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STATE OF WISCONSIN : CIRCUIT COURT : MANITOWOC COUNTY
BRANCH 3

STATE OF WISCONSIN,

PLAINTIFF,

JURY TRIAL
VOIR DIRE - DAY 2

vs.

Case No. 06 CF 88

BRENDAN R. DASSEY,

DEFENDANT.

DATE: APRIL 13, 2007
BEFORE: HON. JEROME L. FOX
Circuit Court Judge

MANITOWOC COUNTY
STATE OF WISCONSIN
FILED

DEC 11 2007

CLERK OF CIRCUIT COURT

APPEARANCES:

KENNETH R. KRATZ
Special Prosecutor
On behalf of the State of Wisconsin.

THOMAS FALLON
Special Prosecutor
On behalf of the State of Wisconsin.

NORMAN A. GAHN
Special Prosecutor
On behalf of the State of Wisconsin.

MARK R. FREMGEN
Attorney at Law
On behalf of the defendant.

RAYMOND L. EDELSTEIN
Attorney at Law
On behalf of the defendant.

BRENDAN R. DASSEY
Defendant
Appeared in person.

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TRANSCRIPT OF PROCEEDINGS

Reported by Jennifer K. Hau, RPR

Official Court Reporter

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(Reconvened at 8:39 a.m.; Jurors present.)

THE COURT: Looks as though everyone's here. I'll call the, uh -- We'll go on the record. This is the matter of the State of Wisconsin vs. Brendan Dassey. It's a Manitowoc County case, 06 CF 88. Appearances.

ATTORNEY FALLON: Yes. Good morning, Your Honor. The State appears by Assistant Attorney General Tom Fallon, District Attorney Ken Kratz, and Assistant District Attorney Norm Gahn as special prosecutors for Manitowoc County.

ATTORNEY FREMGEN: Judge, Attorney Mark Fremgen appears in person with Attorney Ray Edelstein. Brendan Dassey appears, also, in person.

THE COURT: Thank you, gentlemen. Uh, members of the jury panel, yesterday I told you at the close of individual voir dire we would do something called, uh, general voir dire. Again, uh, the purpose of general voir dire is not to invade anyone's privacy, but, rather, to get sufficient information to assure everyone involved in this case that the final jury will be fair and impartial.

I'm going to ask a number of questions. If your answer to any of these questions is

1 yes -- yes, I ask that you please raise your
2 hand. I ask that those panel members who are not
3 in the jury box listen to -- carefully to all the
4 questions that I'm asking. If one or more of the
5 jurors in the jury box are excused, one of you
6 will be called from the panel to replace them.
7 If that occurs, I will ask a few general
8 questions covering all the previous questions and
9 ask for your response.

10 Once I have completed my general voir
11 dire, each side, beginning with the prosecution,
12 will be permitted to ask questions. After they
13 have completed their questions, each side will be
14 permitted to strike a number of names from the
15 panel until we have a final jury.

16 As I told you yesterday, the final panel
17 will consist of 16 persons. So I'm going to
18 start with the questions.

19 Is there anyone of you that is related
20 by blood, marriage, or adoption, or acquainted
21 with the defendant, Brendan Dassey, who is seated
22 at the defense table?

23 Do any of you know any member of the
24 defendant's family or relations?

25 Do any of you know the defendant's

1 attorneys, Mark Fremgen or Ray Edelstein, both of
2 whom practice in Oshkosh?

3 I'm going to ask one of these
4 attorneys -- We're going to have a number of
5 witnesses during the course of this case. Uh,
6 most of the witnesses have no connection with,
7 uh, the Dane County area, but I'll ask one of the
8 defense attorneys to identify any witness or
9 witnesses that they may have who have connections
10 with the Dane County area.

11 ATTORNEY FREMGEN: There's a -- One
12 witness will be Mike Riddle. Works at the, uh,
13 Crime Lab here in Madison. I imagine also lives
14 in Madison.

15 THE COURT: All right. Is anyone
16 acquainted with Mike Riddle?

17 ATTORNEY FREMGEN: The other is a
18 Dr. Robert Gordon. He's a forensic psychologist
19 from Janesville.

20 THE COURT: Anyone acquainted with
21 Dr. Robert Gordon? All right. Thank you.

22 Are any of you acquainted with the
23 prosecutors; Attorney Ken Kratz, Tom Fallon, or
24 Norm Gahn? Mr. Kratz is the district attorney of
25 Calumet County, Mr. Fallon, to give this a little

1 context, is with the Department of Justice, and
2 Mr. Gahn is an assistant district attorney in
3 Milwaukee County. Anyone acquainted --

4 ATTORNEY KRATZ: Judge --

5 THE COURT: -- with them? There may be
6 a number of witnesses from the Dane County area
7 that testify for the prosecution. I ask one of
8 the prosecutors to identify those witnesses.

9 ATTORNEY FALLON: Thank you, Judge. Uh,
10 morning. The first four names are, um, special
11 agents for the Wisconsin Department of Justice.
12 They're not based in Madison, but they come to
13 Madison frequently. They are Tom Fassbender, Kim
14 Skorlinski, Tom Sturdivant, Ron Pevytoe.

15 Uh, other witnesses with Madison
16 connections and -- are Sherry Culhane from the
17 Wisconsin Crime Lab, a DNA analyst; Uh,
18 Dr. Leslie Eisenberg, a forensic anthropologist,
19 uh, who also works for our State Historical
20 Society; uh, Dr. John Ertl from the Crime Lab;
21 Bill Newhouse from the Crime Lab here; Kenneth
22 Olson from the Crime Lab; Dr. Don Simley, a
23 forensic dentist based here in Madison; Mr. Nick
24 Stahlke, also of the Crime Lab; and I believe
25 Counsel may have already mentioned, uh, Mike

1 Riddle, a fingerprint analyst from the Crime Lab.

2 THE COURT: Thank you. Are any of you
3 acquainted with any of these persons?

4 Have any of you any interest in this
5 case or its outcome?

6 Is there -- Are there any among you who
7 is a member of any police department, sheriff's
8 department, or other law enforcement agency?

9 Is there any member of your immediate
10 family or relation who's employed in a law
11 enforcement-related capacity?

12 All right. I'm going to start over --
13 over here with Ms. Hayman Ware. If I recall
14 correctly, your husband is a police officer?

15 JUROR HAYMAN WARE: Yes.

16 THE COURT: Uh, and I think we touched upon
17 this in individual voir dire yesterday. Does --
18 does that, in your own mind, mean that you would
19 favor the -- the side that, uh, reflected law
20 enforcement values?

21 JUROR HAYMAN WARE: No.

22 THE COURT: That you would be able to --
23 to -- to hear the evidence and decide fairly and
24 impartially based on what you heard in court?

25 JUROR HAYMAN WARE: Yes.

1 THE COURT: There was another hand that
2 went up. Uh, you are Ms. Garske?

3 JUROR GARSKE: Correct.

4 THE COURT: And who is in law enforcement?

5 JUROR GARSKE: My brother.

6 THE COURT: Uh, is he a local law
7 enforcement agent?

8 JUROR GARSKE: No.

9 THE COURT: Where is he located?

10 JUROR GARSKE: Arkansas.

11 THE COURT: Does the fact that you have a
12 family member or a brother involved in law
13 enforcement affect the way you look at this case?

14 JUROR GARSKE: No.

15 THE COURT: Maybe -- You believe that you
16 can decide this case fairly and impartially based on
17 the evidence that is brought to court?

18 JUROR GARSKE: Yes.

19 THE COURT: All right. Was there -- Oop,
20 we have more hands up here. I'll -- I'll go and --
21 Mr. Drewsen?

22 JUROR DREWSSEN: Yeah. I have an uncle
23 who's a, uh, Chief of Police in Woodruff,
24 Wisconsin.

25 THE COURT: Your uncle is the Chief of

1 Police in -- of Woodruff; is that correct?

2 JUROR DREWSEN: Yes.

3 THE COURT: Does that fact affect the
4 way you look at the -- this case?

5 JUROR DREWSEN: No.

6 THE COURT: Uh, can you consider the
7 evidence and decide fairly and impartially based on
8 that evidence?

9 JUROR DREWSEN: Yes.

10 THE COURT: All right. I think there was
11 an additional hand? Uh, Ms. Foss?

12 JUROR FOSS: My cousin is a police
13 officer in Lake City, Minnesota.

14 THE COURT: The fact that you have a -- a
15 family member or relative involved in police work,
16 does that affect the way you look at a case like
17 this?

18 JUROR FOSS: No.

19 THE COURT: Can you consider -- Can you
20 base any decision you make on the evidence and only
21 on the evidence that you see in court?

22 JUROR FOSS: Yes.

23 THE COURT: Anyone else? Ah. Uh, Ms.
24 Blankenship?

25 JUROR BLANKENSHIP: My father was a

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police officer.

THE COURT: And where was he a police officer?

JUROR BLANKENSHIP: In Dane County.

THE COURT: Does that affect the way you look at this case?

JUROR BLANKENSHIP: No.

THE COURT: Can you base any decision you make on the evidence that is brought to court?

JUROR BLANKENSHIP: Yes.

THE COURT: And render a fair and impartial judgment?

JUROR BLANKENSHIP: Yes.

THE COURT: Anyone else? I'm going to address the court reporter. Are you hearing the answers?

COURT REPORTER: Yeah.

THE COURT: Okay. There's a mike, apparently, that can be used to be passed --

COURT REPORTER: I've been able to so far, so --

THE COURT: I'm sorry?

COURT REPORTER: I can -- So far I've been able to hear them okay.

1 THE COURT: Okay. There's a mike that
2 can be used to be passed around to jury members,
3 and if someone's having difficulty hearing --

4 ATTORNEY FALLON: Right. I was going to
5 suggest maybe that should be made available,
6 because I'm certainly going to invite the jurors
7 to talk during the voir dire, and I'm pretty sure
8 counsel is likewise, so if the jurors want to
9 hear each other's responses, maybe it would be
10 good to --

11 THE COURT: Okay. Who's in charge of that?
12 While we're getting the mike, I'll ask the, uh --
13 I'll ask the next question.

14 Is there any among you who believes that
15 a person is likely to be guilty simply because
16 that person has been charged with a crime?

17 Under our laws, the State has the burden
18 of proving guilt in a criminal proceeding. No
19 defendant is required to prove his or her
20 innocence. A defendant may testify in a criminal
21 trial, but our al -- our laws also provide that a
22 defendant need not testify. Is there anyone
23 among you who cannot or will not accept these
24 requirements of our legal system?

25 Is there anyone among you who would

1 impute guilt to this defendant simply because he
2 did not take the witness stand and testify?

3 Would the types of crimes in these
4 charges prevent any of you from serving on this
5 jury fairly and impartially?

6 Is there any among you who cannot or
7 will not try this case fairly and impartially on
8 the evidence that is given here in court, and
9 under the instructions of the Court, and render a
10 just and true verdict?

11 Is there anyone among you who, for any
12 reason that I have not yet touched on, cannot
13 serve on this jury?

14 All right. Mr. Fallon? Oh, one moment
15 here. Uh, Ms. Shea?

16 JUROR SHEA: Yes. Can I just say for
17 being on the jury, I just want to reiterate that
18 I'm a student, and I'm kind of getting really
19 nervous about having to take, like, five exams
20 when I come back and missing my finals. I know
21 it's not a legal system but it's --

22 THE COURT: You're a full-time student at
23 the University?

24 JUROR SHEA: Yeah. I just feel like
25 maybe my concentration won't be all there because

1 I'll be thinking about everything.

2 THE COURT: I -- Have you made arrangements
3 with your --

4 JUROR SHEA: Yeah --

5 THE COURT: -- teachers?

6 JUROR SHEA: Yeah. I talked to all my
7 professors.

8 THE COURT: Counsel?

9 ATTORNEY FALLON: I -- All I can say is
10 we'll definitely keep that in consideration.

11 THE COURT: All right.

12 JUROR SHEA: Okay. Thank you.

13 ATTORNEY FALLON: On behalf of the
14 prosecution team, welcome. Um, I know that, uh,
15 I'll be asking some general questions here, and
16 my, uh, colleague, um, from Oshkosh, uh,
17 Mr. Fremgen, will also be asking some questions,
18 and we did want to make one point with you as we
19 begin, and that's simply this:

20 There are two points in the trial in
21 which you, as jurors, if you're selected as
22 jurors, have a chance to talk with each other and
23 interface, and, obviously, one is deliberations,
24 but the other one is right now. And the only
25 other time, in fact, the only time, you actually

1 get to engage in a dialogue with the attorneys,
2 is now. And so this is your opportunity, and we
3 invite you to participate in the discussion here
4 to help us in -- in selecting 16 of you, and,
5 ultimately, 12, to be the jurors in this case.
6 So we -- we do appreciate your, uh, willingness
7 to be here and we do appreciate any participation
8 in -- in this regard.

9 Um, in terms of, uh, how we're going to
10 begin, there's about just four or five topic
11 areas that I want to, uh, discuss with you, and,
12 hopefully, elicit some comments from you. Um,
13 there'll be more discussion, I think, as we get
14 into the issues, and I have some preliminary
15 questions that I'm going to begin with, uh, and
16 that's how I'd like to start.

17 Um, so the first kind of general area
18 are some safety issue discussions, and my first
19 question of anyone on the panel:

20 Has anyone ever been in charge of
21 writing any kind of safety guidelines or
22 enforcing any safety standards in any employment
23 situation that you may have or any others?

24 Okay. Great. Um, let's do this: We'll
25 start, and we'll go back. Uh, none in the first

1 row. And in the second row, we'll start with the
2 hands in the second row. Oh, are -- Okay. Um,
3 Ms. Hayman Ware?

4 JUROR HAYMAN WARE: Yes. Um, I work for
5 Child Welfare, so I often have to come up with
6 safety plans for the children I'm working with
7 and put those in place.

8 ATTORNEY FALLON: Okay. And, um, have
9 you been called upon to actually enforce any
10 safety standards in some regards?

11 JUROR HAYMAN WARE: Yes.

12 ATTORNEY FALLON: Uh, tell us about
13 that.

14 JUROR HAYMAN WARE: If the safety plans
15 aren't followed by the family, there are times
16 when I've had to remove children from their
17 parents' homes because, um, a safety plan wasn't
18 being followed or children weren't safe even with
19 the safety plan in place.

20 ATTORNEY FALLON: All right. So, in
21 other words, if the plans aren't followed, then
22 there are consequences for not following those
23 plans?

24 JUROR HAYMAN WARE: Yes.

25 ATTORNEY FALLON: Okay. Um, I think

1 there was -- Right here? That would be, um --

2 JUROR ANDERSON: Anderson, Heidi.

3 ATTORNEY FALLON: -- Ms. Anderson?

4 JUROR ANDERSON: Um, I work for a day
5 care. I watch 12 four- and five-year-olds, and
6 I'm responsible for their safety, and if I feel
7 that the parents or a teacher is negligent, I
8 then have to go through the measures to make sure
9 that the child will stay safe.

10 ATTORNEY FALLON: Okay. And what kind
11 of measures, um --

12 JUROR ANDERSON: Um, a lot of times it's
13 talking with the parents. Sometimes we have to
14 call authorities, you know, whether it's social
15 workers or the police, to make sure that the
16 child's safety is seen to. A lot of times it's
17 smaller things like making sure the child,
18 itself, doesn't hurt themselves.

19 ATTORNEY FALLON: Okay. So in terms of
20 your specific role, do you actually en -- enforce
21 any consequences, or do you call upon others to
22 en -- enforce consequences for not following
23 these safety behaviors?

24 JUROR ANDERSON: Legally, I'm not
25 allowed to enforce. I have to go through either

1 my director or call an outside individual.

2 ATTORNEY FALLON: Okay. Great. Um,
3 anyone else in row two? All right. Let's jump
4 to row three. Um, yes, sir. Mr. Williams?

5 JUROR HEINZEL: Heinzl.

6 ATTORNEY FALLON: Oh, Heinzl. Excuse
7 me.

8 JUROR HEINZEL: Yes. I worked in, uh,
9 plant operations for about 18 years. Not the
10 past two years, but prior to that 18 years in
11 plant operations in a plant. We had to enforce
12 safety, uh, rules for the plant. If an employee
13 violated a lock-out, tag-out, or wasn't following
14 the plant rules, I had to enforce that.

15 ATTORNEY FALLON: Okay. And, uh,
16 occasionally what were some of the consequences?

17 JUROR HEINZEL: Um, we would have a
18 discipline program, and maybe a written writeup,
19 a verbal warning, could lead to suspension, those
20 types of things.

21 ATTORNEY FALLON: Very good. Um, anyone
22 else in row three? All right. How about the
23 back row? Um, on the far end there?
24 Mr. Johnson?

25 JUROR JOHNSON: Yep. Um, the -- the

1 company that I work for, we're in a warehouse
2 setting, and I'm a manager there, and we have a
3 strict set of guidelines as far as our safety
4 policies and procedures, and, uh, if a associate
5 fails to follow those, um, it's gone anywhere
6 from a written warning to termination.

7 ATTORNEY FALLON: All right. And, um,
8 are you one who writes the guidelines, or do you
9 enforce, them or both?

10 JUROR JOHNSON: Enforce them.

11 ATTORNEY FALLON: You do. All right.

12 JUROR JOHNSON: Yeah. We -- we have to
13 do a followup and write kind of new guidelines
14 for our store if an accident does happen.

15 ATTORNEY FALLON: Have you been called
16 upon to enforce those regularly, or is it just
17 something that's an occasional issue?

18 JUROR JOHNSON: Um, it -- it's pretty
19 occasional. I guess I -- I would say we have
20 really good associates.

21 ATTORNEY JOHNSON: Anyone else in the
22 back row? Yes. On the far end? Ms. McDonald?

23 JUROR McDONALD: Um, I run a volunteer
24 bird vending, uh, station up at the University of
25 Wisconsin campus natural areas, and I am required

1 by the animal welfare, uh, folks on campus to
2 abide by the certain safety guideline.

3 ATTORNEY FALLON: All right. And, um,
4 do you write the guideline, or do you enforce, or
5 little of both?

6 JUROR McDONALD: Uh, I am supposed to
7 make sure that the volunteers follow, uh, animal,
8 uh, handling practices, and also safety
9 practices, and we do have certain, uh, rules for
10 health safety reasons.

11 ATTORNEY FALLON: Are there, uh,
12 consequences? Uh, what kind of -- What are the
13 range of consequences if some of the folks don't
14 follow the rules or the guidelines that are set
15 forth?

16 JUROR McDONALD: Uh, they can make me
17 angry. Uh, I can ask them to not volunteer with
18 our projects.

19 ATTORNEY FALLON: That's a polite way of
20 showing them the door?

21 JUROR McDONALD: Yes. Outside, yes.

22 ATTORNEY FALLON: All right. Anyone
23 else in the back row? Uh, yes, sir.

24 JUROR: Um, I'm not sure if this is in
25 the same guideline, but I literally do show --

1 I -- I literally do show people -- I work at a
2 bar, um, as a doorman --

3 ATTORNEY FALLON: All right.

4 JUROR: -- is one of my jobs --

5 ATTORNEY FALLON: Sure.

6 JUROR: -- and so I do -- you know,
7 literally do show people the door occasionally.
8 I don't write -- there's no hard, fast
9 guidelines, but it's just, you know -- I --
10 there's no, like, set guidelines for it, but
11 occasionally I do have to evict people from the
12 tavern where I work.

13 ATTORNEY FALLON: But there is a -- a
14 code of appropriate conduct for a tavern?

15 JUROR: There's an unwritten code.

16 ATTORNEY FALLON: Sure. Right.

17 JUROR: So -- Yeah.

18 ATTORNEY FALLON: I'm just curious,
19 what -- what -- what tavern do you work? I want
20 to make sure where I go.

21 JUROR: Yeah. The Crystal Corner Bar
22 here in Madison.

23 ATTORNEY FALLON: Crystal Corner Bar.

24 Okay. Very good. Um, anyone else? Okay.

25 Great. Um, next question:

1 How many on the panel, um, own a firearm
2 of some sort? Whether it's a -- a hunting rifle,
3 or a -- a handgun, or anything like that? Uh,
4 Mr. Johnson.

5 JUROR JOHNSON: Yes.

6 ATTORNEY FALLON: Uh, what -- what do
7 you own?

8 JUROR JOHNSON: Uh, I own two 12 gauge
9 shotguns, and then a 12 gauge deer hunting rifle.

10 ATTORNEY FALLON: Are -- are those all
11 for hunting purposes?

12 JUROR JOHNSON: Yes.

13 ATTORNEY FALLON: Okay. Um, yes, sir?

14 JUROR: I also own, um, two shotguns and
15 a 30.06 rifle. All --

16 ATTORNEY FALLON: That's Mr. --

17 JUROR: -- for hunting.

18 ATTORNEY FALLON: That's Mr. Drewsen.
19 Okay. Uh, were -- were you able to hear that
20 answer, Mr. Covington?

21 JUROR COVINGTON: No, I didn't.

22 ATTORNEY FALLON: Okay. Um --

23 JUROR DREWSSEN: Sure. Uh, I own two
24 shotguns and a 30.06, all for hunting purposes.

25 ATTORNEY FALLON: Okay. Um, anyone

1 else? Anyone else own any firearms of any kind?

2 Okay. Great.

3 Um, the next is, uh, let's deal with a
4 little bit about, uh, science and fiction. They
5 don't quite go together the way you might
6 imagine.

7 Um, how many watch television shows
8 like, um, *Bones*, *CSI: Las Vegas*, *CSI: New York*,
9 *CSI: Miami*? It's going to be *CSI: Madison*
10 pretty soon. I'm not sure. Um, how many watch
11 shows like that?

12 Okay. Very good. We've got lots of
13 hands. All right.

14 Um, how many would say, in your opinion,
15 based on your general knowledge, and the world,
16 and your own life experiences, that those shows
17 have realistic portrayals of what the science of
18 forensic law enforcement can do? How many say
19 they're very realistic? You don't believe in
20 flashbacks? Solving crimes?

21 All right. How about, um, somewhat
22 realistic? We got one hand in the back, two,
23 couple?

24 How many think not realistic at all?

25 Okay. Let's -- let's start there in the

1 first row. Uh, Ms. Austin, you'd say not
2 realistic at all. So you're a doubter?

3 JUROR AUSTIN: It just seems like -- I'm
4 sorry. Um, I just don't think they're realistic
5 in how, um -- I mean, by chance they come across
6 evidence, or by chance they come across, you
7 know, something that it just is so far out there.

8 ATTORNEY FALLON: Okay.

9 JUROR AUSTIN: Just doesn't seem real.

10 ATTORNEY FALLON: Any particular example
11 jump in your head at all?

12 JUROR AUSTIN: Well, I think one thing
13 that kind of comes to my mind is, um, about -- I
14 don't know how many years ago when ER first came
15 out, my sister is a nurse, and one of her first
16 comments was, you know, shows like that are so
17 unrealistic. So that always sticks in my head
18 when I see these types of TV shows.

19 THE COURT: Okay. Um, anyone else in the
20 first row think that they're --

21 JUROR: Do you mean unrealistic if you
22 don't watch them or unrealistic if you do watch
23 it?

24 ATTORNEY FALLON: No. I mean, if you
25 watch them --

1 JUROR: I don't watch them.

2 ATTORNEY FALLON: -- do you believe
3 what -- if you -- what you see is a realistic
4 portrayal of how crime is solved?

5 JUROR: Okay.

6 ATTORNEY FALLON: That --

7 JUROR: I don't watch it.

8 ATTORNEY FALLON: That's the point.

9 Okay. You don't watch them. Um -- All right.
10 How about in the second row? How many think it's
11 just not very realistic at all? Uh, we'll start
12 at the end. Go ahead, Ms. Hayman Ware.

13 JUROR HAYMAN WARE: It doesn't seem like
14 a crime can be solved in that short amount of
15 time, and then they always find someone to
16 confess, and, um, their DNA evidence comes back
17 really quickly. And, um, back to my husband,
18 who's a cop, he sits there and tells me every
19 part of it is unrealistic so...

20 ATTORNEY FALLON: All right. Well, so
21 you get first-hand coaching. Um, and, uh, Ms.
22 Edge?

23 JUROR EDGE: Yeah. First of all, it's a
24 TV show, so I have to assume that it's
25 entertainment. Second of all, I have nothing to

1 base it on, so I have no reason to believe any of
2 it is accurate, and it just seems in some cases
3 to be very far-fetched.

4 ATTORNEY FALLON: All right. If you
5 have no basis to, uh -- to -- to believe it,
6 are -- are you one who's, um, maybe from Missouri
7 and you want to be shown some -- something first
8 or --

9 JUROR EDGE: Excuse me.

10 ATTORNEY FALLON: Well, you're a --
11 you're a doubter?

12 JUROR EDGE: That was almost offensive.

13 ATTORNEY FALLON: Oh --

14 JUROR EDGE: No, I'm not from Missouri,
15 and, uh, it's entertainment. I --

16 ATTORNEY FALLON: Okay.

17 JUROR EDGE: -- just don't put more --
18 any more thought to it other than what it is.

19 ATTORNEY FALLON: Sure. Um, any --
20 anyone else in the second row? Mr. Drewsen?
21 Yeah. I think I take it for entertainment value
22 too. I think you see a lot of situations where
23 they're the ones doing it first with their guns
24 drawn. It doesn't really seem realistic.

25 COURT REPORTER: Maybe slow it down a

1 little. I'm -- I'm not understanding --

2 JUROR DREWSSEN: Okay.

3 COURT REPORTER: -- what you're saying.

4 JUROR DREWSSEN: Um, I kind of mumble.

5 Um, I said I take it for entertainment value. I
6 think a lot of times you see situations in these
7 TV shows that you can say that wouldn't happen in
8 real life.

9 For example, when the CSI are the first
10 on the scene with their guns drawn, to me that
11 doesn't seem realistic.

12 ATTORNEY FALLON: All right. Um, row
13 three? Yes. Um, Ms. Garske?

14 JUROR GARSKE: Yes.

15 ATTORNEY FALLON: Um, not ver -- not
16 very realistic? Why?

17 JUROR GARSKE: I just don't see it being
18 solved that quickly.

19 ATTORNEY FALLON: So time is clearly
20 a -- an issue?

21 JUROR GARSKE: Yes.

22 ATTORNEY FALLON: What about the manner,
23 uh -- what about the science? Uh, do you think
24 the science is actually capable of doing some of
25 the things that are depicted in the show?

1 JUROR GARSKE: I really -- I don't study
2 science so I don't --

3 ATTORNEY FALLON: Okay.

4 JUROR GARSKE: -- pay attention to that
5 part of it.

6 ATTORNEY FALLON: All right. Um, anyone
7 else in row three, uh, have a perspective? Yes,
8 sir. Mr. Williams?

9 JUROR WILLIAMS: I think it's just the
10 speed of how they solve the crime. That's
11 clearly unrealistic. Um, the best -- Miami has a
12 lot of murders every year. Apparently, this one
13 CSI group can solve them all with -- in 35
14 minutes.

15 ATTORNEY FALLON: Okay. Um, how about,
16 uh, in the, uh -- the last row? Anyone have a--
17 any particular reason why it's not very
18 realistic?

19 All right. Having heard that, we did
20 have some that thought it was somewhat realistic.
21 So for those who did -- who did think it was
22 somewhat realistic, how about a reason why?
23 Who -- How many thinks it might be somewhat
24 realistic? In the back. Sure. Ms. McDonald?

25 JUROR McDONALD: I have a little

1 experience in genetics and, uh, other than
2 finding it unrealistic that they have all the
3 state of the art equipment, uh, for doing the
4 forensics, it seems that some of the techniques
5 that they're using are real.

6 ATTORNEY FALLON: All right. Fair
7 enough. Um, did I see someone shaking their head
8 there? Mr. --

9 JUROR HUGHES: I agree with that.

10 ATTORNEY FALLON: -- Mr. Hughes?

11 JUROR HUGHES: Yeah.

12 ATTORNEY FALLON: All right. Anyone
13 else have a comment? Right here in, uh, row --
14 Ms. McGuire.

15 JUROR MCGUIRE: I'm a nurse by
16 background so the science makes sense to me.

17 ATTORNEY FALLON: Sure.

18 COURT REPORTER: Mr. Fallon, could you
19 identify her again, please?

20 ATTORNEY FALLON: Yeah, that's, uh, Ms.
21 McGuire.

22 JUROR MCGUIRE: I'm a nurse by
23 background so I agree that the -- the science
24 makes sense. The -- the ability to have all the
25 high state-of-the-art equipment is not as

1 reasonable, but some of the science is actually
2 there, present to the --

3 ATTORNEY FALLON: Sure. Uh, and that
4 leads me to my next question. Um, in -- in your
5 background, um, with science, have you had some
6 experience, for instance, with DNA technology?

7 JUROR McGUIRE: Not personally, no,
8 but --

9 ATTORNEY FALLON: Okay.

10 JUROR McGUIRE: -- you know, obviously
11 you get science and DNA background in your
12 schooling.

13 ATTORNEY FALLON: Sure. Um, and -- and
14 so you -- you studied a little bit of it when you
15 were in -- getting your nursing degree?

16 JUROR McGUIRE: Yeah. Back 20 years ago
17 DNA isn't what it is now, but what it was.

18 ATTORNEY FALLON: You don't have to say
19 20 years ago. Um, I'm going to jump right up to
20 Ms. McDonald again. Uh, you said you had some
21 experience in genetics? Could you tell me a
22 little bit about that?

23 JUROR McDONALD: Uh, I -- I've studied,
24 uh, evolutionary systematics in which we used,
25 uh, some DNA technology to look at relationships

1 on species, and I work in the genetics
2 department, so I, um, as a -- administrator, but
3 I interact with some (inaudible).

4 COURT REPORTER: Excuse me. You
5 interact with --

6 ATTORNEY FALLON: Some geneticists
7 there. Um, the genetics that you work with, is
8 it all in the animal kingdom, or do you work with
9 human genetics as well?

10 JUROR McDONALD: Only in the sense that,
11 uh -- Well, I've never worked with human
12 genetics.

13 ATTORNEY FALLON: Okay.

14 JUROR McDONALD: We are interested in
15 how organisms are related to humans, and so
16 there -- there is information out there that
17 we've used but...

18 ATTORNEY FALLON: Okay. Very good.
19 Anyone else have any particular experience in,
20 um, uh, either DNA technology or anything a --
21 along those lines? Genetics? Um, Ms., uh Shea?
22 Pass that down to her.

23 JUROR SHEA: I've had several classes
24 that involve DNA, and DNA sequencing, and things
25 like that.

1 ATTORNEY FALLON: Okay. And, um, is
2 there a particular field that you're studying at
3 school right now? I mean, are you in science per
4 se or --

5 JUROR SHEA: I'm going into nursing.

6 ATTORNEY FALLON: Okay. Uh, how many
7 courses in, um, the DNA technology --

8 JUROR SHEA: Well, it's not totally in
9 DNA, but within classes like zoology, which is
10 animal bacteria, or animal biology and
11 bacteriology. We've had units all about just --
12 just DNA.

13 ATTORNEY FALLON: Okay. Um, well, how
14 many courses have you had in which there's been a
15 fair amount of discussion, uh, training on DNA
16 issues?

17 JUROR SHEA: At least two or three.

18 ATTORNEY FALLON: Okay. Fair enough.
19 Are you junior? Senior?

20 JUROR SHEA: I'm a sophomore.

21 ATTORNEY FALLON: Sophomore. All right.
22 Um, anyone else with any particular training in
23 science? We have here in the front row -- could
24 you pass the mike? Oh, wait, we got one in the
25 back row, so might as well start up there. Uh,

1 Mr. Oakes?

2 JUROR OAKES: Um, well, my undergraduate
3 degree is in molecular biology from the UW here.

4 ATTORNEY FALLON: All right.

5 JUROR OAKES: So --

6 ATTORNEY FALLON: All right.

7 JUROR OAKES: That was also, like, 20
8 years ago.

9 ATTORNEY FALLON: Um, did you, um,
10 practice in the field at all --

11 JUROR OAKES: Um --

12 ATTORNEY FALLON: -- were you
13 employed --

14 JUROR OAKES: -- bre --

15 ATTORNEY FALLON: -- in that area?

16 JUROR OAKES: -- briefly. I worked for
17 Becton Dickinson Microbiology Systems here town.

18 ATTORNEY FALLON: Okay. What -- what
19 kind of work -- I'm not familiar with that
20 outfit?

21 JUROR OAKES: They -- they make auger
22 for plating out bacteria and other, um -- um,
23 stuff for testing for like, uh, venereal
24 diseases, um, infections, that sort of stuff.

25 ATTORNEY FALLON: Okay.

1 JUROR OAKES: Um, so that was about all
2 I know also.

3 ATTORNEY FALLON: Very good. Um, I
4 think we had, Ms. um, Lowery here in the front
5 row. We'll get you a mike.

6 JUROR LOWERY: I have very minimal
7 experience, um, in school, and I worked for
8 Becton Dickinson for, like, a week maybe.

9 ATTORNEY FALLON: So --

10 JUROR LOWERY: So very minimal, but a
11 little bit.

12 ATTORNEY FALLON: All right. So you
13 just had a -- a smattering of it?

14 JUROR LOWERY: Um-hmm.

15 ATTORNEY FALLON: Okay. Very good. Uh,
16 and in row three? Uh, is that Ms. Harris?

17 JUROR HARRIS: I'm also a nurse, so --

18 ATTORNEY FALLON: Okay.

19 JUROR HARRIS: -- I've had limited
20 experience --

21 ATTORNEY FALLON: So you --

22 JUROR HARRIS: -- yeah. Yeah. And now
23 I work for -- well, with children with, um,
24 profound (inaudible).

25 ATTORNEY FALLON: Ah.

1 COURT REPORTER: I'm sorry, I didn't
2 understand.

3 ATTORNEY FALLON: You'll have to repeat.
4 She couldn't hear your last response.

5 JUROR HARRIS: I am -- I now work with
6 children that are profoundly retarded. That's in
7 the Wisconsin Center.

8 ATTORNEY FALLON: Um, so your
9 familiarity with DNA comes more from your formal
10 training as opposed to on-the-job stuff you're
11 doing now?

12 JUROR HARRIS: Correct.

13 ATTORNEY FALLON: Okay. Great. Okay.
14 Did we get everyone there? All right. I'm going
15 to change gears. And -- and one question here we
16 have, um, in anyone's work, whether it's, um,
17 nursing, or what have you, do you have occasion
18 to use industrial solvents or cleaning product --
19 um, products, such as paint thinner or bleach, on
20 a regular basis to clean things? Does anyone
21 have a fair amount of experience in that? Yes,
22 sir. Um, we'll start in the back row.
23 Mr. Hughes?

24 JUROR HUGHES: I'm a mechanic at the
25 post office. We have to clean up, uh, equipment

1 before we relubricate it, so we're always using
2 solvents and --

3 ATTORNEY FALLON: And do you -- Um, what
4 are some of the solvents that you use?

5 JUROR HUGHES: Mostly it's a
6 degreaser-type of thing, and then we take off
7 the -- the grease from the machinery and that
8 type of thing.

9 ATTORNEY FALLON: These degreasers, do
10 they -- they don't -- do they include bleach and
11 paint thinner, or they use a particular -- some
12 other type of product to degrease or pick up
13 that, uh --

14 JUROR HUGHES: We -- we do use bleach at
15 times, uh, for spills and things, and we're on
16 the spill team as well, and so to clean up blood
17 and -- and that type of thing, you have to use a
18 ten percent bleach product, and, um, we don't use
19 too much on the machinery, no, uh --

20 ATTORNEY FALLON: Sure.

21 JUROR HUGHES: -- the bleach, but...

22 ATTORNEY FALLON: All right. Great.
23 Um, let's start and come -- come back this way.
24 Row three. Yes, sir? Mr. Williams? Or, uh,
25 excuse me, Mr. Heinzl?

1 JUROR HEINZEL: Right. Um, I worked in
2 a number of food plants, and for food safety we
3 would use sanitizers. Um, we also have
4 blood-borne pathogen training, so if somebody was
5 cut or hurt, we'd have to use bleach to -- to
6 clean up that area as well.

7 ATTORNEY FALLON: All right. Um, yes?
8 Uh, Ms. Harris?

9 JUROR HARRIS: We use, uh -- it's Quan
10 (phonetic). You know. I don't know. It's a
11 combination of bleach with -- for all the
12 bacteria purposes, so -- but I'm not sure what it
13 consists of. You know, it's all set up for us
14 because of the problems with germs.

15 ATTORNEY FALLON: Sure. Sure. Um --
16 All right. Row two? Yes. Ms. Anderson.

17 JUROR ANDERSON: As I said, I work in a
18 day care, and one of the safe ways to clean
19 everything is bleach water, so with every room
20 has it locked up in a case, and that's what we
21 use at the end of the days to clean everything,
22 to sanitize --

23 ATTORNEY FALLON: Okay.

24 JUROR ANDERSON: -- before the next day.

25 ATTORNEY FALLON: Very good. And, uh,

1 right on the end? Mr. Covington?

2 JUROR COVINGTON: I work at, uh, Oscar
3 Mayer's Food Corporation and Kraft, and we use
4 a -- a lots of type of bleach. One of them, we
5 use, uh, B-K. It's a bleach, but it's stronger
6 than bleach (unintelligible). And it involves,
7 uh, cleaning of steel. We use, uh, AC 300
8 (unintelligible). And it's very strong --

9 COURT REPORTER: I'm sorry, AC --

10 JUROR COVINGTON: And then we use a
11 sanitizer --

12 COURT REPORTER: Wait. Sir? Sir?

13 ATTORNEY FALLON: Oop, oop, oop. She's
14 having a little hard time. Now, just slow down
15 for her. She's -- can't keep up with you.

16 COURT REPORTER: I just don't
17 understand. I don't understand what he's saying.

18 JUROR COVINGTON: When we sanitizing
19 something, we use, uh, Swisher (phonetic), and we
20 just spray it on there and that kill all the
21 bacteria.

22 ATTORNEY FALLON: All right. Okay.

23 JUROR COVINGTON: And we use Enforce.
24 We can't mix B-K --

25 COURT REPORTER: I'm sorry --

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JUROR COVINGTON: -- with Enforce --

COURT REPORTER: I don't --

JUROR COVINGTON: -- that's for sure.

THE COURT: We're -- we're not -- we're not hearing it here. Just a moment, please. Uh, he had said AC 300 at one point and that was one of the things I think you missed, but the -- the last thing you didn't hear.

COURT REPORTER: No.

THE COURT: So could we go over that, please, so we can get a record?

JUROR COVINGTON: Uh, sure. We use AC 300. That's a acid. And it cleans steel.

ATTORNEY FALLON: Sure.

JUROR COVINGTON: You want to clean some steel from corrosive. If something was on it, just cut it out.

ATTORNEY FALLON: Right.

JUROR COVINGTON: And --

ATTORNEY FALLON: What was the other product you used?

JUROR COVINGTON: We use, uh, Swisher to sanitize and kill all the bacteria.

COURT REPORTER: What was --

ATTORNEY FALLON: And that product was?

1 JUROR COVINGTON: Uh, it's Swisher. Uh,
2 it kills the bacteria.

3 ATTORNEY FALLON: All right. Right
4 here. Okay. Ms. McGuire.

5 JUROR MCGUIRE: When I was doing
6 hands-on nursing, uh, again, for blood spills and
7 blood-borne pathogens, we used a bleach solution
8 that usually includes some other solvent,
9 fifteen, twenty years ago, that now is most of
10 the time, but mainly bleach.

11 ATTORNEY FALLON: Okay. Yes, ma'am?

12 JUROR: Same thing as Ms. McGuire for,
13 um, blood spills for patients, or any type of
14 thing that we think we might need bleach for --
15 for a patient, but they kind of are moving away
16 to other things like Hepacide-Quat and things
17 like that right now.

18 ATTORNEY FALLON: Okay. That was Ms.
19 Lowery. Very good. Let -- There's just two,
20 uh -- couple of areas left that I wanted to talk
21 about, and, um, I'm going to begin with this, uh,
22 general statement, which I'm sure that almost
23 everyone here has heard at one point in their
24 life, and probably many times, and let me ask it
25 this way:

1 Generally speaking, is there anyone who
2 disagrees with this statement, "where there is
3 smoke, there is fire"? How many have actually
4 heard that phrase? How many have used that
5 phrase? Okay.

6 Um, as a general rule, how many think
7 that's true? That where there's smoke, there's
8 probably a fire? And we've used it
9 metaphorically, but how many would agree with
10 that?

11 Um, let's do that in reverse then. How
12 many don't think it's a truism? All right.
13 Good. Let's -- let's -- let's start with the
14 naysayers. Uh, we'll, uh, begin with
15 Mr. Williams.

16 JUROR WILLIAMS: It's a cliché, and I --
17 most clichés, life is more complicated than that.
18 There aren't absolutes so...

19 ATTORNEY FALLON: Okay.

20 JUROR WILLIAMS: I mean, it's
21 obviously -- We've all used "where there's smoke
22 there's fire" but, I mean, has that determined,
23 you know, to look at something differently
24 because of the cliché? I mean, I just think life
25 is more complicated than, "where there's smoke,

1 there's fire." I've used it, obviously, but...

2 ATTORNEY FALLON: Do you think there's
3 some truth in a phrase or is it --

4 JUROR WILLIAMS: Well, like all clichés,
5 there's some truth. There wouldn't be clichés if
6 they weren't somewhat truthful.

7 ATTORNEY FALLON: Right. All right.
8 Um, right here. Um, Ms. um, Anderson?

9 JUROR ANDERSON: Um, I don't believe it
10 because there's too many variables in this day
11 and age. I mean, yes, when there's a fire,
12 there's smoke, but there's so many other things
13 that could cause you to believe there's a fire,
14 and then you get there and there isn't one.

15 ATTORNEY FALLON: Right.

16 JUROR ANDERSON: So I'm just -- have a
17 feeling that you need more than one thing to
18 point you to say that, oh, yeah, there's a fire.

19 ATTORNEY FALLON: All right. So that
20 you think the cliché has, um, spent its time?

21 JUROR ANDERSON: I agree that when you
22 see smoke, there's a fire, because a fire causes
23 smoke, but I'm not going to say every time I see
24 smoke, I'm going to yell, fire, fire.

25 ATTORNEY FALLON: Fair enough. Um, yes.

1 Back row, Ms. Miletic?

2 JUROR MILETIC: I would treat it as a
3 hypothesis. So, basically, it's a hypothesis.
4 There is a -- there is a smoke, there must be a
5 fire, so now you have to go prove and
6 (unintelligible).

7 COURT REPORTER: I'm sorry, could you
8 repeat that last part?

9 JUROR MILETIC: I said I would treat it
10 as a hypothesis, so, then, um, let's go and prove
11 or disprove it.

12 ATTORNEY FALLON: All right. Um, at the
13 end? Mr., uh, Johnson?

14 JUROR JOHNSON: Um, as -- as part of the
15 management team for my company, uh, we get a lot
16 of he said-she saids, uh, from employees that may
17 have a gripe against each other, and I'm -- I'm
18 one of the people that has to go kind of
19 investigate that to see what the truth is, and I
20 would say 99 percent of the time, 95 percent of
21 the time, it's just trying to get somebody else
22 in trouble in the -- in the job. You know.

23 ATTORNEY FALLON: All right. So for
24 you -- your experience, it's an overused cliché?

25 JUROR JOHNSON: Absolutely.

1 ATTORNEY FALLON: All right. Fair
2 enough. Uh, yes?

3 JUROR: I'm going to come at this from a
4 more literal standpoint. As a Boy Scout, tried
5 to light a lot of fires. On more than one
6 occasion there was smoke and no fire.

7 ATTORNEY FALLON: All right. I use that
8 as introduction to this -- to this concept,
9 because this, as you may have, um, surmised, is
10 likely to be somewhat of an issue in the case, so
11 let's talk a little bit about this. I'm sure
12 Counsel will agree.

13 Um, has anyone read, seen or heard
14 anything in the media about people who claim they
15 falsely confessed to a crime? How many have
16 heard something or -- about that? Very good.
17 Hands up. All right. Um, let's see. Let's
18 start -- We'll go in the back row and we'll work
19 our way forward again. Uh, let's start with Ms.
20 McDonald. I believe she had her hand up first.

21 JUROR McDONALD: What do you want me to
22 say? I mean --

23 ATTORNEY FALLON: What --

24 JUROR McDONALD: -- do you --

25 ATTORNEY FALLON: What --

1 JUROR McDONALD: -- want me to respond
2 to?

3 ATTORNEY FALLON: What have you read,
4 seen or heard about that?

5 JUROR McDONALD: I've been reading
6 stories about, uh, torture, uh, in which, uh,
7 people are, uh -- the only way they can get away
8 from torture is just to confess, and then when
9 they're released, they, um -- they tell their
10 true story.

11 ATTORNEY FALLON: Sure. Um, have you
12 heard about it in any other context other than in
13 a -- a torture scenario?

14 JUROR McDONALD: Um, in some -- I think
15 in -- in -- in a couple of cases where there were
16 long-term police questioning of particular
17 suspects, they just gave up. The suspect gave up
18 and -- and said what the police wanted them to
19 say.

20 ATTORNEY FALLON: All right. Um, very
21 good. Uh, someone else in the back row? Yes,
22 sir. Mr., uh, Oakes?

23 JUROR OAKES: Nothing very specific but,
24 I mean, through the years you hear about, um, you
25 know, convicts have been in jail for 20 years and

1 then recant -- you know, what -- they take back
2 what they said 20 years earlier, or, you know, if
3 there's a famous case, uh, you hear about people
4 writing letters to the police and confessing
5 when, obviously, they're, you know -- they
6 couldn't have done it. So just, in general,
7 there are people who say they've done one thing
8 and it turns out not to be true for one reason or
9 another.

10 ATTORNEY FALLON: Like the JonBenet
11 Ramsey case for one?

12 JUROR OAKES: Sure. Exactly.

13 ATTORNEY FALLON: All right. Yes, sir?

14 JUROR: Yes, I agree with what he just
15 said.

16 ATTORNEY FALLON: Okay. That would be
17 Mr., uh, Hughes? All right. Um, yes, Ms. Shea?

18 JUROR SHEA: Well, I agreed with him
19 also, that you hear about it in the media and
20 people take back their stories.

21 ATTORNEY FALLON: Um, how about, uh, uh,
22 Ms., uh Durst?

23 JUROR DURST: I would agree with what
24 previous jurors have said.

25 ATTORNEY FALLON: But you've heard some

1 things about it?

2 JUROR DURST: I don't have anything
3 specific.

4 ATTORNEY FALLON: All right. Um, anyone
5 have a specific recollection or circumstance of
6 a -- of a -- of a case of interest to them?
7 Let's go -- this end here with, uh, Ms.
8 Blankenship?

9 JUROR BLANKENSHIP: I just was briefly
10 listening to the radio and they kept referencing
11 those three lacrosse players from the
12 university --

13 ATTORNEY FALLON: Right.

14 JUROR BLANKENSHIP: And that story
15 apparently fell through and they've all been
16 acquitted now.

17 ATTORNEY FALLON: Right. Um, but there
18 wasn't a -- attribution to them that they
19 actually admitted any involvement in the offense,
20 was there?

21 JUROR BLANKENSHIP: I didn't follow it
22 that closely. It just seemed like that is
23 sensitized to that.

24 ATTORNEY FALLON: Sure. Um, yes, right
25 here. Uh, Ms. McGuire?

1 JUROR MCGUIRE: In addition to some of
2 the cases brought forward, one of the ones
3 recently here would have been more of somebody
4 accusing of a crime that didn't occur, and she
5 confessed that it was fake. The Audrey Sealer
6 case.

7 ATTORNEY FALLON: All right. Audrey
8 Sealer. Sure. All right. All right. Right
9 next door here, to, uh, Ms. Lowery?

10 JUROR LOWERY: Um, the one that I
11 remember, um -- and I'm not really even sure of
12 all the details -- was all of those people in
13 Illinois they were letting go, a couple years ago
14 even maybe. I don't know even how long ago.
15 They were letting go because they said they were
16 having false confessions, and now they're doing
17 something down there to, I guess, maybe taping or
18 videotaping confessions now.

19 ATTORNEY FALLON: Um-hmm.

20 JUROR LOWERY: But I'm not even sure
21 what --

22 ATTORNEY FALLON: The circumstances?

23 JUROR LOWERY: Yeah.

24 ATTORNEY FALLON: Right.

25 JUROR LOWERY: I just kind of heard

1 about it.

2 ATTORNEY FALLON: Sure. Okay. Well,
3 let's, um -- let's go to the next question that
4 that would logically bring, and that is, um --
5 Well, how likely is it -- Let's use that as a
6 phrase. How likely is it that a person would
7 claim they had an active role in the commission
8 of a crime and later claimed they did not? I
9 mean, is that, in your experience, a common
10 occurrence or an uncommon occurrence?

11 Let's -- How many think that would be
12 a -- a common occurrence? Anybody?

13 How about uncommon? Okay. Fair enough.
14 What would some of the reasons be in your mind
15 for someone to at first claim involvement in the
16 commission of a serious crime and then later say,
17 no, no, that wasn't right, I -- I didn't mean to
18 say that?

19 What would -- What are some of the
20 reasons you think that would motivate somebody to
21 do that? Let's start with Mr., um, uh, Hughes in
22 the back there?

23 JUROR HUGHES: I think attention.

24 ATTORNEY FALLON: Wait for your
25 microphone there.

1 JUROR HUGHES: They want some attention
2 or some public -- some attention.

3 ATTORNEY FALLON: Okay. All right. Ms.
4 Miletic?

5 JUROR MILETIC: Fear.

6 ATTORNEY FALLON: Fear? Let's talk a
7 little bit about that. Why?

8 JUROR MILETIC: Because of fear,
9 consequences. If you, uh, don't see something,
10 you might get in trouble, so you say it, and at
11 that moment it probably -- maybe it's, uh -- you
12 think it's better for you to confess than -- than
13 not to confess, or to tell the truth. I don't
14 know.

15 ATTORNEY FALLON: Well, what would be a
16 greater fear in your thinking, then, in the
17 hypothesis you've given me --

18 JUROR MILETIC: Um-hmm.

19 ATTORNEY FALLON: -- what would be the
20 greater fear, uh, of not confessing to a very
21 serious crime? What would be worse than
22 confessing to a very serious crime, and being
23 subject to prosecution and ridicule, and -- What
24 would be worse? What would be a greater fear?

25 JUROR MILETIC: It depends. I mean, we

1 have all heard of, um, women that have been
2 abused by their husband and husbands don't end up
3 in jail and the women end up with husbands at
4 home.

5 Or in this particular situation -- I
6 don't know if I can specifically talk about this
7 case, I can see how fear would motivate a person
8 to confess.

9 ATTORNEY FALLON: Okay.

10 JUROR MILETIC: Like, for example, the
11 uncle did -- was re -- re -- released once from
12 jail, so the question could be, well, if he get
13 away with this crime, if I, um, cause, anyhow,
14 fear.

15 ATTORNEY FALLON: Okay.

16 JUROR MILETIC: Yeah.

17 ATTORNEY FALLON: All right. Um, anyone
18 else have an explanation of why someone might do
19 that? Yes. Ms. Harris?

20 JUROR HARRIS: I think sometimes people
21 get so anxious when they're in a certain setting
22 that they'll say things that, um -- just to try
23 to get out of the situation.

24 ATTORNEY FALLON: Um-hmm.

25 JUROR HARRIS: So lot of it's anxiety?

1 ATTORNEY FALLON: What would be some of
2 the manifestations of anxiety do you think?

3 JUROR HARRIS: I think having people
4 around that are, um, you know, asking you a lot
5 of questions, and feeling that they're a lot more
6 powerful than you are --

7 ATTORNEY FALLON: Um-hmm.

8 JUROR HARRIS: -- so you become anxious.

9 ATTORNEY FALLON: What kind of physical
10 manifestations do you think the person would have
11 under those circumstances if they were going to
12 confess to committing a serious matter or offense
13 when -- when they really didn't? If they were --
14 If -- You're saying that they're being questioned
15 and asked a lot of questions by authority figures
16 or power figures, would -- would we see some
17 manifestations of this anxiety on the person do
18 you think?

19 JUROR HARRIS: Yeah. I -- I think, you
20 know, you'd have your head down and, um, you
21 wouldn't want to elaborate on a lot of things,
22 but when someone's asking you questions, you go
23 ahead and you try to answer the questions what I
24 think what they would want to hear.

25 ATTORNEY FALLON: All right. Um, anyone

1 else? Um, we'll go back to the back row. Ms.
2 McDonald?

3 JUROR McDONALD: This -- this has to do
4 with the psychology experiment that was done
5 decads ago, uh, in terms of social pressures to,
6 uh, respond to a situation, uh, the length of
7 a -- a stick, and most people succumb to the
8 social pressure of, uh, calling the stick longer
9 or shorter than it actually was, and they
10 actually reviewed it or viewed it as themself
11 from their own perspectives.

12 ATTORNEY FALLON: Now, was that study
13 not going in group dynamics as opposed to an
14 individual, one-on-one; if I'm correct?

15 JUROR McDONALD: Uh, it -- it was in a
16 group, yes.

17 ATTORNEY FALLON: Right.

18 JUROR McDONALD: Um, and one person
19 was --

20 ATTORNEY FALLON: And eight people say
21 this is, uh --

22 JUROR McDONALD: Hmm.

23 ATTORNEY FALLON: -- really green and
24 the oth -- and --

25 JUROR McDONALD: Yes.

1 ATTORNEY FALLON: -- and -- and the one
2 person thinks it's blue?
3 JUROR McDONALD: Um-hmm.
4 ATTORNEY FALLON: But --
5 JUROR McDONALD: And -- and most of the
6 people responded that it was green, even though
7 they thought it was blue.
8 ATTORNEY FALLON: It was blue.
9 JUROR McDONALD: Um-hmm.
10 ATTORNEY FALLON: Right. But that
11 also -- but that was a group dynamic. Uh --
12 JUROR McDONALD: Um-hmm.
13 ATTORNEY FALLON: -- that's several
14 people involved as --
15 JUROR McDONALD: Um-hmm.
16 ATTORNEY FALLON: -- opposed to a
17 one-on-one or two-on-one --
18 JUROR McDONALD: Um-hmm.
19 ATTORNEY FALLON: -- discussion --
20 JUROR McDONALD: Um-hmm.
21 ATTORNEY FALLON: -- right?
22 JUROR McDONALD: Um-hmm.
23 ATTORNEY FALLON: Okay. Let's see. We
24 did have some hands -- Yes, sir. In the front
25 row. Mr. Nehrbass?

1 JUROR NEHRBASS: If you're, like, trying
2 to protect somebody. Like, you could admit
3 something if you're trying to protect somebody,
4 like, your kid or something, like, say their
5 parent.

6 ATTORNEY FALLON: So if you're trying
7 to -- Yeah. If you're trying to protect someone
8 else, you might say you did something. In other
9 words, take the rap for --

10 JUROR NEHRBASS: Right.

11 ATTORNEY FALLON: -- somebody else --

12 JUROR NEHRBASS: Right.

13 ATTORNEY FALLON: -- or, perhaps,
14 dissuade, um, somebody from looking -- or
15 accusing a loved one of something?

16 JUROR NEHRBASS: Right.

17 ATTORNEY FALLON: Okay. Good. Um,
18 anyone else have a reason why someone might do
19 that? Yes. Uh, ma'am -- Ms., uh, Schmitt?

20 JUROR SCHMITT: Yes. Okay. Um, the
21 only other thing, like, in general, that I could
22 think of is if someone was coercing you to give a
23 confession.

24 ATTORNEY FALLON: Okay. And what would
25 be some of the indicators in your mind of -- of a

1 coercing to getting a confession?

2 JUROR SCHMITT: Um, indicators as far
3 as, like, how you would be able to tell if that
4 person was being coerced?

5 ATTORNEY FALLON: Yes.

6 JUROR SCHMITT: Gosh, I don't know. I
7 was just thinking in general terms, but...

8 ATTORNEY FALLON: Okay.

9 JUROR SCHMITT: That's all I can come up
10 with.

11 ATTORNEY FALLON: All right. Um, anyone
12 else? Yes. Um, Ms., uh, Anderson?

13 JUROR ANDERSON: I go back to the
14 almighty buck. A lot of people do things they
15 normally wouldn't do for money.

16 ATTORNEY FALLON: Okay. Does anyone
17 think the age of a person might be a factor?
18 Yes? No? Sure.

19 Anyone think that age would not be a
20 factor?

21 How about intelligence? Yes? That's
22 a -- a factor? Sure.

23 Does anyone believe that simply age or
24 intelligence alone is certainly reason enough for
25 someone to say they did something when, in fact,

1 they didn't? All right. No thoughts on that.
2 Very good.

3 All right. I'm going to go into one
4 more area, and then I'm going to pass the
5 questioning to my colleague.

6 Um, a little discussion on distinction
7 between guilt and punishment. That's the
8 context. All right? So let's begin with a
9 couple of easier questions.

10 How many of you have been or are parents
11 of teenagers who were of below average, uh,
12 intelligence or gifts? We got, uh, two?

13 Um, Mr. Johnson and Mr. Hughes. Very
14 good.

15 Let's -- let's start with you two guys.
16 Let's start with Mr. Hughes first. When --
17 when -- Was it a son or a daughter?

18 JUROR HUGHES: Son.

19 ATTORNEY FALLON: Son? All right. When
20 your son misbehaved, did you hold him responsible
21 for his behavior?

22 JUROR HUGHES: Up to a point.

23 ATTORNEY FALLON: All right. Let's talk
24 about that. How -- how did you manage the
25 challenge?

1 JUROR HUGHES: All right. He was tested
2 by a neuropsychologist and, uh, he was found to
3 have Central Integrative Disorder, and, uh, it's
4 something in his neurological makeup that, um, he
5 really wasn't aware of what he was doing. He was
6 kind of in his own world and, um, they cautioned
7 us to over-discipline him.

8 ATTORNEY FALLON: To not
9 over-discipline?

10 JUROR HUGHES: Not to over-discipline.

11 ATTORNEY FALLON: Sure.

12 JUROR HUGHES: That, uh, he wasn't
13 really aware of some of the things he was doing,
14 so...

15 ATTORNEY FALLON: All right. So how --
16 in -- in -- in walking that line, how were you
17 able to determine or, um, to discipline when he
18 needed to be disciplined?

19 JUROR HUGHES: Really, I didn't know if
20 I'd made a mistake sometimes, and, um, it was
21 hard. You know, it was hard to determine that
22 with him. If -- if I had known that -- if he was
23 laughing about it, and he was, uh, kind of making
24 fun of the situation, then I would, uh, tend to
25 discipline. If, uh, he showed no signs of humor

1 whatsoever, and, uh, if he was doing something
2 inappropriate, then I would have had to sit him
3 down and really talk to him.

4 ATTORNEY FALLON: So if it looked like
5 to you he really didn't appreciate at all the
6 significance of the behavior he was engaged in,
7 you'd go light on him and just kind of sit him
8 down and --

9 JUROR HUGHES: Yes. I'd, uh, try to
10 talk with him, reason with him, and, uh, that was
11 his problem. He -- he -- he had some
12 reasoning -- he doesn't have the deductive
13 reasoning where he can put his ducks in a row and
14 make sense out of things.

15 ATTORNEY FALLON: Sure. Did he know
16 right from wrong?

17 JUROR HUGHES: Somewhat. You know, he
18 didn't know that he was in -- inappropriate at
19 times.

20 ATTORNEY FALLON: Sure. Fair enough.
21 Mr. Johnson?

22 ATTORNEY JOHNSON: I have a 15-year-old
23 son with kind of a more advanced case of ADHD,
24 uh, than you typically see, um, which leaves --
25 leaves him susceptible to just kind of do things

1 on a whim because he thinks they're fun, or it
2 could be fun, without thinking consequences
3 through the end. Um, we do hold him accountable
4 for all those.

5 ATTORNEY FALLON: Okay.

6 JUROR JOHNSON: Unfortunately, he thinks
7 of the consequences after he's already done
8 whatever he does, so...

9 ATTORNEY FALLON: Little impulse issues?

10 JUROR JOHNSON: Absolutely.

11 ATTORNEY FALLON: Okay. Um, but you do
12 hold him accountable for his behavior?

13 JUROR JOHNSON: Yes.

14 ATTORNEY FALLON: He -- he knows right
15 from wrong?

16 JUROR JOHNSON: Yes.

17 ATTORNEY FALLON: All right. He just
18 sometimes forgets to think about that?

19 JUROR JOHNSON: Right. He forgets to
20 think about this could be wrong and -- before he
21 does it.

22 ATTORNEY FALLON: Okay. Anyone else?
23 All right. Um, how many would agree with this
24 statement; that, um, 16-year-olds are not or
25 should not be held as responsible for their

1 behaviors as 18-, 19-, or 20-year-olds as a
2 general rule? Does anyone adhere to that?

3 All right. Let's start in the back row
4 with Ms. Miletic.

5 JUROR MILETIC: Um, I think, um,
6 mentally, um, we don't develop at age 16.
7 Physically, our bodies are more developed than
8 our, um, mental abilities, and, especially,
9 thinking does not develop fully at age 16.

10 ATTORNEY FALLON: Um, by age 16, would
11 you agree with the proposition that a 16-year-old
12 knows right from wrong?

13 JUROR MILETIC: Yes, but that doesn't
14 mean that a person cannot do wrong.

15 ATTORNEY FALLON: Cannot what?

16 JUROR MILETIC: I think person knows
17 right from wrong, but a -- a person can still do
18 wrong.

19 ATTORNEY FALLON: Sure.

20 JUROR MILETIC: Uh-hmm.

21 ATTORNEY FALLON: But should they be
22 held accountable for that? Should there be
23 consequences for doing wrong?

24 JUROR MILETIC: I think it's all
25 situational. It depends on the situation. I

1 definitely think to a certain degree they have
2 to, but, um, it all depend -- depends on the
3 circumstances.

4 ATTORNEY FALLON: All right. Anyone
5 else have a comment on that?

6 Anyone else thinks 16-year-olds should
7 be not -- held not as accountable? Yes, sir.
8 Mr., um, Williams?

9 JUROR WILLIAMS: When you say "not as
10 accountable" are you saying not as accountable as
11 an adult as someone --

12 ATTORNEY FALLON: Right.

13 JUROR WILLIAMS: -- that's of 18 or
14 older?

15 ATTORNEY FALLON: Right.

16 JUROR WILLIAMS: Well, I would agree
17 that the -- the psychological makeup of a
18 16-year-old -- and as a history teacher and
19 working with teenage boys and girls -- to -- to
20 hold them to the same standards as you or I -- I
21 mean, I just -- I totally -- I think we all go
22 through our lives and think to ourselves that we
23 did things when we were 16 we wouldn't do when we
24 were 24 and 25.

25 That said, should there be consequences

1 for actions that one take -- that person knows
2 that they're doing right or wrong? Absolutely.
3 But you're asking me, shouldn't be held to the
4 same standard as me? I mean, I would find that
5 to be somewhat foolish.

6 I have more life experience, as you have
7 more life experience as I do. It should be held
8 to at least some mitigating circumstances from
9 our own experiences.

10 ATTORNEY FALLON: All right. Anyone
11 disagree with that?

12 How many -- Would everyone agree with
13 that? Yes? No? Okay. Very good.

14 Do you see a distinction between holding
15 someone accountable for their behavior and then
16 determining a punishment for that behavior? Is
17 there a distinction?

18 How many think there's a distinction
19 there between, say, a -- a finding of guilt, for
20 instance, and a --

21 ATTORNEY FREMGEN: Judge, could we have
22 a sidebar on that question, please?

23 THE COURT: Yes.

24 (Discussion off the record.)

25 ATTORNEY FALLON: All right. I have

1 just one -- one other circumstance that I wanted
2 to talk with you about.

3 Before I do, could we have a -- a --
4 Let's have a little discussion. I want to talk
5 with Counsel about something first.

6 (Discussion off the record.)

7 ATTORNEY FALLON: Well, after a
8 discussion with Court and Counsel, I'm going to
9 stop here. My colleague, uh, Mr. Fremgen, is
10 going to pick up and cover some of the things
11 that I was going to cover in any event. So I'm
12 going to pass the, uh, questioning to, uh -- to
13 Mr. Fremgen, and -- and thank you very much for
14 your time.

15 ATTORNEY FREMGEN: Thank you. Good
16 morning again. What's, uh, nice about going
17 second, despite the introduction, I don't have to
18 ask a lot of questions. Mr. Fallon kind of
19 covers most of it.

20 I've been through the jury process
21 before as well. We -- Not as long as you folks.
22 Four hours seemed to be a lot to me, so I'm going
23 to try to keep it as -- as simple and as short as
24 possible.

25 The, uh, jury process, and this process

1 of selecting a jury, yesterday, I believe the
2 Judge explained to you that we're trying to pick
3 a fair and impartial juror, and a lot of the
4 questions that we asked you, and the reason why
5 you're here, is because you answered questions
6 that indicated that you can set aside opinions,
7 you can listen to the evidence, and you can
8 follow the instructions.

9 But I -- In regards to jury selection, I
10 think it's just as important for you 30
11 individuals to make a decision within yourself to
12 decide if you're a good juror. Do you think that
13 you can actually be a juror in this case more so
14 than, maybe, whether Mr. Fallon and I believe
15 that? Besides, part of the process and part of
16 why Mr. Fallon asked you to raise your hands and
17 interact and -- and talk, uh, because that's the
18 process for you as well, to be able to say, can I
19 be a fair and impartial juror? So please feel
20 free to interrupt me. Raise your hands.

21 You, uh -- Fortunately, the jury
22 selection process is somewhat shorter than normal
23 because you were, uh, kind enough to fill out
24 65-question questionnaire, and, uh, it -- it
25 allows us to eliminate a lot of the questions

1 that we would normally ask in this process, or,
2 as of yesterday, the individual voir dire.

3 I -- I think it's only fair that -- that
4 we have to proc -- do the process somewhat as
5 well. I mean, you are -- we are -- been
6 introduced to you, and I want to introduce myself
7 to you as well in this process, and as the Judge
8 pointed out, I'm an attorney in Oshkosh. I don't
9 think any of you know me. I've only been to
10 Madison once for court, so I never been in
11 this -- this building more than the last two
12 days.

13 And, uh, I also have children as well,
14 and my hobbies are similar to a lot of your
15 hobbies. I like to golf and be involved in youth
16 hockey, um, and I like to watch *CSI* as well. So
17 you're no different than the rest of us.

18 One of the questions that, again, you
19 all answered appropriately yesterday, was you
20 could set aside any opinions and you can presume
21 Mr. Dassey innocent.

22 What I want to ask you in that regard
23 is, what if Mr. Dassey chose not to testify?
24 Would that affect your opinion of his innocence
25 right now?

1 Would anyone feel differently about him
2 being presumed innocent if he decided I'm not
3 going to talk to you folks when it comes time for
4 the jury? For the trial?

5 Would it change your opinions?

6 Does anyone here feel that you want to
7 hear from both sides at any trial? You think
8 it's important to hear from both sides? You
9 agree with that? Just about everyone? Okay.

10 Now, if Mr. Dassey were to testify,
11 would you agree that he, along -- as well as all
12 other witnesses, that you will consider all the
13 testimony the same way?

14 Now, let me ask -- preface it this way:
15 You decide who you want to believe, and you
16 decide what weight you want to give any witness.
17 That's entirely up to you. But as you sit there
18 listening to it, you would listen to him no
19 different than, let's say, a police officer.

20 Ms. Ware, would that be okay? You would
21 be willing to listen to Mr. Dassey and give him
22 the same consideration as if a police officer
23 testified?

24 JUROR HAYMAN WARE: Yes.

25 ATTORNEY FREMGEN: The reason I asked

1 you, is you have a police officer for a husband,
2 and I thought that would -- made a nice segue.
3 Does that -- Your relationship, uh, with your
4 husband -- Let me ask you a couple questions
5 about that. Do you feel that police officers,
6 themselves, are more truthful than other
7 witnesses?

8 JUROR HAYMAN WARE: Not necessarily. I
9 think there's all kinds of police officers just
10 like there's all kinds of lawyers or all kinds of
11 social workers.

12 ATTORNEY FREMGEN: Touché. So if I can
13 just follow up a little bit, so you would agree
14 that -- that there are times that witnesses --
15 Well, let -- let's not say witnesses. There are
16 times people lie; correct?

17 JUROR HAYMAN WARE: Yes.

18 ATTORNEY FREMGEN: And that would be no
19 different than a police officer?

20 JUROR HAYMAN WARE: Correct.

21 ATTORNEY FREMGEN: Or a lawyer?

22 JUROR HAYMAN WARE: Correct.

23 ATTORNEY FREMGEN: Not today though.
24 Now, there -- In that regard -- In regards to
25 sometimes people lie, would it also be correct --

1 would anyone -- I guess would you agree that
2 there are times when people just are mistaken?
3 Anyone agree with that?

4 Let me ask, uh, someone who hasn't had
5 their hand up, much. Um, Ms. Rasmussen, you
6 raised your hand?

7 JUROR RASMUSSEN: Well, it's fairly
8 common if you have 12 people seeing something,
9 you're going to get 12 different stories, because
10 no one can see the same thing the same way. We
11 all have different experiences, different filters
12 to how we experience everything by what we've
13 seen in our past.

14 ATTORNEY FREMGEN: So if you saw
15 something one way, and another person saw it a
16 different way, you're not necessarily lying?

17 JUROR RASMUSSEN: Right.

18 ATTORNEY FREMGEN: Neither is the other
19 person?

20 JUROR RASMUSSEN: Right. It just means
21 then that we were focusing on different things
22 and maybe didn't remember the part that the other
23 person was talking about.

24 ATTORNEY FREMGEN: I saw a couple other
25 hands. Right next to Ms., uh, Tedder?

1 JUROR: I think sometimes people just
2 maybe mis -- misspeak and just made an error, but
3 not necessarily mean to lie, but...

4 JUROR FREMGEN: Besides not -- different
5 perceptions as Ms. Rasmussen pointed out,
6 sometimes you just misspeak?

7 JUROR: Correct.

8 ATTORNEY FREMGEN: And that's -- would
9 you say that's common?

10 JUROR: Um, maybe for some people.

11 ATTORNEY FREMGEN: Okay. When you hear
12 about -- When you watch TV -- A lot of you
13 yesterday would answer the questions that you --
14 you watch TV or listen to the radio. Uh, when
15 you hear, for instance, on TV, uh, a news report
16 that somebody was arrested for a crime, those
17 reports happen rather routinely in the news, do
18 you think it's a common reaction or do you have
19 this reaction that, well, you must have done it?

20 Is that a knee-jerk reaction? A normal
21 knee-jerk reaction? Does anyone agree that that
22 can be a knee-jerk reaction at times?

23 Mr. Hughes, you had your hand up?

24 JUROR HUGHES: I think it can. I -- I
25 believe it can be.

1 ATTORNEY FREMGEN: Okay. And let me ask
2 you this, and picking on you, Mr. Hughes, just
3 now because you raised your hand. Sorry.

4 JUROR HUGHES: Yes.

5 ATTORNEY FREMGEN: Uh, and all you've
6 heard is the two-minute, maybe 30-second news
7 bit?

8 JUROR HUGHES: Yes.

9 ATTORNEY FREMGEN: Did you have nothing
10 else to go on as to -- far -- as far as whether
11 the person may or may not have done it; correct?

12 JUROR HUGHES: No.

13 ATTORNEY FREMGEN: So it -- you might be
14 wrong; correct?

15 JUROR HUGHES: Yes.

16 ATTORNEY FREMGEN: But it's just common
17 nat -- it's human nature; right?

18 JUROR HUGHES: Yeah.

19 ATTORNEY FREMGEN: Ms., uh, Miletic?
20 Miletic?

21 JUROR MILETIC: I didn't raise my hand.

22 ATTORNEY FREMGEN: You were -- you were
23 shaking your head. I saw you shaking your head.
24 Sorry.

25 JUROR MILETIC: Well, it's true. I

1 mean, I live in this society where people are not
2 arrested. I have never witnessed anyone being
3 arrested. So if my neighbor's arrested, I would
4 think like, my gosh, what happened? I wouldn't
5 necessarily think he's guilty, but I would say
6 like, wow, what did he do? I would, um, still
7 wait to see the verdict, but it would be a
8 surprise to me.

9 ATTORNEY FREMGEN: So you would -- the
10 better process would be, let's see what the
11 actual --

12 JUROR MILETIC: Oh, definitely, but I
13 would definitely, like, peek through the window
14 and see what's going on and -- because that
15 doesn't happen. Not in my life.

16 ATTORNEY FREMGEN: Okay. There was
17 another hand. Uh, Ms. McDonald. Same answers
18 though?

19 JUROR McDONALD: I think sometimes a
20 knee-jerk reaction is to think, well, this person
21 may be guilty for this reason, uh, but I think
22 that subsequent information may change one's
23 mind.

24 ATTORNEY FREMGEN: So if you receive
25 more information --

1 JUROR McDONALD: Um-hmm.

2 ATTORNEY FREMGEN: But in the newscasts,
3 you don't usually get the one and never --

4 JUROR McDONALD: No --

5 ATTORNEY FREMGEN: -- see it again?

6 JUROR McDONALD: -- and it's usually on
7 petty crimes that, uh, sort of go by the wayside.

8 ATTORNEY FREMGEN: Okay. Oh, I'm sorry.
9 No. 7? Ms. Shea. You had your hand up, too.
10 I'm sorry.

11 JUROR SHEA: I guess when I see it on
12 TV, I kind of assume that police had some reason
13 for arresting that person, that they must be --
14 and don't mean, I guess, that I just assume
15 guilt, but they must have had a reason for it, so
16 I'm trusting that that's why they arrested them.

17 ATTORNEY FREMGEN: Okay. Would you
18 agree, though, there are times when people are
19 arrested and --

20 JUROR SHEA: Yeah, and it was --

21 ATTORNEY FREMGEN: -- was wrong?

22 JUROR SHEA: Yes.

23 ATTORNEY FREMGEN: Okay. One of the
24 instructions the Judge will give you eventually
25 within this trial, is that at the end when it's

1 your time to get together and decide guilt or
2 innocence, that you have to do it -- it's called
3 beyond a reasonable doubt, and that burden is
4 actually on the prosecutor only. That's where
5 yesterday we talked a lot about presumption of
6 innocence. Do you need us to prove something to
7 you? Well, it's the prosecutor that actually has
8 to prove each and every element of the offense.

9 Now, if, for instance, the State were
10 able to convince you, two out of three of the
11 elements absolutely perfect, evidence clearly
12 establishes that, but doesn't establish the
13 third, under that instruction you'd have to say,
14 not guilty. Does anyone feel that's just unfair
15 that if the State's able to truly convince you
16 with -- on two elements, but not on the third,
17 that, well, close enough. Do you think that
18 that's just not -- Ms. Rasmussen?

19 JUROR RASMUSSEN: Uh, if by elements are
20 you speaking two or three charges or two or three
21 elements of a specific charge?

22 ATTORNEY FREMGEN: Good question. As a
23 lawyer, we -- we tend to think everyone
24 understands what we're talking about. Each
25 charge -- The Judge will instruct you each charge

1 has separate elements to the charge. Um, and an
2 element just simply means it's something that the
3 State would have to prove.

4 And my question is, essentially, if the
5 State convinces you beyond a reasonable doubt to
6 all but one element, are you willing to find the
7 defendant not guilty because the instruction is
8 you must find him guilty on all the elements
9 beyond a reasonable doubt? Is that a fair burden
10 on the State? Even though they came pretty darn
11 close, you think that's pretty fair?

12 JUROR RASMUSSEN: I think that's fair.

13 ATTORNEY FREMGEN: Okay. Any -- anyone
14 else -- anyone think it's not fair? It's just
15 not a fair burden on the prosecutor to come so
16 close, but not to be able to prove it in my
17 hypothetical? Not fair?

18 Okay. Mr. Fallon stole my thunder with
19 the JonBenet Ramsey case. That was a great
20 example. But let me ask you about -- follow up
21 on Mr. Fallon's questions about false
22 confessions.

23 He asked you about certain factors,
24 whether or not you thought that would play a part
25 in whether a person's, uh, confession was true or

1 false.

2 Let me ask you, does anyone feel that a
3 maturity level of a person is a factor that you
4 should consider in that same question? That same
5 set of questions Mr. Fallon asked? Mr., uh,
6 Johnson, you're rais -- you're shaking your --
7 I'm sorry. Mr. Williams. Sorry. You're shaking
8 your head?

9 JUROR WILLIAMS: Obviously, maturity has
10 something to do with it. I mean, I had a
11 six-year-old, and, you know, did you hit your
12 brother? You're going to get a different answer
13 if I asked her if she was 15 so...

14 ATTORNEY FREMGEN: Not necessarily.
15 Because I know.

16 JUROR WILLIAMS: Hopefully.

17 ATTORNEY FREMGEN: Okay. All right.
18 Anyone else, uh, agree? Ms., uh --

19 JUROR LOWERY: Lowery.

20 ATTORNEY FREMGEN: -- Lowery.

21 JUROR LOWERY: Um, I kind of agree with
22 him, because my two-year-old, if you asked her
23 who did it, she always says, Jenaya, Jenaya,
24 Jenaya. And Jenaya is gone for eight hours out
25 of the day. And she's usually the only one at

1 home, so she's the only one, that -- you know,
2 that could possibly do it. So, I mean, a
3 two-year-old versus, you know --

4 ATTORNEY FREMGEN: Sure.

5 JUROR LOWERY: -- another age where you
6 can probably understand a little better and get a
7 correct answer.

8 ATTORNEY FREMGEN: Jenaya is not that
9 naughty of a girl?

10 JUROR LOWERY: Oh, yeah. Jenaya is the
11 naughtiest.

12 ATTORNEY FREMGEN: She's a good fall
13 guy, huh?

14 JUROR LOWERY: Yeah.

15 ATTORNEY FREMGEN: Anyone else agree
16 that that's -- Just generally agree?

17 JUROR: Sure.

18 ATTORNEY FREMGEN: Another factor I
19 wanted to ask you if you agree might have an
20 impact on this topic of false confessions, and
21 that is, whether it's coming from authority.
22 Does anyone agree that parents or principals at
23 schools, police, might have more of an impact in
24 questioning a person than, say, if it's a friend?
25 All right. Ms. -- Ms. Tedder? Is that -- You

1 were shaking your head yes?

2 JUROR TEDDER: Yes.

3 ATTORNEY FREMGEN: Do you agree that
4 that's -- that can also be a factor?

5 JUROR TEDDER: Yes. I think it can be
6 intimidating, so, yes.

7 ATTORNEY FREMGEN: So intimidation can
8 sometimes be a factor in that?

9 JUROR TEDDER: Yes.

10 ATTORNEY FREMGEN: Is that fairly
11 agreeable by the group? Everyone's shake -- I'm
12 not going to call on all of you, we'll be here
13 all day. But that that's a common theme among --
14 Okay.

15 I just have one last question, and it's
16 a question I've asked just about every time since
17 a case I had seven years ago. I won't go into
18 that case. Does anyone here have any strong
19 dislike for attorneys that you just simply cannot
20 sit on a jury? It came up, and I just want to
21 make sure that -- Okay. Well, I appreciate your
22 answers. Thank you, very much.

23 THE COURT: All right. That -- that
24 concludes the individual voir dire -- or, excuse me,
25 the general voir dire done by the prosecutor and the

1 defense. We now are going to have what are called
2 peremptory challenges. That is the, uh -- the
3 lawyers are --

4 ATTORNEY FALLON: I -- I was just -- I
5 would like to take about a five-minute break.

6 THE COURT: All right. Okay. We'll
7 have the -- Well, let's do this, um -- It's
8 10:05. Uh, 10:15?

9 ATTORNEY FALLON: That would be great.

10 THE COURT: All right.

11 (Recess had at 10:05 a.m.)

12 (Reconvened at 10:25 a.m.)

13 THE COURT: Back on the record. Ladies and
14 gentlemen, you're discovering how ten minutes of
15 court time rapidly turns into fifteen to twenty
16 minutes real time, but we're back, and we're going
17 to do the peremptory challenges at this point. Uh,
18 preematory challenges are an opportunity for each
19 side to strike a certain number of jurors so that we
20 finally reach the final panel -- panel number,
21 which, in this case, is 16. So let's -- let us
22 begin.

23 (Peremptory Challenges.)

24 THE COURT: I'll ask the clerk to read the
25 names of those who have been selected for the final

1 jury. If your name is called, please stand.

2 THE CLERK: Thomas Oakes, Timothy Hughes,
3 Heather Rasmussen, Rachel Tedder, Leah Shea, Kristen
4 Durst, Thomas Heinzl, Becky Foss, Robert Covington,
5 Cynthia Edge, Renee Schmitt, Janeen Running, Judy
6 Orth, Jane McGuire, Tamara Lowery, and Ashley
7 Shippy.

8 THE COURT: All right. Would the persons
9 whose names weren't called rise, please, and -- and
10 we'll do the -- clear the courtroom.

11 (Wherein jurors not selected are
12 escorted out of the courtroom.)

13 I'm going to ask, uh, the jury clerk
14 to -- to seat the people so we can get a seating
15 chart. She's going to seat you in a -- in a
16 manner so we have a chart for Monday.

17 I'm just going to talk to you very, very
18 briefly. You're going to get some additional
19 instructions at the back of the room. You've
20 been selected this, a sequestered jury. You
21 won't officially become sequestered until Monday
22 morning when you're sworn in in the -- in the
23 Manitowoc County Courthouse, but I want to
24 reiterate to you that it is absolutely essential
25 that you not read, listen to, or watch any news

1 accounts of this case, whether on radio,
2 television, newspapers or the internet, and that
3 you do not discuss this with anyone, any matter
4 involving this case or your involvement in it.
5 That is, uh -- that is, actually, a court order.
6 I ask that you be diligent in following it.

7 Now, I'm going to ask that you exit the
8 jury box. Go to the back. One second.

9 THE CLERK: Would you wait one second? I
10 just want to make sure I have --

11 ATTORNEY FALLON: Judge, before you
12 excuse them, could, uh, counsel and I, uh --

13 THE COURT: Sure.

14 ATTORNEY FALLON: -- remind you about a
15 previous discussion we had?

16 THE COURT: Oh.

17 (Discussion off the record.)

18 THE COURT: One more thing. Counsel have
19 suggested that I remind you that there may be
20 matters on television that your family sees and they
21 may want to talk to you about it. Uh, don't --
22 don't engage in any of that discussion. Don't watch
23 it. Don't talk to them. You might advise family
24 members if -- if there are matters that they run
25 into either on the internet or television that, uh,

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it -- it's out of bounds for you and you can't talk about it. Does everybody understand that instruction? Thank you. All right. Uh, have you got the -- the list?

THE CLERK: Yeah, that's fine.

THE COURT: All right.

THE CLERK: Thank you.

THE COURT: We'll see you Monday.

(Court stands adjourned at 10:50 a.m.)

