***Serial* Episode 8: A Study in Bias?**

Four *Atlantic* staffers discuss the latest installment of the podcast, in which listeners finally learn more about Jay

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**Friedersdorf:**Eight episodes into the *Serial* podcast, there still isn't any certainty about who killed Hae Min Lee. Certainly nothing aired so far exonerates Adnan Syed, the man convicted of the crime. But if *Serial* listeners haven't yet figured out if a miscarriage of justice was perpetrated, we have at least gotten a glimpse at how the criminal justice system works. This case seemed weak enough at the outset for Sarah Koenig to spend months delving into it. Past episodes have chronicled a number of discrepancies in the prosecution's narrative. Last week, lawyers from the Innocence Project looked at the case and felt sufficiently strong doubts about its outcome to dedicate scarce resources to their own investigation.

So what struck me most about "The Deal With Jay," this week's episode, was the statement of the retired detective who the podcast hired for his expertise on the subject of false confessions. He declared that the investigation was *better* than most of the ones that he's seen. We all know life isn't like *CSI*. But *Serial* doesn't have a fancy crime lab either, and Koenig talked in this episode to a friend of Jay that the police knew about and never interviewed, but who gave details 15 years later that contradicts Jay's story.

Why didn't the police interview him at the time?

We heard from jurors in this episode too. Though instructed, per the usual rules in a murder trial, to disregard the fact that Adnan didn't testify in his own defense, they clearly held it against his credibility, and one juror noted that she believed Jay in part because she felt that he wouldn’t tell a lie that would send him to jail. But Jay never went to jail.

Despite all that, this felt like one of the episodes that cuts against Adnan's innocence, rather than like one of the episodes that makes him seem more innocent. That observation may not be rational. No new fact tilted the balance. I think it's just that while we'd already heard lots of times from Adnan, we'd never before heard from Jay. He was just this mysterious figure. But this week, he was cast as the protagonist and that humanized him even if we never heard his voice. Now consider that the jury got to hear Jay tell his story in his own voice.

And they never heard from Adnan at all.

Had you been on the jury, would that have swayed you at all, despite the instructions to disregard it?

**Basu:**That's funny that you say that previous to this episode, you thought of Jay as a "mysterious figure," because by the end of an episode solely devoted to understanding Jay, I feel like he has become even more enigmatic. He seems like such a study in contrasts—at times polite, gentlemanly, reserved; at others, a rambunctious prankster with weird ideas for how to have fun (see: attempting to stab a friend because the friend had never been stabbed before).

Inconsistencies and reasons for doubt continue to surface. The revelation of a three-hour pre-interview reminds us of how much we don’t know about the context for Jay’s testimony. The fact that Stephanie, Jay's girlfriend, doesn't comment to anyone about the case seems like it could be a cause for suspicion. That Jay himself doesn't agree to an interview makes us wonder if he's just media-shy or if he's afraid he'll blurt something. The trial tape raises the possibility that Jay was "stepping out" on Jen, potentially giving him a motive. These things don't make us believe more or less in Adnan's innocence or guilt, but rather point our questions about the investigation, highlighted further by the detective.

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At the end, we hear Jay break down and cry at his sentencing. It’s a moment that complicates the portrait that has been painted of him by his coldly polite demeanor at the trial, by the casual recollections of his friends and classmates, by Koenig and her colleague Julie Snyder. This version of Jay purports to be raw and authentic, and he begs the world to not judge him by a single act. Which makes me wonder: Can we judge him by this single episode? Of course not. But *Serial*’s format makes us want to try.

I also wonder if Koenig didn't talk about interviewing Jay sooner because she was afraid he would color our view of the case. Critics of the show have said that Koenig is a bit gushing and attached to Adnan, who himself comes across as a likeable, bad-boy-you-kind-of-like kind of guy. But the episode's focus on Jay did little to assuage the confusion that swirls around this case, even though every person Koenig talked to, from the detective to former classmates to Jay himself, were steadfast in their belief that Jay was honest and innocent of the crime. I'm pretty sure that I'm like that one friend near the end who stutters, stammers, and finally sputters, "But who the fuck did it then?"

**LaFrance:**Finally, finally, finally we meet Jay. Only we don't really.

But we do hear Sarah Koenig try to answer the question: "What is the deal with Jay?" Which, let's be honest, is only one unsaid step away from asking who really killed Hae Min Lee.

Just the way that question is phrased—"what is the deal with Jay?"—sounds like an accusation, like there's something wrong with him, something inexplicable that demands resolution. And we know inconsistencies in the way Jay describes his role in Lee's disappearance have been a major tension in the series. But in a show that is always a little meta, as much about the storytelling as it is about the story, this episode gets particularly abstract. An investigation of an investigation becomes an investigation of an investigation of an investigation.

Like when we hear from Sarah Koenig and her producer Julie Snyder before and after they show up at Jay's house. He invited them in and talked to them about the murder case but didn't ultimately want to give an on-record interview, Koenig explained, and beforehand, she'd been giddy with anticipation: "He knows everything we want to know. Every question we've had for the past eight months, seven months, he knows it."

Which almost makes it seem like Koenig expected to walk up to Jay's front door and find him standing there ready to confess *his* guilt into her tape recorder. This is not what happens.

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Who did it? This is the central question of the podcast, and the one that Koenig says Jay threw back at her when she mentioned that "a lot of people... say they don't think Adnan did it." It can't be a mistake that this exchange is described immediately after Koenig introduces listeners to Jim Trainum, the former homicide detective who advocates for better interrogation techniques.

Trainum, talking about police work, cautions against the lure of "verification bias," which he calls "one of the biggest problems that we have with the way we interview and interrogate." And those words echo throughout the episode, a warning to listeners about selective thinking, the kind that makes it so "you don't want to do something if it's going to go against your theory of the case."

The friends of his who Koenig interviewed all agreed that Jay "defied categorization," she said. But what do we really learn about him? Some people thought he was weird and shady. Mean and intimidating. A goofy stoner. One guy calls him "beautifully unconventional." But the fact that he "had a lip ring and listened to Rage Against the Machine" says more about the person who finds that strange than it says about Jay, doesn't it? Same goes for the guy who thinks it's odd he wore a belt buckle. And for Koenig, who seems to think it's bizarre that he, as she put it, "played lacrosse for Christ's sake."

I'd been waiting for the "Jay episode" for weeks. It didn't leave me with a better-defined sense of his possible role in the crime, which is, of course, what I wanted. Instead, it got me thinking about how many ignorant assumptions are baked into anyone's sense of the people around them.

In her conversation with Trainum, Koenig seems disturbed by the idea that police officers might ask questions in a way that elicits the response they want to hear. She's flustered: "B-b-but then, see, I don't get that. Like my father used to always say, 'All facts are friendly.' Like shouldn't that be more true for a cop than for anyone else? You can't pick and choose."

Nice as that sounds, friendly as some facts may be, just deciding to describe someone a certain way—like a lacrosse player "for Christ's sake"—amounts to picking and choosing. Truth as people experience it is layered by too many perceptions to track, driven by a tendency to search for an explanation that either confirms what you already believe or otherwise explains the discrepancy. *Serial*, it often seems, is a story about jumping to conclusions. And there must be some degree of verification bias just in listening when our dominant experience with storytelling is that narrative tension promises resolution.

The Jay episode forces listeners to confront the possibility that maybe our assumptions are unfair, that even a well-meaning narrator isn't always credible. And that's at least as unsettling as not knowing for sure what happened. As Trainum warns: "There are always going to be things that are unexplainable."

**Kilkenny:** Like Adrienne, I spend this episode feeling suspicious that Koenig was suffering from her own verification bias. At the beginning of the installment, Koenig frames her goal in a not-entirely-impartial way: She’s trying to get to the bottom of who Jay is by determining what his “deal” might be. And throughout the episode, as if she's recognizing her inherent bias, Koenig outsources the question. She asks Stella Armstrong, a witness who voted against Jay in court, her impressions. Chris, who says he’s one of Jay’s best friends. Laura, a friend of Jay's girlfriend, Stephanie. Dozens of friends, according to Koenig, a lot of whom go unnamed. And even when Koenig meets Jay in person, she frames the discussion of their conversation as a back-and-forth question session with her producer, Julie Snyder. It’s like she doesn’t trust herself.

Meeting Jay face-to-face makes a strong impression on Julie. As for Koenig, “I totally saw the appeal of him. As a person, and a friend … and a witness.” That last description reveals her continued suspicion that Jay offered a tidy but untruthful end to the investigation and the circular path its phone records created.

Yet I wondered if Koenig’s own clear bias sways the listeners of *Serial*, who have a vibrant and skeptical [Subreddit](http://www.reddit.com/r/serialpodcast/) and have inspired a fan podcast of its own on *Slate*, a very skeptical publication (and also have now, in fact, led to this roundtable). At the beginning of the episode, Koenig says Adnan’s lawyer Christina Gutierrez might have unwittingly hurt the case through her questioning style. With tactics that alternately bored the jury to death with questions about the names of streets and woke them up with shrill interrogations (in this episode, with a question about Stephanie), Gutierrez may have unwittingly painted Jay as an appealing and polite outsider. “Jay seems like the underdog,” Koenig concludes after watching the trial tapes. Those very words might apply to the investigation techniques in *Serial*, which has levied its own accusations against Jay in a much more subdued, but equally effective way—by silencing him up until now.

Why track Jay down *so late* in the investigation? Or was it earlier, then withheld introduce climactic intrigue?

Though it tells a nonfictional story, *Serial* is a story all the same. It arranges and rearranges the facts, it curates the dialogue, it chooses which of the witnesses and friends to track down after 15 years, and which should stay buried in the past. And the question that plagued me this episode, therefore, was why Koenig chose to track Jay down *so late* in the investigation. Or was it earlier, then introduced in episode eight to introduce climactic intrigue?

Either way, Jay *is* intriguing. The absence of testimony about his character up until now only heightens that fact. Koenig says he’s an “outsider,” an African-American male who dyed his hair blonde, who wore a BMX belt buckle, who listened to Rage Against the Machine. Yet, as Chris mentions in his talk with Koenig, Jay would have moved “heaven and earth” for his girlfriend Stephanie, which, it was claimed in the trial, was his motive for helping Adnan dispose of Hae’s body.

In many ways, the characters of Jay and Adnan share eerie parallels. They’re both attractive and rail-thin according to multiple descriptions, and alternately goofy and serious. In episode two, Koenig painted a portrait of Adnan that portrayed his alternately likeable and strangely possessive side, especially when it came to his girlfriend, who he was forbidden from dating according to his Muslim upbringing. Similarly Jay, Laura said, perceived Stephanie as the “amazingness” in his world even though they came from different tracks in life. Stephanie was “perfect,” a star athlete; Jay was, as he put it himself, perceived as the “criminal element of Woodlawn.”

Yet the way the show is curated, and the way Jay’s been caricatured up until now, shifts my sympathies to him, at least for the moment. Though as a narrator Koenig is remarkably even-keeled, her tendency to annotate the evidence that is bad news for Adnan has been slightly grating. She is an experienced and smart journalist, but journalists always have angle, and hers has been clear from when she reopened a case that was placed on her desk.

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