three be more effective?

Cliffhanger: Dean explains to S.A.'s parents that good news is that 3 charges have been dropped. bad news is that murder charge is all that matters.

## Episode 7 - Detail

- 17:05 - Norm says his blood boils - this reaction is so great we probably don't need Buting adding on to it.
- 18:53 - Pete explaining is totally unnecessary. The facts are laid out so well we don't need him to be the peanut gallery. Everything he says is explicitly laid out and we have to trust that the audience is sophisticated enough regardless.
- 25:04 - Do we need this much of Strang's questioning of Colburn (4 ½ minutes)? (especially since we already had his testimony about calling in the license plate and we've spent a lot of time covering the 1995 phone call already)
- 33:59 - possible to get to the bottom of the Log more efficiently? As the trial goes on there should be less need for establishing shots and exposition that has already been covered, so each bit of evidence that is debated should be at a quicker pace.
- 39:45 - There is one minute of montage/b-roll here that really bogs it down.
- 41:35 - Lenk's testimony is really long. Graphic to demonstrate the scope of the Lenk coincidences?
- 46:20 - Do we need Lynn's testimony to establish that the Sheriff's dept had access to the evidence?
- 49:49 - Possible to tighten Buting talking about the EDTA test expert? Who is Janine and why do we need to hear that part of the conversation?



## Episode 7 – Detail Cont.

- 53:13 - Do we need these press conferences? There isn't any new information. Could go straight to S.A. saying "They are doing their damndest to keep me in here"
- 58:57 - Do we need prosecution's press conf about the EDTA testimony?
- - Do we need Strang's press conf about the EDTA testimony?
- - Cut parking lot b-roll?

CURRENT:

Episode 8-9.

SUGGESTIONS:

Cold open: Allan walking around barn looking for Steven's name on the floor. Dean talks about the fact that S.A. never committed these crimes: "What you can hope to get is your liberty back, eventually."

Allan walking around the barn doesn't really grab attention. The quote is strong, but perhaps this could tease to something that will happen in this episode, such as the fact that a juror was excused and S.A. gets to decide whether to call a mistrial or not.

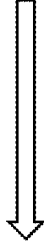
- Closing arguments.
- Buting, Dean say he was framed.
- Kratz says shouldn't matter if key was planted!
- Judge gives instructions to jury.
- News reports. Dolores talks to S.A. (b-roll)
- Jury leaves for night. Juror is replaced.
- B-roll with S.A. talking, Dolores calls him.
- Jury deliberates late. Buting/Dean look at press.
- Family warned about blowback.
- Verdict.
- Dean/Buting sad, believe killer is on the loose.
- Colburn makes statement.
- Scott T: He had it coming.
- Buting says 7 votes for innocent at start.
- Excused Juror feels terrible.

One quote that would make a powerful opener for this would be Strang saying "WHAT WOULD a case look like if someone were being framed? I would suggest a hypothesis that someone burned her body and dumped it in Avery's yard..." (08:00-10:00)

WHERE ARE THE BREAKS? EP 7, 8, 9, 10

Cold open:

- Brendan's trial in 2 weeks. New lawyers discuss.
- Kratz opening statement.
- Mark opening statement.
- Play BD's first statement.
- Lots of discussion of his coercion.
- Only play first half of his confession.
- Debate about interrogation tactics.
- Kayla's retraction. TH brother talks to press.
- Brendan testifies. His father comments.
- Tape of his call to mom, he says he made it up.
- Mike Halbach talks to press.
- Closing arguments. Judge reads jury instructions
- Judge reads verdict. Mom freaks out.
- Buting/Pete/Dean comment.
- Mike Halbach talks to press.



Keep more of this in Ep8?

Move more of this to 10 so that we have more payoff in terms of Brendan rather than just analysis?

Cliffhanger: Judge reads statement for Brendan and how dangerous he is. Dean comments: "Tragic lack of humanity."  
Buting: [Could happen to any of us.]

## Episode 8-9 - Detail

- 14:00 - the line from Kratz' closing argument "it shouldn't matter whether or not that key was planted" is a bit of a bombshell, but it get buried in this cut.
- 18:14 - Buting's commentary seems unnecessary as does the news reporter.
- 22:37 - News guy says that the option was up to Steven whether to accept the alternate juror. Could we highlight this by explaining in more detail? Could Steven have opted for a mistrial??
- 45:26 - We've seen so much of Brendan's statements and confessions that we maybe don't need all of the audio statement that is played in this hearing and probably don't need the explanation of his demeanor because we know it so well at this point. The important part and new information is that they only play part of his confession which starts about 6 mins later when Weigart set it up (although his setup is really bulky also).
- 56:10 - Mark talking about police being trained to elicit confessions isn't necessary - Richard (the excused juror just said it a couple minutes earlier and it is more interesting to hear his thoughts than the lawyer's.
- 58:40 - The testimony/questioning about the interrogation techniques goes on too long - we've really have no doubt at this point.
- - There is a lot of very powerful testimony from Brendan - how much of it/what parts of it are the most essential? (15 minutes)

**Slide 25**

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- 2 I believe they were saying that Steven could decide proceed to with one less juror, or else ask for an additional juror to be added at this point.  
Lisa Nishimura, 10/25/2021

## Episode 8-9 – Detail Cont.

- – 45 second of night b-roll maybe too much even for showing the passage of time during the deliberation
- – Do we need a card explaining the verdict since the judge just read them?
- – Strang's comments here don't feel vital
- – Can we make it clear who the judges are and which cases they have handled before? (Allan makes this point later, but it gest a bit lost because he isn't very specific).

**Slide 26**

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- 3** I believe they were saying that Steven could decide proceed to with one less juror, or else ask for an additional juror to be added at this point.  
Lisa Nishimura, 10/25/2021

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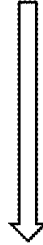
Episode 10.

SUGGESTIONS:

Cold open: Kratz press statement: [Happy S.A. won't be on the streets ever again.]

- Community is happy. Family is destroyed.
- Sandy story.
- B.D. appeal for new trial. Focus on Len/O'Kelley
- More about call to mom being orchestrated.
- Judge denies Steven's motion.
- Kratz scandal.
- Judge Fox denies request for new trial.
- Higher courts refuse to review both cases.
- Sandy talks about his mental state.
- Round table with lawyers comparing to rape case
- S.A. starts preparing his own case.
- Pete recaps the evidence, has other suspects.
- Northwestern students discuss Brendan's case.
- Wisc Supreme Ct turns down Brendan's case.
- Federal suits filed.
- Allan driving around garden. S.A. talks.
- New Lawyer (Tom) - case on eavesdropping.
- Moved to Waupon.

Potentially move in a bigger reveal to Ep10. The denying of new trials doesn't have enough punch in and of itself.



All of this analysis is great, but is mostly re-capping things we already know. Would it make sense to focus the final episode on the characters and the harm this has done to them rather than the wider social implications? Would maybe leave it with more of an emotional impact - especially the fact that Steven was preparing his own case and that Brendan is completely helpless.

Cliffhanger: Sandy visits S.A. who says in V.O. "They think I'll stop...The truth always comes out."



**Slide 27**

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- 1 Do we have a suggestion of a bigger cold open reveal for 10?  
Lisa Nishimura, 10/25/2021

## Episode 10 - Detail (1hr30min)

The majority of comments on behalf of Ep10 depend on the overall structure, however the following elements feel like they can be removed to support better pacing and the continuous evolution of new information to the viewer:

11:00 - Lots of b-roll of entering and exiting the court.

15:00 - Steve talking about getting the state to record videotaping doesn't seem important.

- Pete recaps all of the evidence (8 minutes), but it is all info we already know.

- The class about Brendan's confession doesn't feel necessary - it would make more sense to include this info when this is being evaluated in the investigation or in the trial.

## GFX List

- Improve map for Steven's alibi for the rape of Penny B. (Ep1)
- Law enforcement org chart to help keep clear who everyone is throughout (1-10)
- Org chart of various courts/Judges - especially when we get repeat judges (1-10)
- Number of times the Avery property is searched & over what duration
  - when the key is discovered (search #6?)
- Len/O'Kelley/Investigators (explaining the coercion of Brendan) (4)
- Lenk's mysterious involvement every step of the way. (4)
- Teresa Halbach Voicemail details (5)
- Timelines (Colburn License Plate Phone call - 5, Bobby v Busdriver - 6, Police Log at Crime Scene - 7)
- Bones/Burn barrels (6)
- Do we add a GFX of all leads not pursued by Manitowoc or Calumet? (TH roommate, Ryan H, Bobby Dassey, Scott T)?

## **GFX List Cont.**

- Contradictory State arguments (how can Teresa have been killed in bedroom & garage)?
- Graphic of salvage yard and estimate size and # of cars and probability of finding TH's Rav 4 in less than 20 minutes.
- Brendan flip flopping statements & dates ?
- Chart out the appeals (9-10)
- Perhaps there is one master graphic that could contain both law enforcement, judges and all of the various lawyers

## Music Beats

The role of music throughout the series is vital and will play a primary role in helping guide viewers through this rich and complex narrative. Below are a few proposed areas to review and we look forward to discussing further once the overall episode structure is solidified.

- Overall: the lulling guitar hurts the tone. The music should put everyone on the edge of their seat.
- Can we work to establish a subtle but impactful 'theme' track for the baddies, e.g. Lenk, Petersen, Kratz and certainly for Len Kachinsky & Michael O'Kelly to help clearly support that despite their appointed roles to protect Brendan – they are doing him great harm.
- Similarly, there have been moments of hope & promise introduced throughout, e.g.: when Steven secures Buting and Strang on his case, when the Innocence Project / Steve Drizin and team enter Brendan's life – can we work to utilize music to subconsciously and organically support the emotional connection and hope.
- Enhance emotions of Steven's release (Ep1)
- Music is slow when he meets his first girlfriend (and then wife).
- Music could drive the magnitude of the moment that S.A. is first convicted. (Ep1)
- Create the shock of Steven being connected with Teresa's disappearance. (Ep2)

## Music Beats Cont.

- Sheriff Petersen suggesting that it's easier to kill SA than frame him on the news is absolute madness, should be emphasized (Ep4)
- Major twist when the tampered blood vial is discovered. (Ep4)
- All of the verdicts should be very suspenseful and use music to enhance.
- Enhance shock of Colburn escorting Brendan out when his verdict is read (Ep8-9)
- Michael O'Kelly's testimony is shocking. Music might underscore this to great effect and highlight the importance of his conflict of interest (Ep10)

## Overall Notes

- As we refine, let's be very judicious about ensuring that every scene serves to evolve the key narratives and character development in a novel way. Currently there is a relatively high level of repetition throughout the episodes. Rather than repeat key points for impact, let's make their initial introduction impossible to forget via pacing, music and graphics.
- A large amount of the series is built on S.A.'s narrative based on his phone calls to and from prison. To ground this, perhaps there's a defining visual representation of him talking on the phone (recreated or otherwise) that could be used throughout. (for example: a diverse group of tight to medium shots of him picking up the phone, putting it down, shots from behind, tapping foot, scratching skin etc.)
- Discuss the overall use of drone footage and b-roll. As it stands, while it makes the series feel cinematic and have bigger scope, currently, the use still feels somewhat arbitrary and could be used to have greater strategic effect either to illustrate literally what is happening within scenes or it could be used to create an emotional/atmospheric arc rather than repetitive.
- Consistency in subtitles/lower third in a way that clearly distinguishes the different individuals when we are bouncing between different V.O.

# Appendix - Current Overall Structure

## Episode:

1. S.A. Background, Arrest and Rape Conviction
2. S.A. Civil Suit, Disappearance of T.H., Charges against S.A.
3. Building the case against S.A., Settles Civil Suit, Brendan is arrested
4. Analysis of Evidence, Brendan is coerced, Evidence was tampered.
5. Trial begins.
6. All trial.
7. All trial.
- 8/9. End of trial. Verdict. Brendan's trial.
10. State of family. Sandy introduction. S.A. and Brendan appeal. Innocence project analysis. Brendan's hearing for new trial. Round table with lawyers. S.A. trains himself to appeal himself and family visits. Pete reviews. Students discuss. Status of new appeal.



# Exhibit 28

# Making a Murderer

**08.17.2015 Update:**

**Episode 7 Fine Cut**

**TRT: 1:03**

**MACRO:**

Episode 7 is really coming together! This is a pivotal and challenging episode given the density of material and the sheer volume of courtroom testimony, and in particular the enormous amount of exposition of evidence. The structure is solid and serves the complexity of the story well, but the sheer density & volume of the material can at times, become overwhelming to the viewer. While we fully recognize that you've significantly pruned through the various testimonies, it is our feeling that there is further room to tighten.

While the run time of 1:03 is definitely far more in line with where we feel most of the episodes should land, because the specific material in the episode is so heavily concentrated in testimony and evidence, we would suggest targeting a shorter run time in the 50 - 55 minute zone.

Looking forward to discussing!

## Episode 7. SUGGESTIONS:

### CURRENT:

Cold open: B-roll of police cars - "FBI is going to assist in investigation...Manitowoc provided resources. That is their only role." Allan says "They had Stevie picked. They set him up. They weren't even supposed to be investigating this. Right?"

- Colburn testifies about questioning SA and finding the key. Colburn questioned about report.
- Debate abt Manitowoc PD being at crime scene.
- Buting & Strang point to Lenk as framing.
- Press conferences re police reputations.
- More testimony on Colburn conflict & press conf
- Log shows Lenk didn't sign in - he denies framing
- Judge rules EDTA admissible. Press conf abt.
- S.A. call saying they are trying to keep him in.
- Direct FBI testimony, pressconf, cross, pressconf
- S.A. decides not to testify, pressconf.

Cliffhanger: Dean explains to S.A.'s parents that good news is that 3 charges have been dropped, bad news is that murder charge is all that matters.

## Episode 7 - Detail. TRT: 1:03

- 04:00 - Fade-out on music is very abrupt/awkwardly placed here.
- 05:25 - 07:05 - Colburn testifying about the key could use a lot of tightening.
- 10:42 - Jump cuts on Strang for "Nov 5, Nov 6, Nov 7" are awkward.
- 19:00-23:30 - Consider cutting Kucharski down significantly or entirely. Establishing his lack of oversight of Lenk/Colburn was covered by the previous officer and Buting's argument about the keys falling from the bookcase is confusing/doesn't have a huge impact - it actually detracts from the point that they could have planted it. Especially when it eats up 4 ½ minutes.
- 23:30 - 25:20 - Similarly Lenk's testimony about the search could be really cut down or out.
- 25:20 - 26:00 - Buting's claim that he put the DNA on the key is really weak.
- 19-26 This whole section detracts from connecting Lenk's testimony to the officer earlier testifying that they should not have been there to begin with.
- 29:03 - Could we cut Orth after 30:45 once we've established that Lenk/Colburn weren't there at the beginning and that he started the Log (until 31:16)? Lenk's presence on the site is better established with Fassbender reading the log (and finding a record of Lenk leaving but not signing in) and Lenk himself with conflicting testimony across 2 dates (2:05 arrival vs. 6:30pm arrival)
- 34:00 - Good music ratcheting it up.
- 39:20 - Good music.
- 40:51 - Good music.

## Episode 7 - Detail

- 50:45 - consider adjusting the musical Bed for Jerry's driving interview re: the FBI retooling the EDTA test from the droning guitar and drum loop to more of an atmospheric and haunting musical bed.
- 51:35 - Buting's joke here about "do so at your peril" will only work if you keep that in Episode 5. It was confusing in 5, so depending on what you do there you might want to consider cutting it here also.
- 51:55 - Triple check Buting's statement here for legal. He is directly claiming they framed Steven. Make sure this is 100% covered in their legal filings.

# Exhibit 29

## **MAKING A MURDERER**

**Ep 6 v1 / 3.9.15**

### **GENERAL:**

**Length:** This episode is an hour and 30 min. While the court scenes are captivating we need to ensure that we're providing the essential evidence, of which there is a bounty! Let's trim where we can to ensure continued engagement and keep the pace and transition in a way that we don't lose folks in unnecessary detail unless it will play into key evidence in later episodes.

We're in a lot of detail until at around minute 39, we speak to the fact that they're at day 18 of testimony & provide a summary of facts to date via the defense attorneys. This is a welcome organizing moment to help the viewer ground all of the testimony, but let's make sure that viewers get there and are not lost before.

As an example, Dr. Leslie Eisenberg: Forensic Anthropologist, her testimony in particular is important and thoughtful, but comparatively very boring and lulling. Can we cut directly to her admitting that she can't reasonably support that there might be more than 1 burn site? When combined by the later testimony of Dr. Scott Fairgrieve: Author of "Forensic Cremation Recovery & Analysis" saying that he actually finds the evidence to be more supportive of the theory that the body was burned elsewhere and brought over is powerful. We need to really build and hold this moment.

**Pete:** An overall note as he appears across multiple episodes. Can we do something to help further substantiate who he is and why his POV is valid? He does such a good job of providing context and articulating just how out of normal protocol and extraordinary the investigation has been to date. Let's make sure he is substantiated and believable based upon his past history.

**Opening Credit Sequence:** Let's discuss today next steps for the graphics treatment.

**Beginning:** Instead of just the date, can we provide another line of context of who and what we're about to see? It's important that these cards reset the scene for the viewer, especially to remain consistent from where the viewer left off in the previous episode. Also to relabel the characters at the beginning.

**Avery's Parents:** It's heartbreaking and effective to have this up close look at parents watching their innocent son in this situation. However, it feels that we're leaning in on Avery's parents too much overall. For example, we don't need the scene of Steven's dad talking about how much blood a deer holds. Please revisit overall.

**AMOUNT OF QUARTS OF BLOOD:** During the testimonies, there seems to be a different number. Please review just to be sure.



## **SPECIFIC:**

7:33 - Re-label Steven's lawyers here. Again, to have them relabeled at their first appearance at the beginning of each episode will be helpful for the audience, even if some of these characters are consistent in each.

17:40 - 17:55 - Can we label these exhibits? Where/what? Even if there's someone describing at certain parts, it'll be helpful to both see and hear.

45:00 aprx - in this area, the testimony of Linda Eisenberg starts to really drag. The defense attorney, Strang, drags in his line of questioning as well, specifically, in his summary of events at approximately 47 minutes. We know this is an important narrative, however is there perhaps a way to make this just as impactful, but also more concise.

52:19- 55:00 - Feels like this section is lagging a bit overall. Can see if maybe speeding up Dr. Scott Fairgrieve testimony will help? It's important information but, again like Eisenberg, could if possible, use some tightening.

1:06 - Brendan Dassey's testimony section feels long - if possible, perhaps an area to tighten. Please revisit.

1:09:00 - Love the character of the woman bus driver, Buchner. She gives impactful testimony and comes across very credible.

1:12:03- The transition into FBI witness, Lebeau, feels very low energy. Can we explore ways to transition stronger into this FBI witness, maybe in a kinetic way? Since this is another significant witness, if we can transition into him in a stronger, more interesting way it should set him up better (especially for his statement at 1:15:35).

1:17:00- BIG QUESTION: Why would the FBI have a specific interest in covering up for and possibly aiding and abetting with Manitowoc County? Seems like we would maybe need to know that Manitowoc had some deep history with Lebeau/other FBI officials for them to testify in the case in such a subject manner. We are not saying we shouldn't do this arc, it just feels unlikely. This was something we bumped on. Let's discuss.

# Exhibit 30

**From:** Adam Del Deo <[REDACTED]>  
**Sent:** Friday, June 26, 2015 12:40:28 AM  
**To:** Benjamin Cotner <[REDACTED]>  
**Cc:** Lisa Nishimura <[REDACTED]>  
**Subject:** Re: Episode Breakdown

---

Great, thanks Ben. Look forward to us all chatting tomorrow.

Fun night, get some rest!

Sent from my iPhone

On Jun 26, 2015, at 12:10 AM, Benjamin Cotner <[REDACTED]> wrote:

Here is a basic breakdown of what I felt were the important plot points and potential cliffhangers for each episode.

### **EPISODE BREAKDOWN**

-

#### **Episode 1:**

Plot points:

- Dispute with cousin/masturbating on the lawn
- Penny is assaulted
- Because of bad blood with police they point the finger at Steven
- Steven has alibi and wasn't even in the area.
- Steven is convicted despite no physical evidence.
- Steven's marriage ends.
- New DNA (allele) evidence is introduced but denied on appeals.

**Cliffhanger: Innocence Project tests pubic hair and it matches Gregory Allen and Steven is released.**

**(Currently no episode break here yet)**

## **Episode 2:**

Plot points:

- Cops covered up evidence about Gregory Allen.
- Governor and legislature back police reform and award Steven \$450k.
- State AG finds no wrong doing on the part of the police despite evidence otherwise.
- Steven files \$36m lawsuit
- Cover-up is revealed (1995 phone call....this is weak revelation to me)
- Teresa is reported missing.
- Steven is fingered as a potential suspect and quickly revealed that he was the last to see her.
- Search party focuses on area around Steven's property.
- Teresa's car is found on Avery property.
- Police kick them out and search property for 8 days.
- On day 4 they find the key in Steven's room and then find her remains.

**Cliffhanger: Steven is arrested and charged.**

-

-

## **Episode 3:**

Plot points:

- Steven claims that he is being framed.
- Judge finds that there is enough evidence and sets bail high.
- The police officer that found the key knew about Steven's wrongful conviction.
- Community is divided.

- Steven talks about suicide.
- Steven settles the civil suit to cover his legal bills.
- Gets lawyers.
- Brendan confesses to helping Steven.

**Cliffhanger: Brendan is arrested and charged.**

-  
-

#### **Episode 4:**

Plot points:

- Phone calls reveal that Steven was talking to his girlfriend who was in jail the night of the murder and he sounds totally normal.
- Brendan's lawyer try to get him to accept plea deal and testify against Steven.
- Brendan's confession is ruled admissable.
- Detectives convince Brendan to confess to his mother.
- Brendan requests new lawyer but is denied.
- Lawyers changed, venue changed, etc

**Cliffhanger: They find a tampered with blood vial.**

-  
-

#### **Episode 5:**

Plot points:

- Trial starts.
- Brendan's brother testifies.
- Manitowac Police didn't obey the order to not go to property alone.
- Key to the car wasn't found until the 7th search of his bedroom.
- Explanation of the search and the fact that Pamela Sturm went straight to the car.
- Sergeant Colborn had called dispatch and called in Teresa's license plate before the missing car was found. (potential cliffhanger)\***
- Evidence that she was killed off the property.

**Cliffhanger: \* or combine with Episode 6**

-

**Episode 6:**

Plot points:

- Bullet found in garage with her DNA - no blood splatter there.
- DNA test control was contaminated by the technician.
- Cremains were transferred after burning, body was burned elsewhere.
- Timeline called into question by busdriver and another witness.
- Someone was harassing Teresa and erasing her VM.

**Cliffhanger: FBI comes up with the EDTA test and "proves" that the blood wasn't from the tampered with vial. (this is brought up from Episode 7)**

## **Episode 7:**

Plot points:

- Closing arguments including many contradictory statements by the prosecution.
- Steven decides not to testify.
- Brendan found guilty.

Cliffhanger: ? (combine with Episode 8?)

## **Episode 8:**

Plot points:

- Steven loses all of his appeals.
- Steven gets together with Sandy.
- Brendan tries to get a new trials base on the fact that Kachinsky coerced him to plead guilty.
- Brendan revealed looking like a different person.
- The DA has women come forward against him, he resigns.
- Steven tries to appeal to Federal court.

# Exhibit 31




**From:** Benjamin Cotner <[REDACTED]>  
**Sent:** Thursday, August 27, 2015 3:11:53 AM  
**To:** Lisa Nishimura <[REDACTED]>  
**Cc:** Adam Del Deo <[REDACTED]>  
**Subject:** Re: Episodes 5 & 6

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I'm glad you said that about the end of 6 - i was on the fence about it. It feels very speculative and I don't think they ever deliver enough of a silver bullet to be able to make this direct of a claim about Lenk.

On Wed, Aug 26, 2015 at 9:30 PM, Lisa Nishimura <[REDACTED]> wrote:

- > Agree with all your points, in particular the need to have music do some
- > heavy lifting to help keep us engaged in these far more dense courtroom
- > episodes. Macro question on music, did you discuss on your call last week
- > whether what we are hearing is the final sound design or are they planning
- > to have someone come in and refine after picture lock?
- >
- > Few additional points -
- > Episode 5 -
- > I liked the addition use of music under Bobby Dassey's testimony when he
- > says, "I saw Teresa walk toward Steven's trailer". I don't know that I saw
- > them use this method again however. Given the density of the testimony
- > footage, it would be a good technique to further employ. (e.g. Ryan
- > Hillegas testimony or Fassbender testimony when he admits that he did not
- > question Scott the roommate)
- >
- > New footage of Kratz further on his heels in the press conference post the
- > Ryan Hillegas testimony re: Teresa's voicemails.
- >
- > The much abridged interview with Dolores and Allan after the Bobby Dassey
- > testimony section is far more effective.
- >
- >
- > Episode 6:
- > Question to both of you - what do you think of this ending? The last 5
- > minutes of this episode? Is there enough attached to Lenk taking the stand
- > to really keep you hooked? This coming off of terrific closes in episode 4
- > & 5.
- >
- > Looking forward to your thoughts so we can get these notes over to them
- > asap. T/hanks!
- >
- >
- > On Wed, Aug 26, 2015 at 7:25 PM, Benjamin Cotner <[REDACTED]> wrote:
- >
- >> Here are some notes on Final Episodes 5 & 6. Overall, I think it would
- >> really help if they did something more interesting with the music to carry
- >> us through these two very technical episodes. Just punctuating the
- >> interesting points and using music to go in and out of scenes is actually
- >> highlighting how segmented these episodes are. I think they just need
- >> someone more experienced with music design to help.

>>  
>> Episode 5  
>>  
>> Runtime 57:50  
>>  
>> 00:58 - Should the card say "develop a NEW chemical test"?  
>>  
>> 47:52 - Like the cards saying that Earl gives permission - this helps!  
>>  
>> 54:20 - setting Colburn up as the potential cop to plant the car works  
>> really well now. Great end to this episode.  
>>  
>>  
>> Episode 6  
>>  
>> Runtime 1:00:45  
>>  
>> 13:20-14:22 - Please consider trimming down Allan entering the courtroom  
>> here.  
>>  
>> 17:46-18:15 - Possibly cut down this montage of b-roll.  
>>  
>> 29:57-30:35 - Buting's commentary is weak here - he doesn't make his  
>> point articulately and we spent so much time in court with him arguing this  
>> already that this seems redundant.  
>>  
>  
>  
>  
> --  
> Lisa Nishimura  
> VP, Original Documentary & Comedy Programming  
>   
>  
>

# Exhibit 32


# Making a Murderer

**Episode 5.**

**CURRENT:**

Cold open:

**SUGGESTIONS:**

- 
- Drop sexual assault charges against S.A.
  - Day 1 of trial.
  - Opening statements (a lot about VM messages)
  - Det Jacobs call (do we have a body?)
  - S.A. questioned about T.H.'s appointment.
  - Bobby says he was asked to help get rid of body.
  - Debate about VMs.
  - Judge blocks from talking about other suspects.
  - Dean asks about roommate.
  - Ryan H admits to figuring out her password.
  - Boss (Sheriff?) says to search Avery property.
  - Review of finding Rav4 and what followed (Pam)
  - Dolores shows us where the car was found.

Cliffhanger: Colburn testifies about calling in the license plate before the Rav4 is discovered.

## **Episode 5 - Detail (1hr10min)**

This episode has come a long way. The new edits around the blood vial are much improved, however the top of the episode still feels very slow to start because of the opening statements, but once the ball gets rolling it uncovers a lot of the evidence. It is doing a much better job of painting the picture that there were several other potential suspects who were not investigated.

What is the context of him saying "If the defense wants to put forth their defense then they do so at their own peril."? This statement feels clunky, out of place and perhaps unnecessary.

07:05 – Buting and Strang discussing the jury questionnaires – they're frustration is coming through in an almost pissy/sarcastic way and feels pretty long.

8:30 – Something bumps in the cut of Dolores watching the news coverage, something missing in the stitching to make it a convincing cheat.

## **Episode 5 - Detail (cont.)**

09:00 – 09:50 – Check the chyron - it reads Feb 12, 2005 first day of court. I believe this is meant to be 2006 or 2007. Do we need the b-roll of the empty courtroom and the press room? Music scales up over this rather than over people entering courtroom. As a result, it lulls back down before Kratz' opening statement.

09:50 - 12:45 – Kratz' opening statement goes on a long time and seems to meander a bit. Review to tighten

12:45 – 13:00 – Do we need the judge giving instructions not to discuss the case?

15:30 – “Both were questioned about their own activity and conduct with respect to Mr. Avery’s imprisonment.” Is there a sound byte here that references that this is in relation to the older rape charges? The year is easy to miss and this could be confusing for people not really familiar with the timeline.

15:30 – 19:55 – All of Strang’s opening statement is really important, but look at tightening – even tiny trims will help. This much talking in a courtroom begins to make for a really dry episode. Perhaps music could help? This episode is naturally so courtroom heavy that we need to try really hard to help people through it.



## **Episode 5 - Detail (cont.)**

- 23:15 – Great cut between Bobby Dassey testimony and the news coverage – and the music nails it!
- 26-27:00 – Well cut/music works to show the press' doubt on the Bobby Dassey testimony in contrast with the Judge's ultimate decision not to call a mistrial or instruct the jury to disregard. Would look to have the music hit slightly harder w/the card stating that the judge does not call a mistrial or direct the jury to disregard.
- 28:20 - How important is it to have this interview w/Dolores and Allen re: Bobby Dassey? She says, "half of that stuff isn't even true, implying that half of it is - feels too vague to make a point."
- 36 – 36:45 – They are arguing about whether or not the judge will allow the cell phone testimony in front of the jury, but we don't see his decision.
- 37:30 – 38:15 – Strang's comments seem a bit preachy and obvious – do they really further the story or raise a question that the material doesn't naturally raise?
- 49:00 – Did Pam and Nicole search the junkyard after the Sheriffs got the Avey's permission? Did Steven give them permission?
- 53:00 – The Tammy Webber information is interesting, but without knowing who she is or how much weight this holds it could be confusing. Do we have more information on who she is or should we consider taking this out?
- The Colburn ending is terrific! - can we add music to help emphasize further? He goes from being so sure and then is caught in a clear lie about the origin of the car make and model.



## **Episode 5 - Detail (cont.)**

Question - where are we utilizing the Teresa Halbach home video of her talking about life, and how she would feel if she died now? Is there a strategic place to put within this episode or do you have plans to utilize strategically elsewhere? It's extremely powerful, particularly once the viewer has established a connection.

It should be knowable when Teresa made that video. Do we have that information? Could we accurately lay it within an episode to coincide with the actual events of that time.

**Was it ever administered as evidence in the trial? If so, when?**

**CURRENT:** Episode 6. **SUGGESTIONS:**

Cold open: Card says one day after Brendan's arrest there is a press conf. Kratz describes how S.A. instructed Brendan to cut T.H.'s throat. Police search residence and garage for new evidence. Kratz claims physical evidence now makes sense.



- Bullet found in garage - Lenk was present.
- No T.H. DNA found in trailer or garage.
- Bobby only thing placing her inside.
- Skull fragments.
- Sherry: blood on bullet matches despite botching
- Defense tried to have labwork monitored, denied.
- Everyone reiterates there would have been blood
- Bones and barrels conversations.
- Bloody hair in trunk.
- Timeline debate (Bobby D, bus driver, Scott T.)

Cliffhanger: School bus driver has a different timeline than Bobby. Lawyers explain that the prosecution still hasn't put forth a theory about when and where she was killed.

## Episode 6 - Detail (59min)

- Opening chyron - propose to change to read that Kratz and Pagel HOLD a press conference (versus held) to keep it present tense.
- 1:20 - Music at end of Kratz' press conf is fantastic.
- 08:02 - Good sound design punctuation on the end of Remiker's testimony, can we further add a musical cue when it's confirmed that Remiker saw Lenk on the property?
- 16:20 - Do we need this press conf from Kratz? Seems it would be powerful to go straight to photo of Teresa.
- 22:24 - Possible to trim down people entering courtroom/walking around press room and get straight back to Sherry?
- The entire burn barrel testimony is still very long.
- 46:00 - **Dorothy and Allan visiting Steven; is this scene necessary?**
- 48:37 - 49:39 - Buting isn't very concise here. Is it possible to do some dialogue trims and get him to the point faster?
- 58:45 - Are there too many quotes at the end? Could we end with Buting's line "I'm still waiting."? That might achieve the same result as "Spring it on us at the last minute.", but without the redundancy.
- You've just come off terrific cliffhanger closes with the blood vial in ep 4, and Andy Colburn caught in a lie in ep 5. Comparatively, this close doesn't feel as impactful or urgent. One suggestion would be to pull up the open of 7, eg Manitowoc police being on site when they weren't supposed to be part of the investigation.

## Episode 6 - Detail (59min)

key moments of testimony where **music cues can be added:**

- Ryan - 1) has Teresa's vm pw 2) can't remember what time of day he saw Teresa last
- Sherry Culhane - 1) confirming that Fassbender specifically asked her to try to find DNA of Teresa in Steven's trailer. 2) Her deviation from protocol. 3) She never found Teresa's DNA in Steven's trailer AND also did not find Brendan Dassey's DNA there either
- Scott Tadych - after he is so confident about the time he left (2:45), then Dean has him read his statement to police 16 months earlier, time is 3:15 and the flames are 3 ft. versus 10 ft.
- Bobby Dassey - testimony about being so confident that he and Scott ident one another precisely at 2:45, but under oath say that the two of them did not coordinate or talk about this statement.

# Exhibit 33

**From:** Marjon Javadi <[REDACTED]>  
**Sent:** Monday, November 10, 2014 4:52:44 PM  
**To:** Adam Del Deo <[REDACTED]>  
**Subject:** Re: Mom episode 1

---

will do

---

Marjon Javadi  
Originals, Documentary and Comedy  
Netflix

On Mon, Nov 10, 2014 at 4:51 PM, Adam Del Deo <[REDACTED]> wrote:

- > Episode 1 & 2 for Murder. Place these in the murder notes.
- >
- > LMK if you have any questions.
- >
- > Thanks,
- > Adam
- > ----- Forwarded message -----
- > From: Adam Del Deo <[REDACTED]>
- > Date: Mon, Nov 3, 2014 at 9:29 AM
- > Subject: Mom episode 1
- > To: Adam Del Deo <[REDACTED]>
- >
- >
- > - Need a great opening title sequence
- >
- > - Opening title sequence
- >
- > - Should be at least 84 minutes
- >
- > - Better balance and rhythm - some scenes feels cut short, other go on
- > too long. There need to an elevated approach to this. Currently, feels
- > novice at best, not expert.
- >
- > - tighten up the beginning. Currently it feels like it's a bit of a
- > run on sentence in the next pass let's try to make clear distinctions
- > from section to section and create some transitional devices. An
- > example is the section prior to meeting Sandra Morris for the first
- > time. Once we meet Sandra Morris we should turn using transitional
- > device to demarcate that we are moving into a new section of the
- > story.
- >
- > (find the timecode parentheses) - We should perhaps use a tape deck
- > when we are hearing Steven Avery talk throughout the series. It should
- > be a stylized tape deck something that is unique and interesting for
- > this project. The first time we should use it is when Steven Avery is
- > giving testimony about Sandy Morris. Specifically, when he says he

- > says he is upset with her that she was spreading rumors about him.
- >
- > 8:30 - do we have any great family pictures of the Avery's here? Let's
- > make them look like a very happy family.
- >
- > 11:05 - are there any pictures of Sandy Morris and Susan Dvoreck
- > together? This would establish them as very good friends.
- >
- > 12:00 - perhaps show/cut an intense scene of Stephen being arrested.
- >
- > Overall note-by using font or other VFX design let's try to identify
- > and mark all the various characters, specifically the sheriffs
- > department staff.
- >
- > 19:10 do we have any shots of the town getting rabid about the trial.
- > Newspapers, TV clips, or other witnesses separate of the defense
- > attorney talking about the town. Better to see than just hear Reesa
- > Evans.
- >
- > 19:35 - Who are the police? The lawyer says that the police told the
- > sheriffs county that they have the wrong guy but it's not certain who
- > the police are.
- >
- > 19:47 maybe when we show Gregory ounce picture for the first time we
- > juxtapose it next to Steven Avery's. The similar photos-or similar
- > likeness of the two individuals-will come across with a strong impact.
- >
- > 20:30 - we need to make a clear distinction between the Manitowoc
- > police department and the sheriffs department. is there a visual aid
- > they can help us with this - let's discuss.
- >
- > 23:04 - cut back to Steven when his dad says "I didn't do it!"
- >
- > 23:25 - it should hit harder when Steven is convicted to 32 years in
- > prison. That should really hit like a ton of bricks.
- >
- > 29:30 - can we see some of the excerpts described in the court of
- > appeals. Looks like we showing some of the court of appeals statements
- > might make them resonate more.
- >
- > 32:33 - Gregory Allen "hit" should feel bigger, not subtle.
- >
- > 32:40 - let show the process, legally, of Steven Avery getting out of
- > prison as opposed to just showing him walking out. Let's build up of
- > this and instill a little delayed gratification in the release of
- > Steven.
- >
- > 34:20 - let show more verite scenes of Steven went to gets home from
- > prison - let this play out more.
- >
- > 35:05 - do we have anyone separate if Reesa that knew the Sheriff's
- > we're pissed that Steven got off.
- >
- > 36:30 - any footage of shots or documents of Dennis Vogel trying



- > Gregory Allen two years before the Penny Beersten case? We need
- > better visuals here when we are hearing Vogel had to have known it was
- > Allen.
- >
- > 40:00 - the photos of Steven and his family feel displaced also the
- > music. Tonally he feels like it's off. Awkward and disjointed scene.
- >
- > 41:30 - need a graphics sequence here?
- >
- > 49:30 how do we, the audience, know Colburn was contacted. Why does
- > Colburn even mention it. Did it come up from the person who called
- > him? This is confusing.
- >
- > 55:00 - seems very thin that Colburn not having specific knowledge of
- > who called him would be the key to the case. Who called Colburn. No
- > email? Not fax? Could they track the call. If you are Colburn, why
- > even disclose.
- >
- > 1:00 is there any raw footage of the Stephen A. reinterview that's on
- > the news after Teresa Halback was murdered? Very interesting that
- > Steven invites the police into his house without hesitation. Would be
- > great to see the raw footage around that if the new station still has
- > it.
- >
- > Music is weak over Teresa Halback's mother. Feel like it would be better.
- >
- > 1:02:00 - The Halback search feels like it could be more kinetic
- >
- > 1:09:25 - good card re: The Avery's not allowed to be on their
- > property for 8 days.
- >
- > 1:09:40 better music over this scene
- >
- >



# Exhibit 34

**From:** Lisa Nishimura <[REDACTED]>  
**Sent:** Friday, September 4, 2015 9:40:30 AM  
**To:** Benjamin Cotner <[REDACTED]>  
**Cc:** Adam Del Deo <[REDACTED]>  
**Subject:** Re: MAM Final Ep7

---

I agree with all your notes, in particular providing a visual timeline around the site visit logs of Teresa's Rav 4.

Also question - is it worth investigating and confirming that not only has the EDTA test not been used since OJ, but ALSO that no court has admitted this testing methodology SINCE the use here for Steven Avery (Not sure if it's true - but curious if you feel it is worth making this point).

The episode is for sure a factual slow w/o any singular smoking gun, but the evidence and testimony is so overwhelmingly disconcerting - that I believe the additive effect of it all will be powerful in pushing the narrative forward regarding police bias.

Do you want to put the notes together? I'm not sure if Adam has connectivity on this flight and doesn't get in until later this afternoon.

Thanks!

On Fri, Sep 4, 2015 at 7:42 AM, Benjamin Cotner <[REDACTED]> wrote:

- > They cut 2-3 minutes out and every little bit helps. This is a bridge
- > episode that really covers a lot of the weaker arguments (key falling on
- > the floor, police log, access to Clerk's office, EDTA...). So, it is a lot
- > of information that is important without any real smoking guns. As a
- > result, this is probably the most dry episode. I'm not sure there is any
- > getting around it at this point. Here are my few little notes.
- >
- > 20:20 - Music hear has a distinctly western sound that stands out a little
- > bit from the palate of the rest of the film.
- > 30:00 - I still think a simple timeline graphic listing the times related
- > to the police log would help this scene along a lot. Just listing a) time
- > the log was created and time officers arrived and times they departed (or
- > claimed they arrived or departed) would help the audience understand why
- > all of this matters. Without a timeline putting it into context, it just
- > feels speculative and grasping for conspiracy when it really could have
- > just been a simple oversight that Lenk didn't sign in.
- > 37:00 - Music might be a little bit over the top here.
- >
- > If you let me know any additional ones I can put it together in a
- > document.
- >
- >
- >

--  
Lisa Nishimura  
VP, Original Documentary & Comedy Programming  
[REDACTED]

# Exhibit 35

**From:** Lisa Nishimura (Google Docs) k+ <MTA0NjYxNTU3MzMzMzMyMjMwMDI1OTYz-MTA0OTQzODk5MTIyOTc2Nzc1MjQx@docs.google.com>  
**Sent:** Sunday, July 5, 2015 7:20:51 PM  
**To:** bcotner [REDACTED]  
**Subject:** WORK IN PROGRESS ... - 22:50 - Is the Griesbach testimony ke...

---

Lisa Nishimura added a comment to WORK IN PROGRESS - Making a Murderer Breakdown

(<https://docs.google.com/a/netflix.com/presentation/d/1SJPtq2miuPcUCufUD-iDpAVUbJifdAzKFgzCltczDJw/edit?disco=AAAAAQ2neCk>)

Lisa Nishimura

| 5:55 - What Walter Kelly is saying about the AG's report is very interesting, but he is very slow and unclear in his diction - probably it ultimately isn't necessary. It could even be as simple as saying "they felt like they were talking law enforcement to law enforcement so were fairly candid."

14:00 - The phone call that Colburn receives and the subsequent flow of information to other figures in the Sheriff's department is something we keep going back to throughout the series. It would really...

22:50 - Is the Griesbach testimony key in establishing Vogel as intentionally crooked. He is more effective IMO in this episode vs. in the actual historic testimony presented later.

You received this email because you are subscribed to all comments on WORK IN PROGRESS - Making a Murderer Breakdown.

Change

([https://docs.google.com/comments/u/104661557332230025963/docos/notify?id=AAHRpnXuNE-eWfYydzPeEgC\\_D09N18oQgZBjDbC9DhPN-9\\_s\\_UExtKH58050bXJ7oDWg5wFCBuTF3F2NOW54fc\\_r42lfzut6Gs5bj\\_cIhL5EwAuGfCyOB9A&title=WORK+IN+PROGRESS+-+Making+a+Murderer+Breakdown](https://docs.google.com/comments/u/104661557332230025963/docos/notify?id=AAHRpnXuNE-eWfYydzPeEgC_D09N18oQgZBjDbC9DhPN-9_s_UExtKH58050bXJ7oDWg5wFCBuTF3F2NOW54fc_r42lfzut6Gs5bj_cIhL5EwAuGfCyOB9A&title=WORK+IN+PROGRESS+-+Making+a+Murderer+Breakdown))

what Google sends you.

You can reply to this email to reply to the comment.

# Exhibit 36

**From:** Adam Del Deo <adeldeo@netflix.com>  
**Sent:** Thursday, July 16, 2015 6:42:02 PM  
**To:** Lisa Nishimura <lnishimura@netflix.com>  
**Cc:** Benjamin Cotner <bcotner@netflix.com>  
**Subject:** Fwd: MOM - 8-9-10 comments

---

----- Forwarded message -----

From: Adam Del Deo <adeldeo@netflix.com>  
Date: Thu, Jul 16, 2015 at 6:39 PM  
Subject: MOM - 8-9-10 comments  
To: Benjamin Cotner <bcotner@netflix.com>

Episode 8

-

Jerry Butting doing a contextual summary, after Kratz opening remarks, feels forced when providing. Cut this interview.

-

If we know the verdict is going to be read, do we need to see people reporters running into the court. Feels redundant. use one or the other.

-

The reading of Steven's guilty verdict feels slow and anti-climatic. The non-musical and low key nature of it currently is too subtle and not impactful enough.

-

After the verdict, the press conference really drags on as well we as Jerry's conversation with w/ Steven's parents.

-

"These Sleazy Bastards get away with it" - Civil Rights Lawyer says this but it feels very subjective. Consider losing.

-

MUSIC DOESN'T WORK

-

GOOD RUNNING TIME

Episode 9

-

Use the time line graphic with Brendan tape playback - this can establish one of the different timelines.

-

Brendan's attorney is good examining the investigator - poking at the recollection works well.

-

Why didn't Brendan Dassey's mom take the stand and tell the jury she wasn't allowed to sit with Brendan.

-

Strong Editing in the Kaley Dassey courtroom scene. The cut aways to news footage showing the specifics of the murder work well.

-

Graphic when Brendan is describing where everyone lives might work well.

-

Also, TIME LINE that Brendan maps out is very important to add when Brendan is on the stand explaining what he does when he arrives home from school.

-

NEED A GOOD GRAPHIC THAT CAN SHOW THE RASHOMON TIME LINES

-

KISS THE GIRLS descriptions of murdering - does it match with Brendan's testimony. Also, separate of the writing in Kiss the Girls are there images. Let's discuss.

-

Add suspense music when everyone is scrambling to get into courtroom to hear verdict (a la INSIDER score when Jeffery Wigan is deciding to testify).

-

Andy Colburn is there, again? Maybe worth ID'ing him.

-

Was this trial held given that it was a Madison Jury?

-

Add a suspense beat and ID Tag "Sentencing" just so they are clear

Episode 10

-

What's the Kratz letter say? Tough to say.

-

Lose Pete Baetz in Episode 10? Also, lose Pete Baetz overall.

-

Cut or trim current girlfriend, Sandy, and his mother. Too slow so look to trim if possible.

-

Also, the subsequent scene w/ Steven's girlfriend only we could probably lose as well.

-

53 Min in - the slack key guitar needs to be replaced. Sooo sleepy. Totally not right.

# Exhibit 37



Hi Lisa,

Thank you for visiting FFI this past Wednesday to discuss the status and action steps going forward for "Making A Murderer." The meeting was very informative & helpful, and this email is intended to recap our discussion:

1. There will be eight (8) episodes between 45 - 60 minutes in length, with most anticipated to run approx. 60 minutes. Correct
2. All 8 episodes currently have written outlines, which have been approved by Netflix. Correct
3. Episodes 1 through 3 are at what we might call the "director's cut" stage, without having any post done. Correct
4. While no additional photography is absolutely necessary, the directors wish to shoot some more establishing-type footage and other embellishments. If there are material developments in the case, it would also be desirable to shoot additional footage depicting those events. You will discuss the shooting plans with the directors and let us know what the current plans are. Correct. Shooting schedule attached as tab in the excel schedule workbook provided. As is typical, these dates are not absolute and subject to change.
5. Netflix has screened the "cuts" of Episodes 1 - 3, but has not provided notes yet. Correct
6. Netflix asked if it would be possible to see all the cuts firsts, i.e. episodes 1 through 8, prior to providing notes. You let them know that this will not be possible due to the demands of the post process. Correct
7. Episodes 4 - 6 have "sketches" done, which are essentially "arcs" consisting of approximately fifteen minutes of assembled footage. Episodes 4 & 5 have sketches
8. Episodes 7 & 8 just have approved written outlines at this time.  
Episodes 6,7 & 8 have approved written outlines
9. Since Netflix will provide notes on the cuts of each episode, the timely delivery of the episodes to Netflix for review - - - and the prompt return of notes to the directors from Netflix - - - will need to be carefully coordinated. This needs to flow properly in order for the post process to stay on schedule and all parties must work together to make this happen. Correct
10. Netflix has final cut. Correct
11. All footage to date has been shot on HD or SD. The original footage has been vaulted in a lab in New York. There is a copy of all the footage at the director's house / cutting room. There is a second copy of all footage at your house. I suggested moving the copy at your house to Foto-Kem in Los Angeles.  
Master Tapes are stored in NY at Moira Demo's sisters home. Duplicate tapes are at the Synthesis offices. We have 3 copies of all digital files, (captured SD footage, HD footage, audio files, graphics etc). 2 copies are at Synthesis office, 1 copy is Lisa Dennis's residence. One of the copies at the Synthesis office is intended to go to Fotokem.
12. The directors have a duplex with the cutting room in the back. There is a server and four or five workstations. This is where editorial will take place. Correct
13. I suggested that RC Baral (Leah Holmes) be engaged for post accounting. You mentioned that very few checks will need to be cut, but I would like to see the spreadsheet budget put into a more standardized format with cost reports generated by Leah. You'll contact Leah to discuss. I'm in discussion with Joel Baral regarding taking on the series. We will be forwarding the budget to him for review.
14. Ron Levin is doing production legal, with his fee capped. You'll break out the other legal estimates in your next pass of the budget. Correct. While a copy of the budget is attached it has not been updated to reflect the changes we discussed. We will resend a revised budget after RC Baral does their review.
15. Episodes 1 & 2 are considered the pilot, and assembled together. There will be a total of seven (7) "projects" or EDL lists generated. I let you know that we'll want to have those EDL lists backed up daily off-site and have access to them. Correct and agreed to.
16. You've received a relatively brief delivery schedule from Netflix (that is lengthy in terms of the tech specs). Greg Trattner suggested that you provide that to us for review, since we wish to confirm the Netflix deliverables and that might serve as a good

basis. Correct, and attached. The attached delivery schedule and delivery specs. were provided to me by Netflix on Monday, April 21. Netflix has not provided a standards and practice document.

17. During our meeting you provided some updated materials to me. Please forward them to me by email as well so I have them digitally. You will send the "expanded" post schedule, proposed shooting schedule, and revised insurance quote or docs you've received based on our requirements. Correct, and attached.

18. We need to further discuss our insurance requirements and how they pertain to this project type. Agreed

19. You'll provide the Wildfire (sound) and Foto-Kem bids that you've received. Correct, and attached.

20. You believe that life-rights agreements for the two principal subjects of this documentary have been drafted and will be signed. You let me know that the courtroom footage from the video tap shot by the directors that will be included in the series was deemed to be public domain by the Judge. It was shared with news outlets. You'll review the footage to determine if any third-party footage needs to be licensed. Frank: It remains to be seen whether we will rely at all on Fair Use. If so, we have a list of attorneys who've been approved by the E&O underwriter for projects that rely to some extent on Fair Use. And to the extent necessary pursuant to the licensing agreement, the attorney will provide a Fair Use opinion letter. (Mind you, Ron and one of the clearance attorneys with whom Laura spoke said the Fair Use opinion letter on top of the E&O policy is a "belt and suspenders" approach).

Please see attached document listing Available Documenting Rights and Clearances and an explanation of Protection from Interference by Third Parties

Lisa, I believe the above summarizes what we discussed fairly completely and accurately. Please let me know if you suggest any changes, corrections or additions. I am really looking forward to working with you on this exciting project. At a certain point, we'll schedule a follow-up meeting that with you, Laura & Moira to further discuss. Please let me know if Greg or I can be of any assistance as we move forward.

Best,

Frank

Frank Isaac  
SVP Production  
9000 Sunset Bl  
Los Angeles, CA 90069  
310-275-7323  
[frank.isaac@ffi.com](mailto:frank.isaac@ffi.com)

# Exhibit 38

**Archived:** Tuesday, August 23, 2022 11:46:41 AM

**From:** [April Barker](#)

**Sent:** Wednesday, August 3, 2022 10:38:39 AM

**To:** [Walker, Leita \(Minn\)](#); [George Burnett](#)

**Cc:** [Kevin Vick](#); [Parsons, Emmy \(DC\)](#); [Kelley, Matthew E. \(DC\)](#); [Salomao Nascimento, Isabella \(Minn\)](#); [Meghan Fenzel](#)

**Subject:** Re: Follow up on documents mentioned at Plaintiff's depo

**Sensitivity:** Normal

---

**EXTERNAL**

Leita,

With respect to the first bullet point, I don't know off hand of documents that Mr. Colborn may have had in mind. If we identify documents that fit that description, we will advise.

With respect to the second bullet point, I am not certain what Mr. Colborn may have been attempting to describe, but independently of his testimony, we are aware of communications between the parties regarding a visit by Netflix representatives to Chrome's editing studio. Although my recollection is that those who were deposed claimed to have little if any recollection of the events at that visit, there may be a reasonable inference that could be drawn. We would have to give this further consideration before we would formally supplement interrogatory responses on this point, however.

I do not know the answer with respect to a possible list of phone numbers, and I will have to look into that.

With respect to the last two bullet points, I believe that we have now been provided those documents and they will be Bates stamped and produced shortly.

April

---

**From:** Walker, Leita <WalkerL@ballardspahr.com>

**Sent:** Monday, August 1, 2022 3:43 PM

**To:** April Barker <abarker@sbe-law.com>; George Burnett <GB@lcojlaw.com>

**Cc:** Kevin Vick <kvick@jassyvick.com>; Parsons, Emmy <parsonse@ballardspahr.com>; Kelley, Matthew E. <KelleyM@ballardspahr.com>; Salomao Nascimento, Isabella <salomaonascimento@ballardspahr.com>; Meghan Fenzel <mfenzel@jassyvick.com>

**Subject:** Follow up on documents mentioned at Plaintiff's depo

Dear April and George,

During Mr. Colborn's deposition, he testified about a number of documents he either said he had previously seen or which he had provided to you. We have searched for these documents, but do not believe they were ever produced to us. As we noted during Mr. Colborn's deposition, we would request that you please promptly produce these documents, as they are clearly relevant to the litigation based on Mr. Colborn's deposition testimony. Those documents are:

- Vol. I Tr. 183:19-184:6 → Mr. Colborn testified that he believes he's seen "documents that did say that Netflix employees had a few transcripts of the criminal trial of Mr. Avery." We believe Mr. Colborn is mistaken, but to the extent any such documents exist, we would request that you produce them to us or supplement Mr. Colborn's discovery responses to identify them, to the extent the documents were produced in this litigation by Netflix or the Producer Defendants.
- Vol. I Tr. 184:7-20 → Mr. Colborn testified that he believes "my attorneys do have evidence that Netflix employees did view both civil and criminal . . . video of me testifying both in deposition and in [Avery's] criminal trial for the murder of Teresa Halbach," but was not sure whether that was raw footage or edited footage the filmmakers provided to Netflix. We do not believe any evidence that Netflix viewed or even received raw footage exists, but to the extent you have such evidence, we would request that you produce it to us or supplement Mr. Colborn's discovery responses to identify them, to the extent the documents were produced in this litigation by Netflix or the Producer Defendants.
- Vol. I Tr. 204:14-205:19 → Mr. Colborn testified that he "provided a list of all the phone numbers, including overseas numbers," for the anonymous calls he received. While we received recordings of the 89 voicemails, we do not have any such list and if it exists we request you produce it to us.
- Vol. II Tr. 262:23-264:5 → Mr. Colborn testified that he "printed [ ] out or emailed [ ] to my counsel" the Facebook post and comments of the individual who ran for mayor for the City of Green Bay, which he posted about Mr. Colborn after Mr. Colborn escorted this individual to the NICU. We would request that you produce those documents to us.
- Vol. II Tr. 277:18-279:23 → Mr. Colborn testified about an article by or involving Scotland Yard in which members of that investigative agency were interviewed and stated Mr. Colborn planted evidence. He testified that he may have provided his counsel with the article but if not that he would search for the article, and if it existed, he would provide it to us. We would request that you produce the article to us, to the extent it exists.

Please let us know when we can expect to receive these, or if there's any need for the parties to discuss.

**Leita Walker**  
**Ballard Spahr**  
LLP

---

[2000 IDS Center, 80 South 8th Street](#)  
[Minneapolis, MN 55402-2119](#)  
[612.371.6222](#) direct  
[612.371.3207](#) fax

[walkerl@ballardspahr.com](mailto:walkerl@ballardspahr.com)

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[www.ballardspahr.com](http://www.ballardspahr.com)

# Exhibit 39

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN  
MILWAUKEE DIVISION

ANDREW L. COLBORN, )  
)  
Plaintiff, )  
)  
vs. )  
)  
NETFLIX, INC., CHROME )  
MEDIA, LLC, f/k/a )  
SYNTHESIS FILMS, LLC, )  
LAURA RICCIARDI, and )  
MOIRA DEMOS, )  
)  
Defendants. )  
----- )

No. 19-CV-484

\* \* \* C O N F I D E N T I A L \* \* \*

June 30, 2022  
10:40 a.m.

Deposition of MARY MANHARDT, held at  
the offices of Veritext, 7 Times Square, New  
York, New York, pursuant to subpoena and  
notice, before Laurie A. Collins, a Registered  
Professional Reporter and Notary Public of the  
State of New York.

1 to Miles scanning the 2007-'15 SA case file pulls  
2 for you.

3 Do you see that?

4 A. Yes.

5 Q. Was it your understanding that was a 03:10:40  
6 reference to the civil case file materials?

7 MR. VICK: Objection, lacks foundation,  
8 calls for speculation.

9 A. I have no idea. But, again, because  
10 this is -- it might have been any, I don't know, 03:10:56  
11 post-conviction stuff. I really don't have a  
12 clue. But it was for 8 that became 10.

13 Q. I'm just trying to figure out how much  
14 of the various court file materials you reviewed  
15 with respect to the various cases. 03:11:21

16 What do you recall -- strike that.

17 Do you recall having, for example, for  
18 the Avery civil case access at any time to all of  
19 the case file materials that were obtained from  
20 the civil case clerk? 03:11:36

21 A. No. If I were to go through all that  
22 stuff, we'd still be editing. It was -- it was --  
23 that is outside the editor's purview. I will say,  
24 however, that when -- any time I had a question  
25 about chronology, Laura brought in all the 03:11:55



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C E R T I F I C A T E

STATE OF NEW YORK )  
: ss.  
COUNTY OF NEW YORK )

I, LAURIE A. COLLINS, a Registered Professional Reporter and Notary Public within and for the State of New York, do hereby certify:

That MARY MANHARDT, the witness whose deposition is hereinbefore set forth, was duly sworn by me and that such deposition is a true record of the testimony given by the witness.

I further certify that I am not related to any of the parties to this action by blood or marriage and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of July 2022.



LAURIE A. COLLINS, RPR

# Exhibit 40

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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN

-----  
ANDREW COLBORN,  
Plaintiff, CIVIL ACTION NO. 19-CV-0484  
-vs-  
NETFLIX, INC., ET AL, \*\*\*CONFIDENTIAL\*\*\*  
Defendants.

-----  
DEPOSITION OF: BRENDA SCHULER  
DATE: May 20, 2022  
TIME: 8:39 a.m. to 4:57 p.m.  
LOCATION: Godfrey & Kahn, S.C.  
833 East Michigan Street  
Suite 1800  
Milwaukee, Wisconsin 53202  
REPORTED BY: Janet D. Larsen, RPR

1 A. I do.

2 Q. And you believe Brendan Dassey is a guilty man?

3 A. A different capacity but, yes.

4 Q. And you believe that Mr. Colborn is an innocent  
5 man and that he did not plant evidence to frame  
6 them; correct?

7 A. Correct.

8 Q. And you think that Making a Murderer and Kathleen  
9 Zellner and Strange and Buting and Mr. Ferak have  
10 all defamed Mr. Colborn; correct?

11 A. Some more than others, yes.

12 MS. BARKER: Object to foundation.

13 Q. And you've said all these things pretty publicly,  
14 including on Twitter; correct?

15 A. Yes, yes.

16 Q. And I believe you've testified that you're able to  
17 create a fair and accurate and transparent  
18 documentary despite your personal beliefs;  
19 correct?

20 A. Yes, yes.

21 Q. And despite what I think we could call a pretty  
22 clear bias, you believe Convicting a Murderer will  
23 be fair and accurate and transparent?

24 A. I do, I do.

25 Q. And you would agree with me that a person's biases

1 or preconceived notions don't necessarily make a  
2 documentary unfair; correct?

3 MS. BARKER: Object as to foundation.  
4 Incomplete hypothetical.

5 A. Could you say that again?

6 MS. WALKER: Can you read it back?

7 A. I just want to think about it. I want to think  
8 about that for a second, how you said that.

9 (Question read)

10 A. No. I, I --

11 MS. BARKER: Objection.

12 A. I agree.

13 Q. You agree?

14 A. I agree that that doesn't make it unfair because  
15 they have a bias, no.

16 Q. Correct. And I think you'll agree with me that  
17 there's nothing unethical or irresponsible about  
18 making a documentary that has a point of view or a  
19 protagonist; do you agree?

20 A. I agree.

21 MR. KURTZ: Same objection.

22 Q. Do you think there's anything unethical about a  
23 documentary that tries to persuade viewers to come  
24 to a certain conclusion?

25 A. It depends.

1 but it just takes me a minute to confirm that I  
2 could skip.

3 A. Sure.

4 Q. Let me ask you if you're worried about a  
5 defamation suit being filed against you when the  
6 documentary comes out by Kathleen Zellner, by the  
7 filmmakers of Making a Murderer, by Attorneys  
8 Buting and Strang. Is that something you, that  
9 keeps you up at night?

10 A. No.

11 Q. And why not?

12 A. Because I'm not doing anything to defame them.  
13 I'm not saying anything about them that isn't  
14 factual, that I can't support.

15 Q. And so I'm going to ask you a series of questions.

16 A. Sure.

17 Q. I think I know the answer to all of them, but I  
18 just want to get it on the record.

19 A. Sure.

20 Q. So given what you just said, you would agree that  
21 even though Convicting a Murderer may ultimately  
22 take a side, that that's not grounds for a  
23 lawsuit?

24 MR. KURTZ: Objection. Incomplete  
25 hypothetical.

1 MS. BARKER: Object.

2 MR. KURTZ: Vague.

3 MS. BARKER: Objection. Calls for a  
4 legal conclusion.

5 A. Okay.

6 Q. You can answer if you understand the question.

7 A. I'm so bad at remembering these --

8 MS. WALKER: Can you read it back.

9 A. -- when they object. Sorry.

10 (Question read)

11 A. Agree.

12 MS. BARKER: Same objection.

13 Q. Just because it's dramatic or suspenseful or has  
14 cliffhangers or has music, that's not grounds for  
15 a lawsuit?

16 A. Agreed.

17 MS. BARKER: Same objection.

18 Q. Just because it strives to not only inform, but to  
19 entertain and engage, that's not grounds for a  
20 lawsuit?

21 MS. BARKER: Same objection.

22 A. That's hard to answer because it depends on what  
23 you're doing to entertain the viewer, if it's  
24 accurate.

25 Q. I can rephrase.

1 STATE OF WISCONSIN)  
2 MILWAUKEE COUNTY )

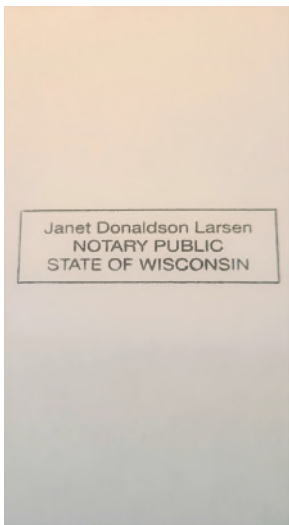
3 I, JANET D. LARSEN, a Notary Public in  
4 and for the State of Wisconsin, do hereby certify that  
5 the deposition of BRENDA SCHULER was taken before me  
6 under and pursuant to the Federal Rules of Civil  
7 Procedure on the 20th day of May, 2022.

8 That before said witness testified,  
9 she was first duly sworn by me to testify the truth.

10 That I am not a relative or employee or  
11 attorney or counsel of any of the parties, or a  
12 relative or employee of such attorney or counsel, or  
13 financially interested directly or indirectly in this  
14 action.

15 That the foregoing pages are a true and  
16 correct transcription of my original shorthand notes  
17 taken at said time and place.

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Dated this 24th day of May, 2022  
at Milwaukee, Wisconsin.

*Janet Donaldson Larsen*  
\_\_\_\_\_  
JANET DONALDSON LARSEN  
REGISTERED PROFESSIONAL REPORTER  
NOTARY PUBLIC, STATE OF WISCONSIN  
MY COMMISSION EXPIRES 1-22-26

Colleen Reed Reporting LLC  
414.322.3621



# Exhibit 41

This exhibit has been filed under restriction.

# Exhibit 42

This exhibit has been filed under restriction.

# Exhibit 43

This exhibit has been filed under restriction.

# Exhibit 44

12/18/2018

Participants: +19207130434 Brenda Schuler; +19209737425 Lt ALC;  
andrewcolborn@co.manitowoc.wi.us Lt ALC

+19209737425 Lt ALC

Brenda, I gave my old attorney hard copy of every article Ferak wrote about me. They are all in that box I turned over to you after she was elected as a judge. Maybe we can meet some time soon and give me those which I will then turn over to Mike. Those and what you find on the internet should certainly give mike plenty of evidence. Also I know he likes to bash MTSO and me on twitter if you have any of those.

12/18/2018 7:39:06 AM(UTC-6)

+19207130434 Brenda Schuler

Oh yes. I'll collect those too

12/18/2018 7:39:33 AM(UTC-6)

+19209737425 Lt ALC

I sent this because I see mike is asking u about that on email today. You have all those hard copies right??

12/18/2018 7:40:13 AM(UTC-6)

+19207130434 Brenda Schuler

No. I shredded them. Jk. Of course you silly guy. They are all nice and best in binders for you. 🤔

12/18/2018 7:47:16 AM(UTC-6)

+19207130434 Brenda Schuler

I'm going to visit Candy next week. Is that soon enough?

12/18/2018 7:48:13 AM(UTC-6)

+19209737425 Lt ALC

Yes. Tuesday the 25th and Thur the 27th next week for sure right now. Breakfast or lunch is on me. My kids will be here until the am of the 26. You let me know what works

12/18/2018 7:52:41 AM(UTC-6)

+19209737425 Lt ALC

Otherwise starting on the 28th I am off for 5 days. If that helps. Friday the 28th or after works for me if it does for you

12/18/2018 7:56:05 AM(UTC-6)

+19207130434 Brenda Schuler

Friday the 28th, maybe we can all go to dinner again? Is that soon enough to get that to mike? I can send him pics in the meantime

12/18/2018 8:28:01 AM(UTC-6)

+19209737425 Lt ALC

Let's plan on it. Between the links and pics you send I am in hopes that will be sufficient until then. Ferak has a lot of his crap on line.

12/18/2018 8:29:55 AM(UTC-6)

+19207130434 Brenda Schuler

I have it down. I sent a note to Tom and Kathy too.

12/18/2018 8:30:46 AM(UTC-6)

+19207130434 Brenda Schuler

Brad and I are open. So plan on ya 4 at least that night. We will come to you tho

12/18/2018 8:31:15 AM(UTC-6)

+19209737425 Lt ALC

Sounds great!!!

12/18/2018 8:31:15 AM(UTC-6)

+19209737425 Lt ALC

Have you seen Butings tweet??? I haven't but I would guess he wasn't very supportive or did he back off??

12/18/2018 11:45:13 AM(UTC-6)

+19209737425 Lt ALC

I wonder if Ferak knows what's coming. If he does he will be yanking stuff down so I am glad we have hardcopy

12/18/2018 11:46:32 AM(UTC-6)

# David Milligan Just seen t



**Jerome Buting**  
@JButing

Hope suit survives motion to dismiss & goes to wide open civil discovery. @MCGriesbach please do depositions of AC & KK on #payperview Millions will watch. Definitely won't repair any Manitowoc Co reputations, but will help retire taxpayers debt from SA's coming suit.  
#makingamurderer

**Angenette Levy** @Angenette5  
Retired Manitowoc Sheriff's Office Lt. Andrew Colborn files a defamation lawsuit against @Netflix @MakingAMurderer creators and others #MakingAMurderer @Local12 @fox11news

Griesbach Law Offices



Like - Reply - 13h

[Library\\_SMS\\_Attach\\_1\\_fc\\_12\\_83D3FC\\_1\\_IMG\\_4043.jpeg](#)

12/18/2018 1:10:29 PM(UTC-6)

+19209737425 Lt ALC

Defiantly non supportive the tool. I wish we hold him accountable for his lies. That guy is a d-ckhead!!!

12/18/2018 1:16:02 PM(UTC-6)

+19207130434 Brenda Schuler

As bad as Ferhack

12/18/2018 1:16:25 PM(UTC-6)

+19209737425 Lt ALC

Two peas in the same pod for sure. Lol

12/18/2018 1:17:28 PM(UTC-6)

+19209737425 Lt ALC

The pastor of my church and pretty much everyone who was at our voters meeting tonight wanted me to tell you how much they support our decision to do this and the pastor told me we will all be in his prayers. Thought you would like to know that Brenda. 😊

12/18/2018 8:10:34 PM(UTC-6)

+19207130434 Brenda Schuler

Aww. Thanks so much. That is wonderful to hear

12/18/2018 8:30:54 PM(UTC-6)

+19209737425 Lt ALC

You betcha. Nice to have the support of a church and people seem happy about what we are doing. Shawn sent me this text:

12/18/2018 8:33:51 PM(UTC-6)

+19209737425 Lt ALC

Coverage seems pretty straight forward and even right now.

12/18/2018 8:34:10 PM(UTC-6)

+19209737425 Lt ALC

He seem at least objective now. That's better news!!

12/18/2018 8:34:50 PM(UTC-6)



Hey. Quick question. This shows that you had off on the 4,5,6 of oct. You didn't work Friday but were called in sat and sun. Is this the schedule and it doesn't get updated since it's just a schedule? Any variances to that would just show on a time sheet such as being called in on sat/sun?

1200-2000		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
SGT COLBORN	432				X	X	X							X	X	X							X	X	X						
SGT NACK	412																														
LT SEIM	487	X	X	X				X	X	X				X	X	X									X	X	X				
BECK	442	X	X	X									X	X	X																
HAESE	443																														
HARTWIG	458	X	X	X				X	X	X				X	X	X															
POLICH	469				X	X	X							X	X	X															
BESSLER, C	447													X	X	X															
LITTLEFIELD	422	X	X	X										X	X	X															
PRANGE	451				X	X	X							X	X	X															
2000-0400		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
SGT JOST	449																														
SGT SENGLAUB	403	X	X	X																											
LT BESSI FB	401													X	X	X															

[Library\\_SMS\\_Attach\\_1\\_34\\_04\\_A04688\\_1\\_FullSi\\_1.jpg](#)

12/18/2018 8:37:03 PM(UTC-6)

+19207130434 Brenda Schuler

That stupid ass Andy/Rookie thinks he's so smart by pretending this schedule doesn't match your testimony.

12/18/2018 8:41:10 PM(UTC-6)

+19209737425 Lt ALC

That schedule should be for November not October I had to fill out a two week time card as well. You have that time card in all that stuff I gave you from my attorney. It also shows I was off 456 of November and I wrote in my time for 5 and 6 when I worked on scheduled days off.

12/18/2018 8:43:15 PM(UTC-6)

+19207130434 Brenda Schuler

exactly what I thought. Thanks much!

12/18/2018 8:45:11 PM(UTC-6)

+19209737425 Lt ALC

U betcha. Those are only the schedules so you know when your working and when your off. Deputies filled out a time card daily. Sgt and above filled out a two week time card that would encompass the entire two week pay period.

12/18/2018 8:47:43 PM(UTC-6)

+19207130434 Brenda Schuler

Fools.

12/18/2018 8:48:15 PM(UTC-6)

+19209737425 Lt ALC

They just keep giving us more evidence to use.

12/18/2018 8:49:07 PM(UTC-6)

+19207130434 Brenda Schuler

Shawn sent you this: Coverage seems pretty straight forward and even right now ??

12/18/2018 9:01:34 PM(UTC-6)

+19207130434 Brenda Schuler

Out of the blue? I'm hoping he calls you. I think he feels better knowing you're still in.

12/18/2018 9:02:03 PM(UTC-6)

# Exhibit 45

**To:** Barb[REDACTED]  
**From:** andy colborn  
**Sent:** Tue 11/20/2018 11:41:30 AM  
**Subject:** Fwd: Netflix case

Sent from my iPhone

Begin forwarded message:

**From:** John Mayer <[REDACTED]>  
**Date:** November 20, 2018 at 1:31:32 PM CST  
**To:** Michael Griesbach <[REDACTED]>  
**Cc:** andy colborn <[REDACTED]>  
**Subject:** RE: Netflix case

Funding this lawsuit is a real obstacle – so I do not wish to pretend otherwise . I want to be clear so no one is hurt because of dashed expectations etc ; I am willing to sacrifice my time , but fronting the costs is not something I am crazy about . Frankly neither are my partners . None of us have any idea how far this case will go and what it will take other than to say the potential costs are enormous . So I think we get it filed and see what kind of response we get . I would be surprised if the defense did anything other than send the message that they are digging in . I am very skeptical of the idea that any meaningful response will be made . As a person that has defended many hundreds of cases I think I am in a decent position to offer some prognostication . This case isn't like a personal injury case where an insurer knows it will likely pay ,so they should try to save defense costs by getting it done early . In addition you have a wide variety of other factors at play here . I hope I am surprised , I would love to be wrong on this issue !

Anyway , the point is that I want to be able to preserve my option to get out at anytime I feel for whatever reason , if continuing to prosecute the case poses a problem in my mind then I want to be free to say I am done . So the agreement we sign will have appropriate language . I have already had questions from my partners about the costs involved . If we cant get funding for a significant portion of our costs , then the future of this lawsuit is at stake . I am willing to put my time and energy in , and I would probably put some costs in , but this is a David vs Goliath battle and anyone that represents or fights institutional clients knows they can outspend us many times over ,and that if they believe this is what they need to do , they will likely do it . I doubt that Netflix would think 500k or a mil is a big deal for defense costs. What we are doing is going to go to the heart of what they do , so they will do what they need to do to preserve their stream of income . Our big card to play is the venue in Wisconsin . Perhaps I am repeating myself , but that's better than wondering if I was clear . thx ,john

**From:** Michael Griesbach <[REDACTED]>  
**Sent:** Tuesday, November 20, 2018 12:59 PM  
**To:** John Mayer <[REDACTED]>  
**Cc:** andy colborn <[REDACTED]>  
**Subject:** Re: Netflix case

John,

See this for the complete trial transcript: <http://www.stevenaverycase.org/>  
There's more excellent info here: <http://www.stevenaverycase.org/links/>

The MAM transcripts were also online when I wrote my book but I can't find them. They may have been removed.

Andy, I'm sure Brenda will have them ... could you ask her to forward them to you and then you send them to both me and John.

John,

I think you've hit the nail on the head re our problem on the defamation claim and how to surmount it. Even if the def claim is bounced on summary judgment, I don't see how the negligence and infliction of emotional distress would not survive.

I posted this a while back on reddit. It's what we will Here by the way [https://old.reddit.com/r/MakingaMurderer/comments/9uosss/laura\\_ricciardis\\_interesting\\_word\\_choice\\_in\\_the/](https://old.reddit.com/r/MakingaMurderer/comments/9uosss/laura_ricciardis_interesting_word_choice_in_the/)

On Tue, Nov 20, 2018 at 12:20 PM John Mayer <[REDACTED]> wrote:

Can anyone get me a trial transcript ? I also need Depo transcripts and a transcript of the MAM film .

-----Original Message-----

From: andy colborn <[REDACTED]>

Sent: Tuesday, November 20, 2018 9:40 AM

To: [REDACTED] griesbach [REDACTED]; John Mayer <[REDACTED]>

Subject: Netflix case

Gentlemen, I did some research ref my transcript and video recording of my deposition in the Avery civil case against Manitowoc County. Those are NOT available on line in their entirety. They available to any attorney doing litigation on my behalf I believe free of charge from a company called Magne-Script, contact person Jeff Joseph at 414-362-5450 email: [MagneScript@gmail.com](mailto:MagneScript@gmail.com) They are available to the general public for purchase as well. USA Today reporter John Ferak did buy them all but only put 5minutes of my testimony on line designed to show me in the worst possible light.


Speaking of John Ferak, would you both consider making him part of the civil conspiracy??? He also knows what he printed in the Post Crescent and the USA Today as well as his current paper, the Joliet Patch was and is false yet he continues to do it. He has now written a biography of Kathleen Zellner titles Wrecking Crew. If you google my name hundreds of entirely false and/or negative articles about me comes up. Despite numerous contacts with his employer they continued to say that Making a Murderer and the Avery Case belonged to John Ferak, and clearly he is working with MAM and the Averys. He was on scene several times during the filming of MAM and is clearly assisting in any way he or his paper can.

Sent from my iPhone

--

**Atty Michael C Griesbach**

[REDACTED]



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# Exhibit 46

**To:** Brenda Schuler[REDACTED]  
**From:** andy colborn  
**Sent:** Wed 12/12/2018 7:01:30 AM  
**Subject:** Fwd: Re:

This is what I sent to mike this am. I hope I didn't tick him off but Ferak has to be held responsible

Sent from my iPhone

Begin forwarded message:

**From:** [REDACTED]  
**Date:** December 12, 2018 at 8:52:11 AM CST  
**To:** Michael Griesbach <[REDACTED]>  
**Subject:** Re:

I was promoted from Deputy to Sergeant in 2003. I was a Sergeant until 2011 when I was promoted to Detective Lieutenant. Mike, we gotta talk about Ferak. This just isn't going to work unless we include Ferak and his publisher right away. I will defer to you on Gannett but we can't do this without including Ferak and his publisher.

Sent from my iPhone

On Dec 12, 2018, at 8:45 AM, Michael Griesbach <[REDACTED]> wrote:

Could you give me the dates you worked as a patrol sargeant at MTSO? If not the months, at least the years. Thank you..

--

Atty Michael C Griesbach

[REDACTED]

[REDACTED]

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# Exhibit 47

To: Michael Griesbach [REDACTED]  
From: andy colborn  
Sent: Tue 1/8/2019 10:08:37 AM

# Redacted

On Jan 8, 2019, at 11:39 AM, Michael Griesbach <[REDACTED]> wrote:

We've talked about it... Andy, me, and another lawyer who was almost on board a month ago. I'd love to sue Buting, but it's a very bad idea strategically, even though it would defeat federal jurisdiction. Can't further explain now.

On Tue, Jan 8, 2019 at 10:36 AM Brenda Schuler <[REDACTED]> wrote:

I wish we could sue his slandering ass too.

Sent from my iPhone

On Jan 8, 2019, at 10:19 AM, Michael Griesbach <[REDACTED]> wrote:

Yeah, he's an asshole. More of the same, but we should keep track of whatever is said about our lawsuit by Buting, Zellner, and RandD. Andy, Brenda and I will handle this, you don't need more of this bullshit ... you've had enough.

On Tue, Jan 8, 2019 at 8:29 AM Brenda Schuler <[REDACTED]> wrote:

Until I can get this to download and email it to you, I'll give you the gist but it's the same old same old.

He says it's frivolous. That Mike has never done a civil case and the reason he probably went with you is because possibly other attorneys turned Andy down.

He states that making a murderer is really just regurgitating what the defense did and and Andy and Jim were already under the microscope back during the trial days.

He also said that discovery and depositions put open up a lot more information but they didn't have access to.

He brought up the license plates and a couple other things, so basically supporting that Andy did plant evidence.

That's as far as I got before I stopped listening, but I did notice that he really seem to be

thinking about what he was saying before he said but he was clearly defending the filmmakers and Netflix saying basically they just shared the information.

I feel like these people are all completely ignoring the fact that there was this egregious editing and it just makes me believe that no one really has any idea how much editing, deceptive editing, was done. That's where I get excited about it, because will be able to show any major detail all of the edits that they did and it will be pretty clear that it was deceptive, intentional, and malicious.

Mike and Andy, I'm going to send you some examples just some copy and paste to give you guys an idea of what they did. I'll send in a separate email

Sent from my iPhone

On Jan 8, 2019, at 7:21 AM, Michael Griesbach <[REDACTED]> wrote:

Andy sent me a link to an interview Buting did about our lawsuit, but I could'nt get the audio to work even though I downloaded Adobe Flash. I tried finding it somewhere else online w/o luck. Any other source that either of you can think of? If not, does anyone know what he said?

Mike

--

Atty Michael C Griesbach

[REDACTED]  
[REDACTED]

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--

Atty Michael C Griesbach

[REDACTED]  
[REDACTED]

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--

**Atty Michael C Griesbach**

[REDACTED]

[REDACTED]

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# Exhibit 48

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN  
MILWAUKEE DIVISION

---

ANDREW L. COLBORN,

Plaintiff,

Case No. 19-CV-484

NETFLIX, INC.,  
CHROME MEDIA, LLC, f/k/a  
SYNTHESIS FILMS, LLC,  
LAURA RICCIARDI, and MOIRA DEMOS,

Defendants.

---

**PLAINTIFF'S RESPONSES TO DEFENDANT CHROME MEDIA LLC'S  
FIRST SET OF INTERROGATORIES**

---

Plaintiff, Andrew L. Colborn, by and through his attorneys, Law Firm of Conway, Olejniczak and Jerry, S.C., responds to Defendant Chrome Media LLC's First Set of Interrogatories as follows:

**GENERAL OBJECTIONS**

To the extent that any of the Interrogatories call for information which is protected by the attorney-client privilege, work-product doctrine or otherwise immune from discovery, Plaintiff hereby objects to furnishing any such information and such information is not being provided.

To the extent that any of the Interrogatories go beyond the scope of Fed.R.Civ.P. 26, Plaintiff objects and will comply only to the extent of the obligations set forth therein.

Plaintiff also objects to the wording of Defendants' requests on the basis that Wisconsin law requires that defamatory broadcasts be considered in their entirety, not just as a collection of allegedly separate statements. The entire MAM broadcasts must be considered with respect to

their falsity and Defendants' knowledge of falsity and/or reckless disregard of the truth with respect to the broadcasts. Plaintiff objects to the Interrogatories to the extent they suggest or imply otherwise.

Discovery and investigation are continuing in this matter and Plaintiff reserves the right to amend and/or supplement these responses accordingly. In addition, Plaintiff's counsel has only just been able to format produced raw footage to viewable format and have not had the opportunity to view it yet, and again, Plaintiff reserves the right to supplement his responses accordingly.

Subject to the foregoing objections and the specific objections asserted below, Plaintiff respectfully submits, without in any way conceding relevancy, or admissibility, the following responses to the Interrogatories:

**INTERROGATORY NO. 1:** Identify with specificity all "spliced and omitted portions of Plaintiff's trial testimony as set forth in Exhibit A and B" that you contend "distort the facts and nature of the 1994 or 1995 telephone call...[and] led viewers to falsely conclude that Plaintiff bears responsibility for seven or eight of Avery's 18 years of wrongful imprisonment, providing him [Colborn] with a motive to frame Avery for Halbach's murder," as alleged in Paragraph 27 of the Second Amended Complaint.

**RESPONSE NO 1:** Subject to Plaintiff's General Objections, Plaintiff refers to the summaries attached in chart form hereto. Discovery and investigation are ongoing, and Plaintiff reserves the right to supplement his responses accordingly.

**INTERROGATORY NO. 2:** For each "spliced and omitted portion" identified in your response to Interrogatory No. 1, state how that spliced or omitted portion "distort[ed] the facts and nature of the 1994 or 1995 telephone call...[and] let viewers to falsely conclude that Plaintiff bears responsibility for seven or eight of Avery's 18 years of wrongful imprisonment, providing him [Colborn] with a motive to frame Avery for Halbach's murder," as alleged in Paragraph 27 of the Second Amended Complaint.

**RESPONSE NO 2:** Subject to Plaintiff's General Objections, Plaintiff refers to the summaries attached in chart form hereto. Discovery and investigation are ongoing, and Plaintiff reserves the right to supplement his responses accordingly.

**INTERROGATORY NO. 3:** Describe in detail all facts that you contend support your allegation in Paragraph 33 of the Second Amended Complaint that "Defendants knew of [the]



falsity” of Steven Avery’s criminal attorneys’ “suggest[ion] that Plaintiff was looking directly at Halbach’s vehicle when he called dispatch.”

**RESPONSE NO 3: Subject to Plaintiff’s General Objections, Plaintiff responds as follows: Plaintiff’s testimony at the civil trial regarding the call that he made to dispatch was reasonable and credible and he specifically denied that he was looking at Halbach’s vehicle during his testimony.**

**In addition, upon information and belief, the Defendants had reviewed the Avery Trial Court’s Decision and Order dated January 30, 2007, which explained that any theory regarding any alleged involvement of Plaintiff in planting Avery’s blood in Halbach’s vehicle was extremely weak and rested on an unexplained contradiction:**

**[as] pointed out by the State at oral argument: How could Lenk or Colbom have known that Teresa Halbach was dead at the time they are alleged to have planted the defendant’s blood in her vehicle? Under the defendant’s theory, either Lenk, Colbom, or both would have had to have formulated a plan involving their own commission of serious felonies and executed that plan within a very short period of time, motivated apparently only by their embarrassment for not allegedly having acted more responsibly on information that could have led to Mr. Avery’s exoneration back in 1995 or 1996.**

**Decision and Order at p. 11.**

**It was only due to the extremely low bar afforded criminal defendants by law to attempt to offer theories to attempt to exculpate themselves that this theory was even allowed to be presented by the judge. Under any common-sense or reasonable standard, the assertion that Plaintiff had found Halbach’ vehicle prior to the time that she was known to have been deceased was obviously false.**

**Defendants are educated persons; both have advanced degrees. In addition, Ms. Ricciardi has a law degree and practiced law for some time after graduation. Accordingly, it is reasonable to infer that both Ricciardi and Demos knew that there was no reasonable basis to believe that Plaintiff planted blood in Avery’s car, that any theories to the contrary border on the fantastic and are patently ludicrous, and therefore, that they knew they were false.**

**INTERROGATORY NO. 4: Describe in detail all facts that you contend support your allegation in Paragraph 40 of the Second Amended Complaint that “defendants manipulated facts to convince viewers that MTSO officers, possibly including plaintiff, secreted Avery’s blood from a vial still kept in evidence from his wrongful conviction case, and planted it in Halbach’s car.”**

**RESPONSE NO 4: Subject to Plaintiff’s General Objections, Plaintiff responds as follows: The facts that support the allegation that Defendants manipulated the facts**



in question are set forth in the remainder of Paragraph 40 of the Second Amended Complaint. Upon information and belief, Defendants had reviewed the Avery Trial Court's Decision and Order dated January 30, 2007 in which the Court noted the fact that the State intended to present evidence that the hole in the blood vial stopper had been created by the phlebotomist who withdrew Mr. Avery's blood on January 2, 1996.

**INTERROGATORY NO. 5:** Describe in detail all facts that you contend support your allegation in Paragraph 64 of the Second Amended Complaint that the Challenged Statement "tended to harm [you] and actually and irreparably harmed and damaged [your] reputation, lowering [you] in the estimation of the community and subjecting [you] to hostility, hatred and ridicule, and deterring third persons from associating or dealing with [you]."

**RESPONSE NO 5:** Subject to Plaintiff's General Objections, Plaintiff responds as follows: Plaintiff's counsel will be producing copies of numerous recorded voicemails that Plaintiff received from threatening and verbally abusive MAM viewers across the world, and Plaintiff designates those documents in response to this Interrogatory; Plaintiff's counsel will also be producing copies of email messages and online posts to the same effect; in addition, Plaintiff will testify regarding the countless telephone calls that he received at his personal residence and at work that were not recorded. Due to the intense verbal abuse that Plaintiff suffered from the public at large following the MAM broadcast, Plaintiff eventually resigned from the Sheriff's Department earlier than intended. In addition, the effect of the abuse on Plaintiff has contributed to the demise of Plaintiff's marriage of multiple decades. Plaintiff also incorporates in this response his response to Interrogatory No. 8, below. Damages are ongoing. Plaintiff reserves the right to supplement this response as discovery and investigation continue.

**INTERROGATORY NO. 6:** For each of the Challenged Statements, describe in detail all facts that you contend support your allegation that the Producer Defendants published that Challenged Statement with knowledge of their falsity or reckless disregard of their truth or falsity.

**RESPONSE NO 6:** Subject to Plaintiff's General Objections, Plaintiff refers to the summaries attached in chart form hereto.

**INTERROGATORY NO. 7:** For each material fact that you allege was omitted from Making a Murderer, state that omitted fact and describe in detail why you believe that the Producer Defendants had knowledge that omission of the fact would cause Making a Murderer to be false or that the Producer Defendants omitted the fact with reckless disregard of the series' truth or falsity.

**RESPONSE NO 7:** Subject to Plaintiff's General Objections, Plaintiff refers to the summaries attached in chart form hereto, and to the allegations of the specific paragraphs of the Second Amended Complaint that are described as "Challenged Statements," as the factual basis for many of the allegations is set forth therein,

including detailed descriptions of the specific alterations to and omissions of trial testimony by the Defendants. Defendants knew the alterations changed the impact of the testimony and it is evident that they made them for that reason, in order to continue to tell their story. This is further corroborated in the document productions by Netflix, which demonstrate the involvement of Netflix personnel in attempting to make the story more dramatic and to emphasize Plaintiff as an alleged villain of the story. (See Plaintiff's Responses to First Set of Interrogatories of Netflix, Inc.) Discovery and investigation are ongoing, and Plaintiff reserves the right to supplement his responses accordingly.

**INTERROGATORY NO. 8:** Describe in detail all items of damage you contend you sustained as a result of the Producer Defendants' acts or omissions alleged in the Second Amended Complaint.

**RESPONSE NO 8:** Subject to his General Objections, Plaintiff responds as follows: Making a Murderer damaged if not destroyed my reputation, my health and my personal life. My reputation as a police officer, so important to maintain as trustworthy and being with integrity as well as honest, was severely damaged as millions viewed and believed the falsehood that was Making a Murderer. In the social media realm my reputation was totally destroyed as I was, and still am portrayed as the poster child for corruption. I began to fear that this annihilation of my reputation would affect the weight of my courtroom testimony on other cases, effectively ruining my career as a police officer. My health was affected as I did and continue to live in a state of constant hypervigilance, as Making a Murderer prompted a multitude of death threats to me and towards my family. Never being able to totally relax, as well as constantly anticipating an attack on me and/or a member of my family has caused me to develop both hypertension and anxiety, which has to be treated with prescription medication. Due to the stress caused by MAM, I have trouble sleeping and I find myself often angry and irritable. I no longer feel I can trust anyone totally ever again. My personal life has also been greatly damaged as a result of MAM. My inability to go back to the person I was before MAM has destroyed my 30 year marriage and the marriage ended in divorce. I have lost family members and friends because of MAM's false narrative, reckless agenda and portrayal of me, which is only exacerbated by the social media crazies who continually, 7 years after its release, claim that I am a corrupt evil person and that MAM is truthful. I am often confronted by total strangers who inform me that they despise me for "what I've done" regarding Steven Avery. I'm not allowed to be present at any media event at my current employer as my presence could be disruptive.

**INTERROGATORY NO. 9:** For each item of damages that you identified in Interrogatory No. 8, identify the amount of damages you are claiming and your method for calculating such amount.

**RESPONSE NO 9:** Subject to his General Objections, Plaintiff responds as follows: The damage to my reputation prompted me to retire from law enforcement



4 years earlier than I had wanted too, costing me at least \$400,000. The value of the damage to my personal life, the destruction of my marriage and the loss of friends and family, personal health and wellbeing, sense of calm and sense of safety and security, and general damage to my reputation I am requesting be determined at trial by the jury. In my personal opinion, a value of a million dollars per Episode of MAM 1 and 2 would not even cover the loss of personal happiness caused by Defendants, yet Defendants have undoubtedly been enriched by at least that amount through what they took from me.

**INTERROGATORY NO. 10:** Identify all persons with knowledge of facts relating to the damages you describe in Interrogatory No. 8, and the substance of each person's knowledge.

**RESPONSE NO 10:** Subject to his General Objections, Plaintiff responds as follows: I have discussed the facts of the damages detailed in my response to Interrogatory No. 8 with very few people due to my newfound inability to trust anyone. I have disclosed those damages to my healthcare providers, and to the law firms who represent me in this suit. I have also disclosed how MAM damaged me personally to the law firm representing me in my divorce case. I further have disclosed how MAM has caused me damage to the producers of an upcoming documentary entitled Convicting a Murderer during interviews with them. Beyond that, I rarely, if ever discuss how MAM caused me damages, I instead only defend myself, my fellow deputies, my former agency and law enforcement in general when asked or confronted about Netflix or the producers of MAM or MAM itself.


**INTERROGATORY NO. 11:** Identify every health care provider that you have seen for treatment of any condition(s) that you believe was caused or exacerbated by Making a Murderer, and for each, describe that nature of the symptoms for which you sought treatment, the diagnosis you received, all medication(s) you were prescribed, and all treatments and therapy you received and the dates of the treatments and therapy.

**RESPONSE NO 11:** Subject to his General Objections, Plaintiff designates his previously produced health care records in response to this Interrogatory, without waiving the confidentiality designations in said prior production, which are incorporated by reference herein. Plaintiff further responds that he has seen the following providers that he has seen for anxiety relating to the effects of MAM: Theresa J. Kruegerjunk, NP, of Prevea on December 28, 2018, noted as having "presented for" anxiety; follow-up June 28, 2019. Plaintiff has taken Busiprone / Buspar as a result of his anxiety caused by MAM. Plaintiff believes that the stress is also adversely affecting his blood pressure, for which he takes Lisinopril. Damages are ongoing, and Plaintiff reserves the right to supplement this response.

**As to Objections:**

Dated this 28<sup>th</sup> day of January, 2022.

LAW FIRM OF CONWAY, OLEJNICZAK & JERRY, S.C.  
Attorneys for Plaintiff, Andrew L. Colborn

By:  \_\_\_\_\_  
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**AS TO RESPONSES:**

STATE OF WISCONSIN    )  
  ) ss:  
COUNTY OF \_\_\_\_\_ )

ANDREW L. COLBORN, being first duly sworn on oath, states that he has read the foregoing responses to the Interrogatories and that the same are true to the best of his knowledge at this time. Further, he reserves the right to amend the responses should later discovered information suggest that any of the foregoing responses are incorrect or incomplete.

\_\_\_\_\_  
ANDREW L. COLBORN

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Notary Public, \_\_\_\_\_ County, Wis.  
My Commission is permanent.

**Exhibit A Summary**

Ex. A subpart number / short description	Basis for inferring knowledge of falsity and/or reckless disregard of the truth (obvious reasons to doubt veracity of informant or information, <i>see Anderson v. Herbert</i> , 2011 WI App 56, ¶¶22-23.
1 [Avery quote, "Nobody said anything . . . ."]	Obvious reasons to doubt veracity of informant, Avery, a convicted murderer who claims that he was framed. Further, accusations regarding the civil suit settled for far less than he was claiming, and the suit did not establish liability for the allegations made.
2 [Kim Ducat – dire warnings of alleged intent to retaliate for civil suit]	Obvious reasons to doubt veracity of informant, an Avery relative and sympathizer, who offers no apparent basis for her statements other than her own alleged intuition.
3 [Photo of Plaintiff and other alleged County "conspirators" during/following Ducat statements]	Obvious reasons to doubt veracity of informant, an Avery relative and sympathizer, yet, Defendants augmented and built on the comments by directly accusing Plaintiff of scheming to retaliate against Avery through its visual of Plaintiff timed to coincide with/follow Ducat's statements.
4 [Glynn – lengthy comment accusing Plaintiff of "feeling threatened" by civil suit due to alleged mishandling of 1995 call]	Obvious reasons to doubt veracity of informant, an attorney/advocate for Avery in the civil suit who likely believes that he lost the prospect of a significant amount of additional fees that he could have recovered in the civil suit.
5-19 [Glynn – 1995 call set-up and descriptions, augmented by MAM images of Plaintiff and statements by Glynn allegedly implicating Plaintiff in alleged "cover up" of the call]	Obvious reasons to doubt veracity of informants, Avery and an attorney/advocate for Avery in the civil suit who likely believes that he lost the prospect of a significant amount of additional fees that he could have recovered in the civil suit. Yet, Defendants amplified and exaggerated Glynn's statements through their visuals implicating Plaintiff in the alleged "cover up"; by selecting and cherry-picking excerpts from civil suit depositions that concerned Plaintiff, even when witnesses were obviously speculating; juxtaposing Avery's comments of a claimed "cover-up" with the depositions and culminating in Glynn's accusations that there was an "unconscionable" withholding of information and a "conspiracy of silence."
21-24 [Accusation by Glynn that Plaintiff and	Obvious reasons to doubt veracity of informant, an attorney/advocate for Avery in the civil suit who likely believes that he lost the prospect of a significant amount of additional fees that he could have recovered in the civil suit.



<p>others were in “the most serious kind of trouble” and allegedly “hid evidence” and were “liar[s],” so that the civil suit was allegedly a motive for Plaintiff and others to implicate Avery in the Halbach murder]</p>	
<p>25-27 [RAV identified, followed by Avery telling investigators it was planted; Avery even goes so far as to suggest that County “did something” with Halbach herself to set him up]</p>	<p>Obvious reasons to doubt veracity of informant, Avery, a convicted murderer who claims that he was framed. In addition, Defendants included Avery’s suggestion the County actually may have harmed Halbach, an unsubstantiated accusation that even his defense attorneys disclaimed at his trial.</p>
<p>28-29 [video and photos of Plaintiff and James Lenk, followed by bar patrons saying that law enforcement and others framed Avery and that they believed that local law enforcement and the FBI “set this all up just to have Stephen Avery guilty of this thing” – again, implying that law</p>	<p>Obvious reasons to doubt veracity of speakers, local residents spouting off in a tavern, who are not even identified by name. Yet, Defendants used visuals to tie the accusations directly to Plaintiff and James Lenk.</p>

<p>enforcement may have harmed Halbach just to frame Avery for it]</p>	
<p>30-33 [County settlement referenced, then Avery is heard alleging that they framed him, followed by Strang and Buting making out-of-court statements to the effect that officers planted blood in Halbach's RAV and planted the RAV key in Avery's bedroom]</p>	<p>Obvious reasons to doubt veracity of informants, Avery and his attorneys.</p>
<p>34 [Baetz states that the County/law enforcement scrubbed the RAV key and put Avery's DNA on it]</p>	<p>Obvious reasons to doubt veracity of informant, Avery's private investigator for murder trial.</p>
<p>35-39 [Buting makes statements regarding alleged planting of blood in the RAV, coupled with MAM's use of photographs of Plaintiff, implicating him as alleged culprit]</p>	<p>Obvious reasons to doubt veracity of informant, Avery's advocate/attorney. Yet, Defendants used visuals to tie the accusations directly to Plaintiff.</p>
<p>40-42 [statements by Avery and his attorneys</p>	<p>Obvious reasons to doubt veracity of informants, Avery and his attorneys. Yet, Defendants included photographs of Plaintiff to tie the accusations to him and timed the statements to be followed by edited testimony by Plaintiff at trial, which they specifically altered to make it appear that he acknowledged that his</p>



regarding alleged planting of RAV]	call to dispatch could be interpreted as establishing that he was looking at the vehicle when he made it. In fact, Plaintiff did not so testify. Therefore, Defendants knew that statement was false as they had altered it.
43-44 [Buting out-of-court statements that two police officers, maybe one, could have planted evidence and would have no fear of being caught, coupled with image of James Lenk]	Obvious reasons to doubt veracity of informant, Avery's advocate/attorney. Yet, Defendants used visuals to tie the accusations to James Lenk, who is also repeatedly in the series alleged to be a conspirator with Plaintiff.
45 [Allen Avery statements that law enforcement set up Avery by planting the key]	Obvious reasons to doubt veracity of informant, Avery's father.
46 [Avery attorneys' out-of-court statements that the key was planted, blood was planted, and tying it to those who were deposed in the civil suit but who allegedly "didn't tell"]]	Obvious reasons to doubt veracity of informants, Avery's attorneys.
47-48 [Avery statement that a "couple of 'em want[] to railroad me," coupled with Plaintiff's photograph inserted by MAM]	Obvious reasons to doubt veracity of informant, Avery. Yet, Defendants added visuals to tie the accusations directly to Plaintiff.
49-50 [Defendants again use imagery to implicate Plaintiff]	Obvious reasons to doubt veracity of informant, Avery. Yet, Defendants added visuals to tie the accusations directly to Plaintiff.

in Avery's conspiracy allegations]	
51-54 [Baetz allegations of conflict of interest, coupled with Strang and Buting out-of-court accusations of alleged framing]	Obvious reasons to doubt veracity of informants, Avery's attorneys/investigator.
55 [Buting reference in closing argument to Lenk finding key, but MAM adds photograph of Plaintiff with James Lenk]	Obvious reasons to doubt veracity of informant, Avery's attorney, yet Defendants emphasized and augmented arguments by adding a photograph of Plaintiff, at a point at which the attorney only referenced James Lenk. Defendants knowingly altered viewers' impression/interpretation of the closing argument excerpt through placement of their visual.
56 [Cut to Kratz argument referencing Lenk and Colborn]	Placement of these excerpts and timing of sequence makes it seem that Buting in fact referenced Colborn in his argument excerpt that directly preceded Kratz excerpts, when he did not. Defendants knowingly altered viewers' impression/interpretation of the closing argument excerpts through placement of the excerpts.
57-60 [Excerpts from closing arguments are strung together to misleadingly suggest that even Kratz acknowledges that the police must have killed Halbach]	Defendants knowingly altered viewers' impression/interpretation of the closing argument excerpts through placement of the excerpts, to make it appear that even though Avery's attorneys disclaimed a theory that the police killed Halbach, the prosecution acknowledged it.
61 [Avery's attorneys' out-of-court statements regarding impact of alleged Avery framing on possible Dassey defense]	Obvious reasons to doubt veracity of informants, Avery's attorneys.



**SEASON 1 – EPISODE 1**

1 Avery: They had the evidence back then that I didn't do it. But nobody said anything...

....

2 Kim Ducat: They weren't just gonna let Stevie out. They weren't gonna hand that man \$36 million. They weren't gonna be made a laughing stock, that's for sure.

3 They just weren't gonna do all that. And something in my gut said they're not done with him. Something's gonna happen,. They're not handing that kind of money over to Steve Avery.

(MAM shows photos including that of Plaintiff Andy Colborn testifying in the background during the above excerpt, along with others alleged to be part of the Manitowoc County Sheriff's Department "conspiracy").

**SEASON 1 - EPISODE 2**

4 Steve Glynn: The day of or the day after Steven's release, law enforcement officers in Manitowoc are writing memos to describe activity that had occurred almost ten years earlier. They don't do that unless they feel threatened.

....

5 Steve Glynn: We learned during litigation something that we had absolutely no knowledge of before the lawsuit got started. That 1995 was a very, very significant point in this thing.

6 [video deposition of plaintiff shown in background]

7 And that there is not only something to this idea that law enforcement had information about somebody else, but there is serious meat on those bones, I mean serious meat. What we learn is that while Steven Avery is sitting in prison, now for a decade, a telephone call comes in to the Manitowoc County Sheriff's Department [image of report prepared by plaintiff is shown in background] from another law enforcement agency which at least one of the other officers involved in that process believed to be the Brown County Sheriff's Department saying that they had someone in custody who said that he had committed an assault in Manitowoc, and an assault for which somebody was currently in prison.

8 [resumes footage from video deposition of plaintiff]

Glynn: You've gone over exhibit 138.

Plaintiff: Yes, sir.

Glynn: It describes you receiving a telephone call 1994 or 1995 from someone who identified himself as a detective, correct?



Plaintiff: Yes.

Glynn: The detective indicated that there was a person in custody who had made a statement about a Manitowoc county offense, correct?

Plaintiff: Yes.

Glynn: And what that person in custody had said was that he had committed an assault in Manitowoc County and someone else was in jail for it, correct?

Plaintiff: Yes, sir.

[footage of Glynn speaking in an interview]

9 Glynn: Manitowoc doesn't have huge numbers of major assaults where people go to prison and certainly where people would still be in prison. There is a very distinct possibility, I would say likelihood, that it's Gregory Allen, [graphic shows in background depicting bullet point and a developing timeline that states: 1995 • Gregory Allen is arrested for sexual assault in Brown County/Andrew Colborn receives call about inmate confession] it's the Brown County Sheriff's Department that is in 1995 on the Gregory Allen case, that Gregory Allen has said something about Steven Avery, and at a minimum, somebody ought to check this out.

10 [back to footage of plaintiff's video deposition]

Glynn: I mean that's a significant event.

Plaintiff: Right, that's what stood out in my mind.

[back to interview with Glynn]

11 Glynn: The fellow who got that call was a guy named Colbert. And you might say that there should be a record of him immediately making a report on this, there might be a record of his immediately contacting a supervising officer, there might be a record of him contacting a detective who handles sexual assault cases, ahh, there might be some record of it. But if you thought any of those things, you'd be wrong, because there isn't any record in 1995, 1996, 1997, 1998, 2000, 2001, 2002, 2003 [returns to image of graphic with years running from prior timeline image and with Plaintiff's image above it, and a statement after the year "2003" that states "DNA evidence exonerates Steven Avery."] Now 2003 is a year that has meaning because that's when Steven Avery got out. And the day he got out, or the day after, that's when Colburn decides to contact his superior officer, named Lenk. And Lenk tells him to write a report. And they then go have contact with the Sheriff. Now, let's just stop and think about that for a minute. Why does that happen, why does it happen then, when it didn't happen eight years earlier? Um, ahh, I mean, I think I know the answer. I think the answer is pretty clearly these people realized that they had screwed up big time. Colburn realized it, Lenk as his superior realized it, and the Sheriff realized it. [images of plaintiff, Lenk, and the Sheriff are shown] So

Lenk tells Colburn to write a report, the Sheriff tells Lenk, "Get me the report," the Sheriff puts the report in a safe. That's how much he cares about documenting this thing. Well, obviously it doesn't do anybody, it certainly doesn't do Steve Avery any good to document that eight years after the fact, because Steve Avery has been sitting in a cage for those eight years.

[This falsely implies that plaintiff did not advise any appropriate person within the MTSO of the call when it came in 1995 and that Colburn believed that he had "screwed up" and raised the issue later in an attempt to cover up an earlier failure to do anything about the call, when in fact, plaintiff did transfer the call to an appropriate individual within the MTSO.]

12 [footage of Lt. James Lenk testifying]

Glynn: This document didn't begin to get prepared until after you had talked to Sheriff Peterson. Is that a fair statement?

Lt. Lenk: Correct.

Glynn: This indicates that Colburn said he was informed by someone in 95 or 96 that the case was already solved and the right person was arrested, true? [images of report]

Lt. Lenk: True.

Glynn: Sergeant Colburn couldn't recall who it was who told him that the case had already been solved, true?

Lt. Lenk: True. That's what he told me.

Glynn: Did he have – did he make any guesses about that or say, gee, it could have been this person, it could have been that person, I'm not sure?

Lt. Lenk: He wasn't sure.

13 [ switches to video deposition testimony of Sheriff Peterson; identified as "Steven's 1985 arresting officer" ]

Glynn: You recognize exhibit 125.

Sheriff: That's one of the Sheriff's Department statement forms. And it looks like James Lenk's signature on it.

Glynn: Okay, and have you seen this document before?

Sheriff: No.

Glynn: Okay. And how about 138, which is the, well, you tell me what it is.

Sheriff: Yeah. That's another one of our statement forms uh, looks like it was filled out by Andrew Colburn.

[close up of Plaintiff's signature on the form]

Glynn: And again, have you seen that document before today?

Sheriff: No.

14 Avery: A lot of people told me to watch my back. Most of the time, I didn't even believe them. But then, sitting and doing depositions, I don't know. It kind of changed my mind. They were covering something up. [showing close ups of the report prepared by plaintiff] And they were still covering something up. Even with the sheriff who's on there now – he's covering something up.

15 [switches to footage of plaintiff's video deposition]

Glynn: Have you ever had any conversations with anybody else other than Sheriff Peterson and Lietenant Lenk about the subject matter of exhibit 138? Ever discuss it with anyone else, any other officers, any friends, any family?

Plaintiff: Not that I can specifically recall. I may have mentioned it to other people but I don't recall doing it.

16 [Switches to video deposition of Mark Rohrer, Manitowoc County District Attorney]

Counsel: At the time that you received information from the crime lab telling you that Gregory Allen was inculpated in the sexual assault of Mrs. Beersten, did you have conversation with any people in the Sheriff's office?

Rohrer: Yes.

Counsel: Who were they?

Rohrer: Andy Colburn, and Jim Lenk had information that he had received.

Counsel: Let me show what's been marked as exhibit 124.

Rohrer: I'm familiar with the document.

Counsel: Who's Douglass Jones?

Rohrer: Assistant District Attorney for Manitowoc County.

Counsel: All right. What is this memo, to your understanding?



Rohrer: It speaks for itself. He had a telephone conversation with Gene Kusche about the case.

17 [switches to video deposition testimony of Chief Deputy Eugene Kusche]

Counsel: This document reflects a conversation between you and Douglass Jones shortly after it became public knowledge that Steven Avery had been exculpated and that Gregory Allen had been inculpated right?

Kusche: That's correct.

Counsel: All right. He says as he, Doug Jones, was trying to close the conversation, you told him that in 95 or 96 [cuts to graphic of chart showing Plaintiff's photo under photo of Sheriff Tom Kocourek] Andy Colburn had told Manitowoc County Sheriff Tom Kocourek that an officer from Brown County had told Colburn [close up on reports and Colburn's name] that Allen and not Avery might've actually committed the Bernsteen assault. Okay? Did you in fact tell that to Douglass Jones?

Kusche: I don't recall.

Counsel: All right. Does seeing this document, 124, refresh your recollection?

Kusche: My recollection of this conversation, which is not very strong, was that Colburn made a comment to me about re-- getting some information. . . .

Counsel: Yeah . . . . Okay the statement goes on and says, the next sentence says, Gene stated, that's you, that Colburn was told by Kocourek, something to the effect that we already have the right guy, and he should not concern himself. Now, did Colburn tell that to you?

Kusche: I don't recall. . . .

Counsel: Do you have any reason to believe that Doug Jones would misrecord what you told him?

Kusche: No.

Counsel: Then it goes on to say that Doug Jones asked you if this information was known. Do you remember him asking that?

Kusche: No.

Counsel: Then it goes on to say that you said James Lenk . . . .was aware. Did you tell that to Doug Jones?

Kusche: If he put it there, I probably did.

Counsel: And what was the basis for your knowledge about that?

Kusche: It would have had to have been Andy Colburn.

18 [shows image of plaintiff from plaintiff's video deposition]

19 Glynn: This was an unconscionable withholding of information that would have been of use to Steven Avery's lawyers, who were right at that time in the middle of litigation asserting based on the fingernail scrapings that there may have been somebody else involved in this. If that information had come to light in 1995, Steven Avery would have gotten out in 1995. So they cost Steven Avery eight years of his life. This is as close to a conspiracy of silence as I think you could find in a case.

....

20 Kelly: Did you provide this information to the attorney general's office?

Rohrer: Yes. My recollection says I believe we did.

Kelly: And who's "we"?

Rohrer: Mike Griesbach and I when we went to Madison.

Kelly: But this memo is, was drafted after you had been to Madison.

Rohrer: I'm not sure the date we were in Madison.

Kelly: You're saying you told that information to the attorney general's office?

Rohrer: We passed everything we had obtained to the attorney general's office.

Kelly: Ok, well, neither this memo nor anything about Colborn and Lenk is in any of the records that were provided to the attorney general's office. I can tell you that.

...

21 [rotating footage of Manitowoc County officials and others, including plaintiff, appears in background]

22 Walt Kelly: October of 2005, from the perspective of the Manitowoc County government and their defense lawyers, I believe they all knew that they were in the most serious kind of trouble. That there was a very grave prospect of a very, very substantial verdict.

Manitowoc County, and the Sheriff and the District attorney are arguably covered by insurance policies and there's a good half dozen insurance policies. However, the insurers have taken the



position that because of the nature of the allegations against the County, the Sheriff and the DA, the policies do not cover, which would mean that Manitowoc County itself, and the sheriff and the DA, would be on the hook for those damages in that civil suit.

23 Glynn: We don't need to have somebody tell us that this is going to have an effect on law enforcement. Of course it has an effect on law enforcement. Are you kidding me? I mean law enforcement officers get uptight when there's even a suggestion that they have said something wrong in a courtroom. Imagine what it's like when you're going to say that you're a liar, and that you hid evidence, and that you deliberately prosecuted a person that you knew, or at least had reason to know, wasn't guilty of the crime? And putting all that aside, by the way, in terms of your own professionalism, there's a guy out there raping and beating women while they guy that you put in prison is sitting in a cell. How's that make you feel?

We were just on the absolute edge of getting ready to go after the named defendants in the case with depositions when I get a call from Walt who tells me that he has gotten a call from a journalist asking if either of us would care to comment on the apparent intersection in life between Steven Avery and a woman who has gone missing in the Manitowoc area who we later learn to be Teresa Halbach.

24 [timeline is again displayed indicating dates of plaintiff's and other's depositions in proximity to Halbach disappearance]

25 [news footage regarding Halbach's disappearance and information about her 1999 dark green RAV Toyota]

....

26 [news footage of Avery interview]

....

27 Avery: . . . . Anybody can go down the road at nighttime when everybody's sleeping and just drive in – my brother ain't going to hear nothing.

Reporter: So who do you think did something with her?

Avery: I got no idea. If the County did something, or whatever and try to plant evidence on me or something, I don't know. I wouldn't put nothing past the county.

[cutting to footage of Ken Kratz press conference, then to footage of police on scene]

...

Spoken by Avery: All I can think is they're trying to railroad me again.

....

Avery: I ain't been home. They's been searching. You know, how hard is it to put evidence in the house or on the property? . . . . The . . . . sheriff . . . was out to get me last time. How do I know he ain't got nothing to do with it this time? . . . .

[more news reports]

Avery: It all comes back – all these memories and everything else, and they're just sketching me out again. And deep down, it hurts.

[more news footage]

Avery: You know we're all victims, and they just won't leave us alone. They just keep it up and keep it up. You know, a person can only take so much, you know. Right now, I got enough of 'em. You know, they can go somewhere else and just leave us alone. Let us do our life and live normal.

[footage of Avery being interrogated]

Avery: See, if somebody else plants that shit there, you ain't going to see . . . .

. . . .

Officer: How does your DNA get inside of her truck?

Avery: My DNA ain't. That's because they got blood out of me. How much blood they got out of me? A lot of blood. . . .

### SEASON 1 – EPISODE 3

28 [Courtroom testimony – testimony by officers in Court regarding key, pictures of Colburn and Lenk standing next to each other]

29 Unidentified woman/bar patron: I really do think he was framed. You know? There's a lot that points to where the Sheriff's Department could've had something to do with it. And then I don't know if it's true or not, but I also heard that Manitowoc County was not supposed to be allowed in to search, and they were in there and they searched. And that's who found the key apparently after the third day was the Manitowoc County Sheriff's Department. So I mean, like I said, none of it really adds up.

Unidentified man/bar patron: I only have one word, from the cops on up: corruption. I mean, big time. I mean, if people dig far enough, they'll see that.

Unidentified woman/bar patron: I don't care what anybody says, that's a lot of money to pay out from here in Manitowoc County. It's a small area and I really, truly believe the county didn't have the funds to pay it out, so somehow, some way, I don't care if they hate me, that somehow some way something got set up I don't care who it was And they can say, "Oh, you really



believe the Manitowoc County police department and the FBI and everybody came in and they set this all up just to have Steven Avery guilty of this thing? Yes I do. I'm sorry, yes I do.

....

30 [footage of interview with Sheriff Tom Kocourek regarding settlement with County; switches to footage of phone call between Avery and his sister]

31 Avery: This way, they figure they just got away with it, they can do it again. . . . You know it ain't gonna stop 'em.

....

[interview of Dean Strang after he is retained for Avery]

32 Strang: I didn't see them plant evidence with my own two eyes. I didn't see it. But do I understand how human beings might be tempted to plant evidence under the circumstances in which the Manitowoc County Sheriff's Department found itself after Steven's exoneration, of the lawsuit, of the Avery commission, of the governor hugging Steven, and holding him up as an example of the criminal justice system gone wrong? Do I have any difficulty understanding what human emotions might have driven police officers to want to augment or confirm their beliefs that he must have killed Teresa Halbach? I don't have any difficulty understanding those human emotions at all.

[interview of Jerry Buting]

33 Buting: So, you've got motivation of the officers to want to get him. And then when lo and behold there's this woman who disappears and one of the last people she saw was Steven Avery. . . now we've got him. A-ha. We knew it. They conclude that he's guilty, right off the bat. And they thought, "We're going to make sure he's convicted." And they helped it along by planting his blood in the RAV4 and by planting that key in his bedroom."

....

#### SEASON 1 – EPISODE 4

34 Pete Baetz: . . . But they came up and represented that they only DNA found on that key was Steven Avery's. That is patently ridiculous. Any crevices, anything else in that key would have retained her DNA. And for them to be able to say only Steven's DNA is on this indicates to me that that key was scrubbed clean and his DNA was place on it.

....

35 Buting: Some would – might think, "Well, you know, we -- our hands were tied. You know? That you got a client who's saying that he's being framed. Publicly, that's kind of the defense

you'd better go with or you're contradicting your own client. But it really wasn't that way here. The defense was raised because we think the evidence pointed that way. Here's what we saw. The Rav 4, the victim's RAV 4 is found on the AverySalvage Yard property – a ridiculous place to leave it if he was the killer. There was a crusher on the property . . . Second, his blood was found inside the vehicle, but only in a few areas. Spots, so to speak. There was evidence that he had a cut on his finger, but what didn't make sense was that there was no fingerprints of Avery's at all in or on the vehicle. That would mean, if Avery was the killer he had to have had gloves. But if he's got gloves on, how could he be actively bleeding and leaving his blood behind? . . . . So it looked to us like maybe his argument that "If my blood is in that vehicle somebody planted it there," maybe the evidence was pointing that way.

[Fox 11 report on Avery's "Framing defense"]

....

[Brendan Dassey segments]

- 36 Buting interview: Sheriff Peterson was the arresting officer of Avery in 1985. He's now the head of that office and clearly, clearly has a strong dislike for Avery. If the very top guy has this kind of attitude about Avery and that kind of personal involvement in the case of Avery, that's gonna permeate the department, the whole department. If not, at least it's going to permeate the upper echelon that's close to him, and that would include the lieutenants and the sergeants.
- 37 [showing photos in a hierarchy, including Sheriff Peterson and others, and plaintiff's photo, the lower levels of which are shown in brighter color to stand out]
- 38 [discussion of involvement of Lenk in Avery's 1985 case; then shows examination of 1985 case file, leading up to blood vial examination]
- 39 Buting (on the phone to Strang): Let me tell you. This is a red-letter day for the defense. It could not have been better. The seal was clearly broken on the outside of the box and inside the box is a Styrofoam kit. The seal is broken in that. We pulled the Styrofoam halves apart and there in all of its glory was a test tube that said Steven Avery, inmate number, everything on it. The blood is liquid. And get this, right in the center of the top of the tube is a little tiny hole. Just about the size of a hypodermic needle. . . . And I spoke with a LabCorp person already who told me they don't do that. . . . Think about it, Dean. If LabCorp didn't stick the needle through the top, then who did? Some officer went into that file, opened it up, took a sample of Steve Avery's blood and planted it in the RAV4.

#### SEASON 1 – EPISODE 5

- 40 Buting;           Somebody knew that [the RAV 4] was there before they ever went in there. I'm convinced of it.



41 [Cuts to footage of interrogation of Avery]

Avery: What about this cop?

....

Tammy told me that ....

....

She told me that she'd heard that a cop put it out there and planted evidence.

Officer: Put what out there?

Avery: That vehicle.

Officer: And that's Theresa's vehicle?

Avery: Yeah.

Officer: So Tammy told you that somebody told her that a cop put that vehicle -- Theresa's vehicle -- out on your property?

Avery: Yeah.

42 [Cuts to footage of plaintiff about to testify, including their splicing in testimony that replaced a lack of an answer to a question by Strang regarding the call to dispatch about the license plate, as described in Paragraph 32 of the Amended Complaint]

### SEASON 1 - EPISODE 6

43 Jerry Buting: One of the things that the state argued is that it would have taken a wide-ranging conspiracy of so many people to pull this off and that there's just no way this could be possible. But in fact, that's not true. Really, two people could have done this easily enough if they had the motive to do it. Maybe one even. And the whole argument, well why would they risk doing this and risk getting caught. You have to understand, they probably would have no fear of ever being caught doing this. You know, who better than a police officer would know how to frame somebody?

44 [cuts to video of James Lenk being sworn to testify]

### SEASON 1 - EPISODE 7

45 Allen Avery: They had Steve picked as far as I'm concerned right away. They set him up. Right from the beginning. ....

They didn't find nothing down by his trailer for 3-4 days. Then all the sudden stuff starts. "Oh, we found this and we found that." And then the Manitowoc cops found the key. They weren't supposed to be investigating this at all, right?

[switches to trial testimony regarding the discovery of the key and defense's attempt to show that it was planted]

46 Buting, talking with Strang out of Court: It's not enough to just get the key. He wants Avery's DNA on that. And so he is gonna wait until it is the right time. And there is a Calumet County deputy with him on all of their searches.

Strang: Yep. There is, somewhere near.

Buting: Somewhere nearby, and he was just waiting for the right time . . . when he could do it.

Strang: That key does not fall from you, know, in between the backboard and the frame of that little bookcase.

Buting: No. And find its way underneath a pair of slippers.

. . . .

Buting: And if we get them thinking, look, if the guy's capable of planting a key, who's to say he's not capable of planting blood?

Strang: Blood's easy.

Buting: Yeah.

Strang: Blood's easy.

Buting: Blood's easy.

Buting: The bottom line is, they knew their boss had just recused the department and turned over lead authority in this investigation to the neighboring department because of that lawsuit. They were deposed in the lawsuit. They didn't tell, you know . . . .

47 [cut to footage of Lenk being examined in Court by Strang about his alleged conflict of interest; then cut to footage of Avery's mother cooking with subtitled audio of Steven Avery talking]

Avery: I'm in the same situation that I was before. Just of couple of them wanting to nail me. And the other ones didn't. But nobody speaks up. I gotta go through this over and over.

48 [shows image of Plaintiff waiting to testify]

49 Avery (continuing) Sometimes I just wonder, I don't know. It's just hard to take all in, you know?

50 [Switching to shot of Plaintiff standing in Court waiting to testify, then Avery appearing to look at Plaintiff and looking sad, then segment with Kratz examining Plaintiff in Court, then Strang examining Plaintiff]

Pete Baetz (Strang and Buting's investigator):

51 The Manitowoc County Sheriff's Department had, by their own admission, in fact, they're the first ones that brought it up, that there was a conflict of interest there. And a conflict of interest in the investigation of a crime is probably the most serious violation any investigating agency can make, because it brings into question their credibility in actions throughout the case. If I had to guess, I would say that they declared it a conflict of interest to dot the I's and cross the t's. They didn't implement the procedure that would follow a conflict of interest and that is quite simply to totally back off. They continued their active role in the investigation. They developed most of the evidence and when they took on that role that they shouldn't have, they also committed themselves to proving Steven Avery had committed the crime.

[Switching to news conference footage:]

52 Reporter: Sgt. Colburn was up there for quite some time today. This is a gentleman who I think has been a law enforcement officer for 13 years. He puts on a uniform and badge and gun every day and goes to work and tries to do his best. We're all here, we're putting this on tv, this guy's gonna go home and listen to his son maybe cry about how everybody in school made fun of him because his dad's a bad cop.

Strang: This was a hard day, and there've been some hard days for Sgt. Colburn. But any pain, any burden that he's bearing pales in comparison to what the State of Wisconsin and the people working for it have inflicted on Steven Avery and his family. And right now, Steven Avery needs Jerry Buting and Dean Strang and anybody out there who believes in him, badly. We do believe in him. And we are willing to do hard things to advance his cause. And he's been saying since November 2005 that someone must have planted his blood if it's in that car.

Reporter: But my question is though, if you were going to put somebody on the stand and accuse that person of a conspiracy, Mr. Kratz kind of made it sound like you should be able to offer some proof that this planting actually took place.

Strang: You're hearing the evidence of the conspiracy. And I've sat in many a federal courtroom and heard federal prosecutors prove a conspiracy on less than we've heard already here and that you will hear by the end of this trial.



.....

[trial examination of Fassbender regarding sign-in sheet at the scene and examination of Lenk; switches to footage of Avery phone call with his mother]

- 53 Avery's mother: It seems suspicious.  
 Avery: Yeah.  
 Avery's mother: Them people ain't gonna get away with everything.  
 Avery: No. No. That's why Kratz is worried about it.  
 Avery's mother: Yeah.  
 Avery: Yeah, he's scared now.  
 Avery's mother: Oh yeah?  
 Avery: Well, why wouldn't he be?

[shows other segments regarding EDTA testing by FBI]

- 54 Buting (speaking in his car): Look how quickly they got the FBI to retool their instruments, recalibrate everything, do these internal validation studies they're going to claim, um, and get results within a matter of weeks. A few weeks. On a test that they haven't done for 10 years. And yet, the crime lab has, in 2002, evidence in its lab that Steven Avery is innocent, and it sits for a year before it gets tested. It shows the imbalance between the individual and the power of the government. The full force of which they're trying to bring to bear on this man. Why? Why in this case? Because we have accused – and the evidence suspiciously points to – framing by one of them. And when you do that, “you do so at your peril,” as the state would say, you know?

.....

Again, it's not like they think they're framing an innocent man. But they are.

### SEASON 1 - EPISODE 8

- 55 Buting: ..... This could be done by two officers. Really one officer. The one officer who keeps coming up, Lieutenant Lenk, whose name's on the evidence transmittal from the 1985 case just a couple years earlier. Lieutenant Lenk, who shows up on November 5<sup>th</sup> without logging in. Lieutenant Lenk, who finds the magic key. Lieutenant Lenk who, four months later, four months after Manitowoc no longer is needed, with no legitimate reason, is back at that scene on March 1<sup>st</sup>, and what's found the next day? The magic bullet. (photos of Lenk and Colborn)
- 56 Kratz: This isn't just two guys. It's Jim Lenk and it's Andy Colborn. Their livelihood, their reputations, their families, everything in their 20 plus years of law enforcement are on the line when some lawyer accuses them of misconduct. Not just any misconduct, but planting evidence in a murder case. And this vial planting defense is absolutely ludicrous. We only had to call one



witness who scientifically could tell you that there is absolutely no way that vial of blood was used to plant.

57 Strang: Would Lieutenant Lenk lie? Would he lie as a sworn law enforcement officer? Well all I can tell you is he did twice and you heard it. Here he says he arrives at 2:00. When he's asked under oath before, it's 6:30 or 7:00. This isn't 15 minutes off folks. It's under oath and it's a difference of four and a half or five hours. At that time of the year, November 2005, it's the difference between broad daylight and pitch black. He was under oath. If and when police officers plant evidence, they are not doing it to frame an innocent man. They're doing it because they believe the man is guilty. They're not doing it to frame an innocent man. They're doing it to ensure the conviction of someone they've decided is guilty.

58 Kratz: If you buy Mr. Strang's argument that they were trying to make sure that a guilty person was found guilty, then assigning accountability to the murder of Teresa Halbach shouldn't matter whether or not that key was planted.

In other words, can you set that aside and decide, is there enough other evidence or is the key the only thing that points to Mr. Avery? That key, in the big picture, in the big scheme of things here, means very little.

59 Buting: We do not and never have claimed that the police killed Teresa Halbach. However, the person or persons who did knew exactly who the police would really want to blame.

60 Kratz: Despite Mr. Buting standing up here and saying "Look, folks, we're not saying that the cops killed Teresa Halbach. Now what we're saying is that somebody else skillfully exploited law enforcement bias," as if there's somebody smart enough out there that could do that. But when you scrape one layer of this manure off the topsoil, you'll realize that the cops had to kill her. Now, are you, as the jury, in order to find Mr. Avery not guilty, willing to say that your cops, that your Manitowoc County sheriff's deputies, Lieutenant Lenk, Sergeant Colborn, came across a 25 year old photographer, killer her, mutilated her, burned her bones, all to set up and frame Mr. Avery? You've gotta be willing to say that. You've gotta make that leap.

#### SEASON 1 - EPISODE 9

61 Buting: Well if they framed Steven Avery, the question is -- is Brendan's case a whole charade too? I mean that's ultimately gonna be the question.

#3053787

**Exhibit B Summary**

<b>Ex. B subpart number / short description</b>	<b>How Omission / Change Made MAM False in Substantial Part</b>	<b>Basis for inferring knowledge of falsity and/or reckless disregard of the truth (obvious reasons to doubt veracity of informant or information, see <i>Anderson v. Herbert</i>, 2011 WI App 56, ¶¶22-23.</b>
1—4, portions of 5, 9, 10-11, 18, 20-22, 23, portions of 24, 25-26, 28-29, 32, 37, 39-47, 52	Large omissions of text eliminate context, by conflating substantive testimony and omitting explanation and context that would alter viewers' evaluation of Plaintiff's credibility and explanations. This is especially the case regarding such topics as the background of the search in Avery's bedroom, which explains why Plaintiff was involved due to his status as an evidence technician (rather than for a nefarious reason) and that he was there at the request of Calumet County, not because of any agenda of his own	Defendants knew the alterations changed the impact of the testimony and it is evident that they made them for that reason, in order to continue to tell their story. This is further corroborated in the document productions by Netflix, which demonstrate the involvement of Netflix personnel in attempting to make the story more dramatic and to emphasize Plaintiff as an alleged villain of the story. (See Plaintiff's Responses to First Set of Interrogatories of Netflix, Inc.)
5	Omits Plaintiff's direct response to a question ("Yes, sir,") making Plaintiff appear to be evasive and less forthright in responding to questions regarding the bedroom search	Defendants knew the alterations changed the impact of the testimony and it is evident that they made them for that reason, in order to continue to tell their story. This is further corroborated in the document productions by Netflix, which demonstrate the involvement of Netflix personnel in attempting to make the story more dramatic and to emphasize Plaintiff as an alleged villain of the story. (See Plaintiff's Responses to First Set of Interrogatories of Netflix, Inc.)
6	Elimination of Plaintiff's descriptions of the search details makes the testimony regarding the bedroom search seem more clipped, truncated, lacking in detail, and less credible	Defendants knew the alterations changed the impact of the testimony and it is evident that they made them for that reason, in order to continue to tell their story. This is further corroborated in the document productions by Netflix, which demonstrate the involvement of Netflix personnel in attempting to make the story more dramatic and to emphasize Plaintiff as an alleged villain of the story. (See Plaintiff's Responses to First Set of Interrogatories of Netflix, Inc.)



7	Plaintiff's emphatic testimony that he did not approach the key is eliminated, along with additional details that make the testimony seem more clipped, truncated, lacking in detail, and less credible	Defendants knew the alterations changed the impact of the testimony and it is evident that they made them for that reason, in order to continue to tell their story. This is further corroborated in the document productions by Netflix, which demonstrate the involvement of Netflix personnel in attempting to make the story more dramatic and to emphasize Plaintiff as an alleged villain of the story. (See Plaintiff's Responses to First Set of Interrogatories of Netflix, Inc.)
8	Omits Plaintiff's testimony that he was very surprised to see the key there given that they had searched the bedroom previously, which leaves that question seemingly unanswered when Buting and Strang muse about it at other points in the series, and omits additional details that make the testimony seem more clipped, truncated, lacking in detail, and less credible	Defendants knew the alterations changed the impact of the testimony and it is evident that they made them for that reason, in order to continue to tell their story. This is further corroborated in the document productions by Netflix, which demonstrate the involvement of Netflix personnel in attempting to make the story more dramatic and to emphasize Plaintiff as an alleged villain of the story. (See Plaintiff's Responses to First Set of Interrogatories of Netflix, Inc.)
12-13	Omits language emphasizing Plaintiff's role as a corrections officer and not a police officer at the time of the call to the jail	Defendants knew the alterations changed the impact of the testimony and it is evident that they made them for that reason, in order to continue to tell their story. This is further corroborated in the document productions by Netflix, which demonstrate the involvement of Netflix personnel in attempting to make the story more dramatic and to emphasize Plaintiff as an alleged villain of the story. (See Plaintiff's Responses to First Set of Interrogatories of Netflix, Inc.)
14	Omission / edit that appears designed to convey a different verbal and nonverbal impression of Plaintiff	Defendants knew the alterations changed the impact of the testimony and it is evident that they made them for that reason, in order to continue to tell their story. This is further corroborated in the document productions by Netflix, which demonstrate the involvement of Netflix personnel in attempting to make the story more dramatic and to

		emphasize Plaintiff as an alleged villain of the story. (See Plaintiff's Responses to First Set of Interrogatories of Netflix, Inc.)
15	Omits testimony that emphasizes that Plaintiff was not provided any names of person allegedly wrongly incarcerated in call to jail	Defendants knew the alterations changed the impact of the testimony and it is evident that they made them for that reason, in order to continue to tell their story. This is further corroborated in the document productions by Netflix, which demonstrate the involvement of Netflix personnel in attempting to make the story more dramatic and to emphasize Plaintiff as an alleged villain of the story. (See Plaintiff's Responses to First Set of Interrogatories of Netflix, Inc.)
16	Omits Plaintiff's response that he did not set up Mr. Avery for murder. The softer language that is included later likely would not have as much impact in evaluating Plaintiff's testimony and the fact that he gave the same answer twice would have been important for viewers to know	Defendants knew the alterations changed the impact of the testimony and it is evident that they made them for that reason, in order to continue to tell their story. This is further corroborated in the document productions by Netflix, which demonstrate the involvement of Netflix personnel in attempting to make the story more dramatic and to emphasize Plaintiff as an alleged villain of the story. (See Plaintiff's Responses to First Set of Interrogatories of Netflix, Inc.)
17	Omits and mutes Plaintiff's assertion that the proposition that he planted evidence is "ridiculous"	Defendants knew the alterations changed the impact of the testimony and it is evident that they made them for that reason, in order to continue to tell their story. This is further corroborated in the document productions by Netflix, which demonstrate the involvement of Netflix personnel in attempting to make the story more dramatic and to emphasize Plaintiff as an alleged villain of the story. (See Plaintiff's Responses to First Set of Interrogatories of Netflix, Inc.)
19	Elimination of reference to Mr. Wiegert alters and simplifies Defendants' version of the call to dispatch issue by eliminating a reference to another involved individual who would	Defendants knew the alterations changed the impact of the testimony and it is evident that they made them for that reason, in order to continue to tell their story. This is further corroborated

	presumably have noticed if there was something wrong or odd about Plaintiff's response	in the document productions by Netflix, which demonstrate the involvement of Netflix personnel in attempting to make the story more dramatic and to emphasize Plaintiff as an alleged villain of the story. (See Plaintiff's Responses to First Set of Interrogatories of Netflix, Inc.)
24	Omission / edit that appears designed to convey a different verbal and nonverbal impression of Plaintiff	Defendants knew the alterations changed the impact of the testimony and it is evident that they made them for that reason, in order to continue to tell their story. This is further corroborated in the document productions by Netflix, which demonstrate the involvement of Netflix personnel in attempting to make the story more dramatic and to emphasize Plaintiff as an alleged villain of the story. (See Plaintiff's Responses to First Set of Interrogatories of Netflix, Inc.)
27	Omits reference to one of the reports that Plaintiff prepared regarding the property search to reinforce accusation that Plaintiff inadequately documented his actions, attempting to reinforce claims regarding prior jail call statement	Defendants knew the alterations changed the impact of the testimony and it is evident that they made them for that reason, in order to continue to tell their story. This is further corroborated in the document productions by Netflix, which demonstrate the involvement of Netflix personnel in attempting to make the story more dramatic and to emphasize Plaintiff as an alleged villain of the story. (See Plaintiff's Responses to First Set of Interrogatories of Netflix, Inc.)
30	Again omits reference to the fact that Plaintiff was working at the jail at the time of the prior call to the jail	Defendants knew the alterations changed the impact of the testimony and it is evident that they made them for that reason, in order to continue to tell their story. This is further corroborated in the document productions by Netflix, which demonstrate the involvement of Netflix personnel in attempting to make the story more dramatic and to emphasize Plaintiff as an alleged villain of the story. (See Plaintiff's Responses to First Set of Interrogatories of Netflix, Inc.)



31	Omits references to the fact that he wrote a statement about the prior call at the direction of a supervisor, rather than because he in any way acknowledged that a report should have been prepared earlier	Defendants knew the alterations changed the impact of the testimony and it is evident that they made them for that reason, in order to continue to tell their story. This is further corroborated in the document productions by Netflix, which demonstrate the involvement of Netflix personnel in attempting to make the story more dramatic and to emphasize Plaintiff as an alleged villain of the story. (See Plaintiff's Responses to First Set of Interrogatories of Netflix, Inc.)
32-35	Omissions that decrease emphasis on Plaintiff's reasons for not writing a statement at the time that the jail call was received	Defendants knew the alterations changed the impact of the testimony and it is evident that they made them for that reason, in order to continue to tell their story. This is further corroborated in the document productions by Netflix, which demonstrate the involvement of Netflix personnel in attempting to make the story more dramatic and to emphasize Plaintiff as an alleged villain of the story. (See Plaintiff's Responses to First Set of Interrogatories of Netflix, Inc.)
36	Omission / edit that appears designed to convey a different verbal and nonverbal impression of Plaintiff	Defendants knew the alterations changed the impact of the testimony and it is evident that they made them for that reason, in order to continue to tell their story. This is further corroborated in the document productions by Netflix, which demonstrate the involvement of Netflix personnel in attempting to make the story more dramatic and to emphasize Plaintiff as an alleged villain of the story. (See Plaintiff's Responses to First Set of Interrogatories of Netflix, Inc.)
38	Eliminates testimony providing explanation of context for call to dispatch and regarding Plaintiff's role as a supervisor	Defendants knew the alterations changed the impact of the testimony and it is evident that they made them for that reason, in order to continue to tell their story. This is further corroborated in the document productions by Netflix, which demonstrate the involvement of Netflix personnel in attempting to make the story more dramatic and to

		emphasize Plaintiff as an alleged villain of the story. (See Plaintiff's Responses to First Set of Interrogatories of Netflix, Inc.)
48	Omits Plaintiff's acknowledgment that he misremembered that he suggested that the vehicle was a Toyota in the call to dispatch, making it appear that Strang simply caught Plaintiff in a lie rather than that Plaintiff admitted that he misremembered that fact and owned up to it	Defendants knew the alterations changed the impact of the testimony and it is evident that they made them for that reason, in order to continue to tell their story. This is further corroborated in the document productions by Netflix, which demonstrate the involvement of Netflix personnel in attempting to make the story more dramatic and to emphasize Plaintiff as an alleged villain of the story. (See Plaintiff's Responses to First Set of Interrogatories of Netflix, Inc.)
49	Omits reference to date of call	Defendants knew the alterations changed the impact of the testimony and it is evident that they made them for that reason, in order to continue to tell their story. This is further corroborated in the document productions by Netflix, which demonstrate the involvement of Netflix personnel in attempting to make the story more dramatic and to emphasize Plaintiff as an alleged villain of the story. (See Plaintiff's Responses to First Set of Interrogatories of Netflix, Inc.)
50	Omits Plaintiff's affirmative response to the question asked and instead makes it appear that Plaintiff did not have as strong a recollection and that his answer was evasive rather than a direct response	Defendants knew the alterations changed the impact of the testimony and it is evident that they made them for that reason, in order to continue to tell their story. This is further corroborated in the document productions by Netflix, which demonstrate the involvement of Netflix personnel in attempting to make the story more dramatic and to emphasize Plaintiff as an alleged villain of the story. (See Plaintiff's Responses to First Set of Interrogatories of Netflix, Inc.)
51	Omits Plaintiff's response that Investigator Wiegert must have given him the vehicle information and substitutes the response "No" – changing the response	Defendants knew the alterations changed the impact of the testimony and it is evident that they made them for that reason, in order to continue to tell their story. This is further corroborated

		in the document productions by Netflix, which demonstrate the involvement of Netflix personnel in attempting to make the story more dramatic and to emphasize Plaintiff as an alleged villain of the story. (See Plaintiff's Responses to First Set of Interrogatories of Netflix, Inc.)
53	Changes and alters Plaintiff's response to a question so that it appears that Plaintiff damagingly admits that the call to dispatch sounded like he was looking at the back of Halbach's vehicle, when he did not so testify	Defendants knew the alterations changed the impact of the testimony and it is evident that they made them for that reason, in order to continue to tell their story. This is further corroborated in the document productions by Netflix, which demonstrate the involvement of Netflix personnel in attempting to make the story more dramatic and to emphasize Plaintiff as an alleged villain of the story. (See Plaintiff's Responses to First Set of Interrogatories of Netflix, Inc.)





MAM takes testimony out of context, omits inconvenient portions of responses, splices testimony within questions and answers in order to make for better drama, to make the defense cross-examination of plaintiff look more devastating, to make the direct examination of plaintiff look more scant and absent of detail, and to make plaintiff look less credible. This is in what is billed as a "documentary."

The following is presented as seamless uninterrupted questioning and testimony at trial; the bracketed/highlighted information has been omitted as compared with the trial transcript (Day 7). Boldface text shows or describes text that appears to have been added.

[Initial question – not found in the transcript as it appears]<sup>1</sup>

Kratz: Did Mr. Avery have a response for you?

Plaintiff: **Yes, he said that she had been there.**

Kratz: **Did he tell you what day she had been there?**

Plaintiff: **I think I might have told him that, what day that she should have been out there. I don't recall if we mentioned a date, but I do remember asking him what time she had been out there.**

Kratz: **Did Mr. Avery recall this young woman?**

Plaintiff: **Yes.**

Kratz: **Did he name her for you?**

Plaintiff: **No.**

Kratz: **Did he tell you what she had done at his property that day?**

Plaintiff: He said that she was taking some pictures of a van that his sister was selling.

[Kratz: **Mr. Avery tell you how long the van had been on his property?**

Plaintiff: **He said 5 or 10 minutes.**

Kratz: **Did you inquire of Mr. Avery whether or not he had personal contact with this woman on the date she was out there?]**

Plaintiff: I asked Mr. Avery if she had said where she was going. And he said, I never talked to her. She was only here 5 or 10 minutes and she left.

Kratz: But he never talked to her?

Plaintiff: That's what he told me, he never talked to her.

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<sup>1</sup> From unknown source

Plaintiff: That's what he told me, he never talked to her.

2 [Omits nearly 50 pages of testimony, cutting from the above response at p. 76 to p. 122 of the trial transcript.]

Kratz: Let's move on then to [the 8<sup>th</sup>, which would be Tuesday] the 8<sup>th</sup> of November [were you asked to return to the property?]

3 [omits 20 lines of testimony on that page (page 122) and three lines of testimony on page 123 regarding the context of Plaintiff's assignment to go back to the property on the 8<sup>th</sup>]

Kratz: Did you have occasion to enter Steven Avery's bedroom on the 8<sup>th</sup> of November?

Plaintiff: Yes, sir.

Kratz: Who did you enter that bedroom with.

Plaintiff: Deputy Kucharski and Lieutenant Lenk.

4 [omits 21 lines of testimony on page 123, all of page 124, and 16 lines of testimony on 125 describing in detail the search in the bedroom on November 8]

Kratz: In performing that search, Sergeant Colburn, did you move or manipulate this piece of furniture [at all]?

5 [Omits Plaintiff's direct response ("Yes, sir.") and four remaining lines of testimony on that page (page 125) and six lines of testimony at the top of page 126 with additional information about the movement of the piece of furniture]

[Kratz: If you can describe that further, I don't know if you can do it with your words, or show us with your hands, how you did it?]

Plaintiff: I will be the first to admit, [I wasn't any too gentle, as we were, you know, getting exasperated.] I handled it rather roughly, twisting it, shaking it, pulling it.

[Omits the remaining lines of testimony on Lines 11-25 on page 126, except for the word "Sergeant," from page 126, line 15; omits all of pages 127-28; omits lines 1-19 and part of line 20 on page 129]

Kratz: Sergeant,<sup>2</sup> [. . . .Do you recognize this image, that is]<sup>3</sup> did<sup>4</sup> you see this image on the 8<sup>th</sup> of November?

Plaintiff: Yes.

<sup>2</sup> From page 126, line 15

<sup>3</sup> Omits pages of testimony as indicated above, then omits these first words from p. 129, line 20

<sup>4</sup> Remainder of sentence is from p. 129, lines 20-21



6 [Kratz: Can you describe that moment, or that event, for the jury, please.

Plaintiff: As I had mentioned earlier, Lieutenant Lenk had exited – That is the door coming into the bedroom; he had gone through the door to get a bigger container. I was searching the desk here, Deputy Kucharski was sitting on the bed, [which also isn't in the photograph, but it is in very close proximity to this piece of furniture, the bookcase,] filling out paperwork.

Lieutenant Lenk [got about right here, his feet would have been right here, so he was in the room, and] said something to the effect of, [there's a key on the floor here, or,] look, there's a key. [I don't know what his exact verbiage was but he identified that there was a key on the floor.

I turned around, as I wasn't very far away, I turned around and looked and I observed this key, lying right where it is. And I observed this key had this black rubberized or plastic end on it, which they didn't – you know, that's a newer model car key, due to that plastic or rubberized end. And I also observed that embossed on there was a Toyota emblem.

And we told Deputy Kucharski, get a photograph of this, right away, which he did, which is this photograph. I did not take this photograph.

7 [Kratz: By the way, as you and Deputy Kucharski and Lieutenant Lenk observed this, did any of the three of you approach or touch this piece of evidence at that time?

Plaintiff: I may have been standing in this area here, you know. This piece of furniture is only 2 and a half, 3 feet tall, maybe. So I could easily see over it to see the key.

I did not approach the key. Lieutenant Lenk did not come into the room. Deputy Kucharski photographed the key from, you know, from whatever angle this picture was taken at. That's as close as we got.

[Kratz: My question, again, was] did either yourself, Lieutenant Lenk, or Deputy Kucharski [prior to this photo was taken] touch that key?

Plaintiff: No, sir.

Kratz: Why not?

Plaintiff: I think all three of us knew at the same time that [there was a very good chance, seeing a Toyota emblem embossed on that key, knowing that Teresa Halbach's vehicle was a Toyota, that] this was a very important piece of evidence. And, you know, none of us were going to taint that.

8

Kratz: Let me ask you, Sergeant Colburn, you guys, you specifically, Lieutenant Lenk, and now Deputy Kucharski, had been in this room for quite some time before this key appears in this position, isn't that right?

Plaintiff: Yes, sir.

Kratz: Did this surprise you, that you saw this key there?

Plaintiff: Yes, I was very surprised.

Kratz: Did the three of you talk about that, we hadn't seen it before, anything like that?

Plaintiff: I—I believe I said to myself, damn, how did I miss that.

Kratz: Now, other than the bedroom slippers being pushed to the side, had anything else changed, other than the pulling out and twisting and the jostling of the cabinet?

Plaintiff: As we looked at the cabinet, it appeared that in the process of stuffing everything back into the cabinet, we had separated the back of the cabinet, the small piece of paneling that would be the back of the cabinet, from the frame of the cabinet itself.

9

[omits another two lines of testimony on this page (page 132), all of pages 133-34, and the first four lines of page 135]

Kratz: Sergeant Colburn —

10

[omits approximately 3 1/2 pages of testimony, resuming on page 138, at line 20]

Kratz: You were asked, as I understand, as part of a civil lawsuit, to provide what's called a deposition, [to be questioned by some lawyers; is that right]?

11

Plaintiff: Yes, sir.

Kratz: Do you recall when that occurred?

[omits 15 additional lines of testimony]

12

Kratz: Can you tell the jury what you were asked about?

Plaintiff: In 1994 or '95 I had received a telephone call when I was working as my capacity as a corrections officer in the Manitowoc County Jail. Telephone call was from somebody who identified himself as a detective. [And I answered the phone, Manitowoc County Jail, Officer Colburn.

Apparently, this person's assumption was that I was a police officer, not a corrections officer], and began telling me that he had [received information that] somebody who had committed an assault, in Manitowoc County, was in their custody, and we may have somebody in our jail, on that assault charge, that may not have done it.



13

I told this individual, you are probably going to want to speak to a detective, and I transferred the call to a detective [to the Detective Division, at the Manitowoc County Sheriff's Department. That's the extent of my testimony.]

Kratz: That's it? That's your connection to Mr. Avery?

Plaintiff: Yes, sir.

[The above testimony stops at page 140, line 13; the next section below is from the Redirect examination at page 213 of the transcript]

Kratz: Let me ask you this, [as you sit here today,] Sergeant Colburn, do you even know whether that call was about Mr. Steven Avery?

14

Plaintiff: No, [I don't] The word "sir" does not appear here in the transcript but appears in the broadcast, indicating a different answer was spliced in here, likely for the visual effect of the spliced-in segment.

15

[The testimony immediately preceding the above question on page 213, in re-direct, is as follows:

Kratz: Did this person ever identify the individual that they were talking about?

Plaintiff: No sir. There were no names given.]

[After the spliced-in section from re-direct, the next portion – again, while appearing to have seamlessly followed the prior testimony – is again taken from the direct examination at page 140]

16

Kratz: Well, did that cause you enough embarrassment and enough angst [in which to set up Mr. Avery for a charge of murder?

Plaintiff: No.

Kratz: Did that deposition cause you such problems from within your department that you obtained and planted blood, so that it would be found and Mr. Avery would be wrongfully accused of a homicide case?

Plaintiff: No, sir.

17

Kratz: Have you ever planted any evidence against Mr. Avery?

[Plaintiff: That's ridiculous, no I have not.

Kratz: Have you ever planted any evidence against anybody in the course of your law enforcement career?]

Plaintiff: I have to say that this is the first time my integrity has ever been questioned and, no, I have not.

Kratz: That's all I have for Sergeant Colburn, Judge.

Court: Mr. Strang.

**Cross-Examination**

Strang: This is the first time your integrity has been questioned?

Plaintiff: As it applies to being a police officer, yes.

Strang: Okay. And it's not the first time Mr. Avery's has been, so I have some questions for you.

18 [omits 30 pages of testimony, including discussion of Plaintiff's background and his training as an evidence technician]

19 Strang: November 3, 2005, when you learned [from Mr. Wiegert that] Teresa Halbach was missing, was just [about exactly, to the day] three weeks after your deposition in Steven Avery's lawsuit?

Plaintiff: Yes, sir.

20 [omits 10 lines of testimony]

Strang: As shift commander, you could have assigned anyone in road patrol to go out to the address on Avery Road?

Plaintiff: Yes.

Strang: You chose to do it yourself?

Plaintiff: Yes.

Strang: Did you go alone?

Plaintiff: Yes, I did.

21 [omits 23 lines of testimony on pages 172-73]

Strang: When, sir, did you first make a written report of anything having to do with the November 3, 2005, meeting with Mr. Avery?

Plaintiff: June of '06 I believe.

Strang: Does June 29, 2006 sound correct?

Plaintiff: Yes.

22 [omits more than 23 pages of testimony, from page 174, line 4 to page 198, line 11]

Strang: That is, it was almost 8 months after that first conversation with Steven Avery, the first conversation with him in the investigation, that you wrote down what you say he said to you, back on November 3?

Plaintiff: Yes, sir.

23

[Here, the broadcast cuts to an interview with Pete Baetz, the defense investigator, who asserts that the Manitowoc County Sheriff's Office failed to properly handle a conflict of interest, calling their credibility into question]

[Supposedly seamless trial testimony continues thereafter, starting at page 194 (four pages prior to the page containing the testimony that immediately preceded the Baetz interview)]

Strang: So you're in the house on November 5, November 6, November 7, November 8, true?

Plaintiff: Yes, sir.

24

[skips forward more than another page, to p. 196, again, without any indication that it is anything other than seamless]

Strang: [From Calumet County?] There was no time that you went in Mr. Avery's home [during November of 2005] when you were not also with Lieutenant Lenk?

Plaintiff: [Not that I recall.] A response of "No, sir" is replaced here – the second time that answer has replaced a differently worded response. It appears that perhaps the use of the same or similar "No, sir" responses in response to multiple questions, with the same or similar inflection, would make Plaintiff look less credible.

25

[Three additional lines of testimony omitted.]

Strang: This case, would you describe as the largest investigation in which you personally had participated as a law enforcement officer?

Plaintiff: Yes, sir.

26

[Six additional lines of testimony omitted]

27

Strang: [You now know that the] law enforcement agencies involved [principally Calumet County Sheriff's Department and the Division of Criminal Investigation] have generated [hundreds of] thousands of pages of police reports?

Plaintiff: Yes, sir.

Strang: Your total contribution [to those reports] is what, a little bit under a half page [as of November 8, 2005]?

Plaintiff: [That's] correct [sir].



[Strang: And then about another page as of June 29, 2006?

Plaintiff: Correct.

Strang: The report that you filed [on, or shortly after, November 8, 2005,] makes no mention of the Toyota key?

Plaintiff: That's correct, sir.

[The above exchange leaves viewers with the impression that Plaintiff prepared only one-half page of total report content and omits another half a page that he also contributed on a different date; the preceding edits omit statements about Calumet County's involvement, apparent to downplay that fact]

28

[omits another nine lines of testimony]

Strang: Were there things that you did not want to commit to paper, in a report?

Plaintiff: No, sir.

29

[omits another 19 lines of testimony, including the lines that were spliced in prior to the Pete Baetz interview referenced above]

30

Strang: [Well, about 8 months, but then, again,] while we're on Steven Avery and your reports about him, that phone call, [the phone call you took way back in 1994 or 1995, when you were working in the jail,] the phone call where a detective from another law enforcement agency told you may have the wrong guy in jail, that one?

Plaintiff: Yes, sir.

Strang: Did you ever write a report about that?

Plaintiff: No, I did not, sir. [Boldface words are not in the transcript.]

Strang: Well, actually you did, didn't you? It was about 8 years later, wasn't it?

Plaintiff: I wrote a statement on it, yes, sir.

31

Strang: You wrote a statement [after Sheriff Peterson suggested that maybe you should?

Plaintiff: Yes, sir.

Strang: [You wrote that statement] in 2003, about the 1994 or 1995 telephone call?

Plaintiff: Yes.

Strang: [You wrote that statement in 2003,] the day after Steven Avery finally walked out of prison, didn't you?



Plaintiff: I don't know what day Steve was released from prison, but I wrote the statement in 2003.

32 [15 lines of testimony omitted]

Strang: That's all I have.

[Discussion between the Court and counsel is omitted prior to the start of redirect]

**Redirect Examination**

33 Kratz: Sergeant Colburn, [just a very few follow-up questions. Mr. Strang asked you if you had written a report about that telephone call that you had sometime in 1994 or '95; do you remember that question?

Plaintiff: Yes, sir.

Kratz: Do you remember your response?

Plaintiff: My response was, no, that I did not write a report about it.

Kratz: As you look back, [back in 1994 or '95, if you would have written a report, what would it have been about?

34 Plaintiff: [That is why I didn't do one,] I don't know what it would have been about, [that I received a call and transferred it to the Detective Division.] If I wrote a report about every call that came in, I would spend my whole day writing reports.

35 [Kratz: Did this person ever identify the individual that they were talking about?

Plaintiff: No, sir. There were no names given.]

Kratz: Let me ask you this, [as you sit here today], Sergeant Colburn, do you even know whether that call was about Mr. Steven Avery?

36 Plaintiff: No, [I don't] The word "sir" is inserted here.

37 [More than two pages of additional re-direct is omitted]

**Recross Examination**

Strang: How many calls have you ever gotten in your law enforcement career, from another police officer, suggesting you had the wrong guy in jail?

Plaintiff: I don't know. I can't recall any others.

Strang: That's all I have.

The following exchange of Attorney Strang's cross-examination of Plaintiff is also altered as follows, although it is presented, again, as seamless testimony, in Episode 5 of MAM:

38 Strang: One of the things the road patrol officers [under your supervision] frequently do, is [look for cars that appear out of place?]

Plaintiff: Yes, sir.

Strang: Or if they made a traffic stop, they will inquire about the license plate or the registration plates on an automobile?

Plaintiff: Yes, sir.

Strang: And they will] call into dispatch and give the dispatcher the license plate number of a car they have stopped, or a car that looks out of place for some reason, correct?

Plaintiff: Yes, sir.

Strang: And the dispatcher [very quickly these days, with his or her computer screen,] can get information about who – to whom a license plate is registered?

Plaintiff: Yes, sir.

39

[12 lines of testimony omitted]

Strang: If the car is abandoned or there's nobody in the car, the registration tells you who the owner presumably is?

Plaintiff: Yes, sir.

40

[15 lines of testimony omitted]

Strang: All right. I'm going to ask you to listen, if you would, to a short phone call.

41

[Approximately a page of transcript is omitted here, including an exchange between counsel and the judge.]

[playing from phone call]

Manitowoc County Sheriff's Department. This is Lynn.

Lynn.

Hi, Andy.

Can you run Sam William Henry 582

42

[Approximately 27 lines of transcript omitted here, including some of the call to dispatch]

Okay. Shows that she's a missing person. And it lists to Teresa Halbach.

Okay.

Okay. Is that what you're looking for, Andy?

'99 Toyota.

Yup.

Okay. Thank you.

You're so welcome. Bye, bye.

43

[Approximately 13 lines omitted]

Strang: What you're asking the dispatcher [whose name is Lynn] is to run a plate that's Sam William Henry 582, did I hear that correctly?

Plaintiff: Yes, sir.

44

[Four lines omitted]

Strang: Sam William Henry would be SWH-582.

Plaintiff: Yes.

Strang: This license plate?

Plaintiff: Yes, sir.

45

[Five lines of transcript omitted]

Strang: And the dispatcher tells you that the plate comes back to a missing person or woman?

Plaintiff: Yes, sir.

46

Strang: Teresa Halbach [rest of question omitted]

Plaintiff: Yes, sir.

Strang: And then you tell the dispatcher, Oh, '99 Toyota?

Plaintiff: No, I thought she told me that.

47

[call replayed, except that MAM omits the first 15 lines of call, which were replayed at trial]

48

[Strang: Actually you who suggests this is a '99 Toyota?



Plaintiff: I asked if it was a '99 Toyota, yes.

Strang: And the dispatcher confirmed that?

Plaintiff: Yes.]

Strang: Were you looking at these plates when you called them in?

Plaintiff: No, sir.

49 [Strang: And your best guess is that you called them in on November 3, 2005?

Plaintiff: Yes]

[Instead of the above exchange, the broadcast splices in the following exchange from two pages earlier in the transcript, at page 182]

Strang: Do you have any recollection of making that phone call?

Plaintiff: [It would have had to have been 11/03/05 or – I'm guessing 11/03/05.

[splices back to Plaintiff's answer to a different question on page 184]

50 Plaintiff: [Yes], probably after I received a phone call from investigator Wiegert letting me know that there was a missing person.

Strang: Investigator Wiegert, did he give you the license plate number for Teresa Halbach when he called you?

51 Plaintiff: [I don't remember the entire content of our conversation but, obviously, he must have been because I was asking the dispatcher to run the plate for me.]

52 [omits approximately 35 lines of testimony and cuts to answer to a different question that appears on page 186]

Plaintiff: No, I just don't remember the exact content of our conversation then.

Strang: But –

Plaintiff: He had to have given it to me, because I wouldn't have had the number any other way.

53 Strang: Well, and you can understand how someone listening to that might think that you were calling in a license plate that you were looking at on the back of a 1999 Toyota [; from listening to that tape, you can understand why someone might think that, can't you?]

[sustained objection omitted]

[Strang: This call sounded like hundreds of other license plate or registration checks you have done through dispatch before?]

Plaintiff: Yes.

Strang: But there's no way you should have been looking at Teresa Halbach's license plate on November 3, on the back-end of a 1999 Toyota?

~~[sustained objection omitted]~~

~~[Strang: There's no way you should have been, is there?]~~

Plaintiff: I shouldn't have been and I was not looking at the license plate.

Strang: Because you are aware now that the first time that Toyota was reported found was two days later on November 8?

Plaintiff: Yes, sir.

# Exhibit 49

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN

---

ANDREW L. COLBORN,  
Plaintiff

NETFLIX, INC.,  
CHROME MEDIA, LLC, f/k/a  
SYNTHESIS FILMS, LLC,  
LAURA RICCIARDI, and  
MOIRA DEMOS,

Case No. 19-CV-484

Defendants.

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**PLAINTIFF, ANDREW L. COLBORN'S SUPPLEMENTAL  
RESPONSE TO DEFENDANT NETFLIX'S  
INTERROGATORY NO. 1**

---

Plaintiff, Andrew L. Colborn, by and through his attorneys, supplements his response to Defendant Netflix's Interrogatory No. 1 as follows.

**INTERROGATORIES**

**SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 1:** In supplement to Plaintiff's prior response to Netflix's Interrogatory No. 1, and subject to all objections asserted in Plaintiff's prior response, Plaintiff supplies the attached chart of additional facts responsive to the Interrogatory.

**As to Objections:**

Dated this 15<sup>th</sup> day of July, 2022.

Attorneys for Plaintiff, Andrew L. Colborn

By: *Electronically signed by April Rockstead Barker*  
State Bar Number: 1026163

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**AS TO RESPONSES:**

STATE OF WISCONSIN    )  
  ) ss:  
COUNTY OF \_\_\_\_\_ )

ANDREW L. COLBORN, being first duly sworn on oath, states that he has read the foregoing responses to the Interrogatories and that the same are true to the best of his knowledge at this time. Further, he reserves the right to amend the responses should later discovered information suggest that any of the foregoing responses are incorrect or incomplete.

\_\_\_\_\_  
ANDREW L. COLBORN

Subscribed and sworn to before me  
this \_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Notary Public, \_\_\_\_\_ County, Wis.  
My Commission: \_\_\_\_\_

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<b>Bates Range (NFXCOL)</b>	<b>Evidence of or supporting Actual Malice / From Which Actual Malice May Be Inferred</b>
308	Lisa Nishimura advises an incoming employee, Adam DelDeo, to think about decisions about the structure of the series “from a marketing perspective” and “to some degree awards qualifying perspective,” demonstrating that Netflix’s goals in participating in the postproduction process were to market the series and qualify for awards rather than to tell the truth.
1906	Status update from the filmmakers demonstrates that Netflix representatives had seen early assemblies and therefore were able to note changes (especially editing changes) as postproduction occurred and between different versions of episodes.
1907, 1930	Netflix representatives were aware that Laura Ricciardi and Moira Demos were attempting to participate with Avery’s attorneys in obtaining independent testing of the “blood vial” featured in the series in further efforts to aid Avery’s defense team
199	Netflix representatives suggested changes to the series to augment the focus on Steven Avery’s voiceovers
202, 1940	Netflix representatives sought to find ways to have the series “allude to” possible planting of evidence against Avery independently of any theories suggested by Avery’s lawyers in interviews or otherwise
1933-34	Netflix representatives sought to assist in creating the final product for the Making a Murderer series in such a way that it would provide an “immersive and all-encompassing experience for the viewer including deft and unexpected foreshadowing of key elements, pitch perfect call-backs of evidence and breathtaking reveals,” along with a “thriller” atmosphere through the score.
193 5	Netflix representatives sought to ensure through visuals in MAM that the Avery family would be portrayed as “a very happy family” (so that viewers would engage with them and see police as adversaries)
1937-38; 1981-82; see also 227, 231, 2019	Netflix representatives acknowledged in communications with Chrome representatives that as originally prepared, MAM was “confusing” as to the details surrounding the call to the Manitowoc County jail that Plaintiff received and that it “seemed very thin that Colborn not having specific knowledge of who called him would be the key to the case.” Yet, Netflix representatives participated in the post-production process through which MAM was edited to present an allegedly “clear” storyline in early episodes that conveyed to viewers the impression that Plaintiff was a Sheriff’s deputy when the call came in and either did absolutely nothing with it or participated in a department-wide conspiracy to suppress it, rather than forwarding it from the jail to the appropriate department.
1940, 1978	Netflix representatives endorsed and agreed with an approach that used the initial episode of the series to “set up” the notion for viewers that Manitowoc County law enforcement planned to “seek revenge” against Avery because of his civil suit
1946	Netflix representatives sought to cut and trim material concerning the call to the Manitowoc County jail in order to enhance the “storyline” at the expense of

	detail that could have helped viewers understand that there was not one clear version of the events surrounding the call.
1946	Netflix representatives sought to enhance the notion that Avery in his civil suit was practically assured a victory prior to the Halbach murder, relying on commentary by Avery's lawyers in that case to convey the claim.
219	Netflix representatives acknowledged that MAM was relying solely on one of Avery's prior attorneys to contend that police officers were allegedly upset that Avery was cleared of the earlier rape conviction
224-25, 212, 1949, 1959, 1996, 2131, 2062, 2076, 2078, 2083	Netflix representatives consistently sought to edit, cut and tighten scenes involving courtroom testimony, so that context was lost to the goal of telling a supposedly clear "story" in Avery's favor and against law enforcement, including Mr. Colborn. Netflix representatives also cautioned against too much "talking in a courtroom" as making for "a really dry episode."
1949, 1961, 2131	Netflix representatives approached MAM from the assumption that Avery is "innocent" and that the judge was "biased" against him.
1952	Netflix representatives advised Chrome representatives to include in MAM "sweet photos" of Avery and his nephew in order to "reinforce the sense of injustice and calamity" that the series was to impart.
1953, see also 2009-2010, 243, 2174	Netflix representatives sought to use the pacing of the series to give the audience "incredibly riveting reveals" using music as well to "play a key role in foreshadowing, and helping to drive emphasis on key information and characters as they emerge." This included establishing "a subtle but impactful 'theme' music for the baddies, eg., Lenk, Petersen, Kratz . . . ."
1953, 2050, 300	Netflix representatives knew of and agreed with keeping content in the series that showed random individuals in a pool hall accusing Manitowoc County law enforcement officers of planting evidence against Avery.
1964, 2125	Netflix representatives advised Chrome that they were "looking for" the series to leave people feeling "terrified and enraged, to feel as though it's their responsibility and need to discuss this case, to raise it in the social consciousness and to drive awareness . . . . Leave the audience feeling angry!" They further advised that "Our audience needs to be left not only feeling extremely upset and saddened for Steven and Brenden, but also incredibly angry."
1977	Netflix representatives indicated in their notes that Chrome should expand "the emotional range for the viewer throughout the series. We want to feel the swells of hope, the range of injustice, the horror of the defenseless. Viewers across the globe should be in tears and shouting at their screens throughout."
2163-64, 2186-87	Netflix representatives encouraged Chrome to "ratche[t] up" the episode of MAM in which the verdict against Avery is read, stating that "Currently the beat emits anger and we feel injustice was done, but given the overall investment made in watching 8 hours thus far, the audience should be feeling more intense anger, sadness, bewilderment, and perhaps even fury at this jury decision." They also encouraged Chrome to include either footage of Avery and his family looking disappointed or footage of law enforcement officers, including Plaintiff, "showing satisfaction" for this purpose.

1970	Netflix representatives endorsed MAM's assertions that Sheriff Peterson allegedly exerted "influence over the sentiment of his department" with respect to Avery, based on Avery's lawyers' claims
2132	Netflix representatives acknowledged it was "unlikely" that FBI representatives would "aid and abet" Manitowoc County as part of a conspiracy unless the department had a "deep history" with the agency.
2133	A law enforcement official is characterized as a "key villain" in Netflix representatives' notes
2134	Netflix representatives' notes demonstrate that they were brainstorming with Chrome to determine whom should be portrayed as the "mastermind" of the alleged law enforcement conspiracy, rewriting the facts to fit their story, and that they approved using Avery's lawyer's "analysis" of law enforcement officers' alleged motives and conduct.
1974	Netflix representatives recommended against using imagery of Avery that made him look unlikeable (e.g., "smug")
229	Netflix representatives proposed making a segment on Plaintiff's call to dispatch during the Avery investigation a "cliffhanger" and then sought to eliminate additional information that "dulled" and "killed" the effect of the "bomb," including visuals of Delores Avery pointing out places where officers allegedly "could have" entered the property to plant evidence
1979	Netflix representatives sought to "establish a motive" for the prior Sheriff to "interfere" in the investigation of the prior rape charges against Avery through visuals that sought to portray the Sheriff's wife and Penny Bernstein as close
1991	Netflix representatives encouraged Chrome to hint that there was "evidence" that James Lenk or "the cops in general" planted evidence, despite no actual evidence of planting having been presented at any time in the series
1992	Netflix representatives encouraged Chrome to edit testimony sequences of prosecution witnesses for "comedic effect"
2005	Netflix representatives encouraged Chrome to ensure that episodes began with big "reveals"
2011	Netflix knew and acknowledged that the series was "built on [Steven Avery]'s narrative" through his phone calls to and from prison
245, 2039, 2043; 2167; 2174; 2089,	Netflix representatives looked for ways to identify Plaintiff throughout the series in ways designed to enhance anger toward him based on the series' claim that he was "always a suspect" in allegedly "tampering with evidence," despite no actual evidence that Mr. Colborn "tampered with" evidence, as well as to present his appearance as a "shock." They also approved of the use of "danger music" in connection with his appearance in the series.
2020	Netflix representatives sought to "highlight" that law enforcement was supposedly collectively "letting a known rapist go free"
2150, 278	Netflix representatives endorsed changes by Chrome to prior versions of MAM in ways that worked "really well" to "[s]et[] Colborn up as the potential cop to plant the car" as a "[s]ensational and strong end" to an episode
2063	Netflix representatives characterized the changes to MAM that added the "cliffhanger" about the dispatch call to episode 5 as "terrific," stating "He goes from being so sure and then is caught in a clear lie about the origin of the car

	make and model.” The alleged “clear lie” impression was obtained by omitting Plaintiff’s acknowledgement that he had been mistaken about the “original of the car made and model,” as explained in Exhibit B to Plaintiff’s Second Amended Complaint. It can be reasonably inferred that Netflix representatives knew this because they had seen prior, less edited versions of the episode.
2071, 2079	Netflix representatives acknowledged that statements made by Avery’s attorney in the series might be construed as “defamatory” if they were not aligned with “court filings” and to the extent that they were “directly claiming [law enforcement] framed Steven.”
2078	Netflix representatives acknowledged in their notes that argument made by Avery’s attorney “actually detracts” from the argument that “Lenk/Colburn” could have “planted” Ms. Halbach’s vehicle key. They also proposed eliminating James Lenk’s testimony regarding the search and noted that “Buting’s claim that [James Lenk] put the DNA on the key is really weak.”
273	Netflix representatives recommended eliminating testimony by James Lenk because it never really delivered “enough of a silver bullet” to support a direct claim that Lenk planted evidence
288	Netflix representatives acknowledged that it could have simply been a “simple oversight” that James Lenk didn’t sign in at one point during the search of the Avery property, and indicated that a “timeline” was needed to ensure that it didn’t “feel speculative and grasping for conspiracy”
294-95	Netflix representatives discussed whether to include commentary by Avery’s attorney that suggested that police killed Teresa Halbach despite the fact there is “no physical evidence to really prove the officers were there” but refrained from advising that it be pulled because they did not want to go “contrary to the direction” Netflix had been pushing Chrome in, as Netflix representative were “so happy that [Chrome] finally [had] a point of view” incorporated in the series.
Deposition testimony	Netflix representatives knew the content of the final episodes, including the obviously defamatory comments summarized in Exhibit A to the Second Amended Complaint
Deposition testimony and numerous email messages produced by Defendants	Netflix representatives were involved in frequent / regular calls to discuss the postproduction of MAM and viewed versions of episodes as they were prepared.