

Rabia Chaudry: After it was discovered that Issac Dawkins had died from a gunshot wound to the head, fired at him while he was driving, the Rome, Georgia Police Department, lead by detective Jim Moser, began investigating and eliminating dozens of leads in a methodical way. But then, the Floyd County PD stepped in, taking over the case, and headed up by a man who would forever change the course of Joey Watkins' life -- Stanley Sutton.

Hi, and welcome to episode eight of Undisclosed: The State Versus Joey Watkins. This episode is: Enter Sutton. My name is Rabia Chaudry, I'm an attorney, I'm a fellow at the U.S. Institute of Peace, and now I'm the author of the New York Times best selling book, "Adnan's Story," and always I'm here with my colleagues, Susan Simpson and Colin Miller.

Susan Simpson: I'm Susan Simpson, I'm an attorney with the Volkov Law Group and I blog at viewfromll2.com.

Colin Miller: I'm Colin Miller, I'm an associate dean and professor at University of South Carolina School of Law and I blog at EvidenceProf Blog.

The Cohen Brothers movie, "O Brother, Where Art Thou?" was based upon the Odyssey, the epic poem about Odysseus' decade-long journey to return home after the Trojan War. Odysseus' journey is continually complicated by the obstacles created by Poseidon, the god of the sea, who seeks revenge against Odysseus for blinding his son, despite a decree by Zeus that Odysseus return home safely.

In "O Bother," the Cohen brothers transplant the action from Europe in the 12th or 13th century B.C. to the American South during the Great Depression, placing the mythology of the original text against the backdrop of a Christian mythos in a Southern U.S. folk tradition. And in the film, Sheriff Cooley fills the role of Poseidon, with a similar vendetta against George Clooney's Everett McGill.

As the website Hopkins Cinematics describes it, the role of a law man and the story of a jail break has many different cultural implications. Daniel von Bargen's appearance and performance in the part of Sheriff Cooley were inspired by Boss Godfrey in "Cool Hand Luke," but the fear and awe that surround him is an older cultural idea. Here, the Christian and southern mythology combine to add an additional layer to his character. Early in the film, the trio in the film stumble on Tommy Johnson, named and based on the real man who also legendarily sold his soul at a crossroads in Rome, Mississippi for his skill on the guitar.

When asked what the devil looks like, Everett describes the traditional red and scaly, with a bifurcated tale, and he carries a hay fork. And Tommy corrects him, describing Sheriff Cooley perfectly, saying, he's white, as white as you folks, with empty eyes and a big, hollow voice. He loves to travel around with a mean old hound. Every time the Sheriff appears, even at night, he's wearing mirrored

sunglasses. And most of the time, the reflection contains a fire. Thus, he becomes three characters in one: The Law Man, Poseidon, and the Devil.

While Floyd County Sheriff certainly fits the archetype of the old-school southern law man, it would be unfair and hyperbolic to compare him to Poseidon or the devil. But one thing's for certain, he was hell-bent on bringing Joey to justice. Georgia-style justice.

Susan Simpson: Stanley Sutton is a polarizing figure. I can't say I've run into too many people who are neutral about Sutton, except maybe for a few who have said, "well, I personally haven't had a problem with him, but ..."

Because, there are a lot of people out there who have a lot of strong feelings about Stanley Sutton and the way he operated as an officer during his four decades on the force. On the one hand, there are a lot of people who feel he's done wrong, either to them, or people they've known, or else they've questioned his integrity as an officer. But, on the other hand, I've also run into a lot of people who spoke very fondly of Sutton and sung his praises as a police officer. Sure, they say, with a kind of "boys will be boys" attitude. He had his quirks, but if trouble moves onto your block, he's exactly the kind of officer you'd want in charge of stopping it.

Basically, if this was a cop movie, Stanley Sutton would be the loose cannon who refuses to play by the rules, but damn it, does he get the job done. And, over the course of this investigation, I've heard a lot of stories about Stanley Sutton. Some of them kind of hilarious, and some of them kind of disturbing.

To give you an idea of what kind of stories these are, unfortunately, they're usually coming from people who say that they'll tell me it on the condition I don't repeat it to anyone else because they don't want to get involved in anything. So, unfortunately, I can't share those. But here are a few I can share with you.

This first story comes from someone who was with the fire department in Rome. He didn't know Sutton personally, but sometimes ran into him on the job. This one time, he said, there'd been a car wreck, and he was there to assist, when Stanley Sutton interrupted the scene. Sutton has a trainee with him that day, so, rather than taking care of the paperwork himself, he let the trainee do the job. Even though Sutton should have been there showing the trainee the ropes, he figured the trainee could handle it. And, at some point, the firefighter was wondering just where Sutton had gotten to, and looked around and finally found him.

When he looked down the grass gully at the edge of the road, and saw Sutton walking around down there, bent over at the waist and periodically grabbing at the grass. The firefighter couldn't figure out

what Sutton was doing and went back to processing the wreck scene, but once they'd gotten everything cleared up, Sutton wandered back over to join them on the roadside.

Then, as someone asked him a question about where he'd been the whole time, Sutton opened his mouth as if to answer, and, whoosh, grasshoppers can flying out everywhere. That was Sutton's sense of humor.

And then there's the story from the tow truck driver we talked about in episode four, Terry Ferguson. When Clare and I spoke to him, he told us about a story about a run in he'd had with Sutton in his younger days, and Sutton's unorthodox law enforcement techniques. One time, Terry said, Sutton picked him up for an offense. But, rather than take him to jail, Sutton decided on a different form of punishment instead.

Terry Ferguson: He caught me one time for stealing copper. Instead of taking me to jail, he made me ride around with him all day.

Susan Simpson: In his police car?

Terry Ferguson: Yeah. And the neighborhood that I was grewed up in was just in the backside over there, where the wreck happened. It was a rough neighborhood and you know, you didn't wanna be seen with the police back then.

Clare Gilbert: Were you in the back?

Terry Ferguson: No, I was in the front.

Clare Gilbert: He put you in the front.

Terry Ferguson: And rode me around up in my neighborhood and all over Rome that day, then turned me loose.

Susan Simpson: Did he know what he was doing? What was...?

Terry Ferguson: Yeah, he was -- he was seeing if anybody would talk to me or go around me. None of my friends, and...

Susan Simpson: What'd he tell you on this ride?

Terry Ferguson: *I think I -- actually, I helped him catch a -- somebody who was breaking into a house. I run him down. Right after he'd picked me up, he responded to a burglary call. I still remember the guy's name was Godfrey and we caught him over behind the trailer park on Arlington drive, and Stanley told me to jump out and catch him. And after that, then, Stanley took me home. But -- but -- all my friend saw me in the car with him and they wouldn't have nothing to do with me for a long time.*

Susan Simpson: *Did you realize that at the time, what he was doing, or...?*

Terry Ferguson: *Oh, yeah.*

Susan Simpson: *Okay. Couldn't do anything about it.*

Terry Ferguson: *But it was better than going to jail.*

Susan Simpson: So, Sutton made it seem like Terry had been a snitch. In order to isolate him from all of his friends. And, along the way, he used Terry's help to nab a fleeing fugitive. Joey has his own Stanley Sutton story, too. Well, even before he became Stanley Sutton's personal obsession for a year.

Joey Watkins: *I can't remember what grade I was in, maybe third, fourth grade. Third grade, fourth grade, and um, the girl that lived beside us, and one of her friends, made a bomb threat at Armuchee High School. And I had walked to the store with them that morning -- they didn't want to go to school, that'd why they did it, and I knew that they made the call. Well, that morning I told a buddy of mine named Eric Harris about the bomb threat. I -- you know, I was trying to be cool and sound, you know, and um, I told him about it so he told everyone. He went and told the principals, he went and told everyone. So, I get pulled out by the principle at the time and then Stanley Sutton and another investigator came to talk to me. He threatened me, threatened to lock my family up, and he asked me, he said, I can remember him looking at me and telling me -- asking me, "You love your mom and dad?" I said, "Yeah," and he was like, "Well, I'm gonna lock them up if you don't tell me everything that happened."*

And he kinda ran the whole tryin' to scare me game up, but yeah, that's my first experience with him.

Susan Simpson: *And I was asking you if you thought he'd actually remember you 10, 15 years later. Or I guess 10 years later if you were like, nine.*

Joey Watkins: *Yeah, he remembers me. The reason being, you know, I was saying about Ashley and her and BriAnne being friends. Going to her house and I'd actually got mad at*

BriAnne and I was messing with Ashley for a little -- little bit, trying to get with her just to make BriAnne jealous and he uh -- he asked me a couple times why I was there, "you staying out of trouble?" and you know, stuff like that.

Susan Simpson: And yeah, I know. Trying to make BriAnne jealous by going out with Sutton's step-daughter was definitely not one of Joey's brightest moves.

Joey Watkins: That guy, I mean, he followed me I don't know how many times. Around town. Like, at work, on the weekend. Ask Kelly, she can tell you. He followed -- he followed me and Kelly all the way to Kennesaw one time.

Susan Simpson: Could you see it was him?

Joey Watkins: Yeah, you could see it was him. He drove a -- a grey Crown Vic. I mean, it was so obvious, you know? I mean, it was -- I mean, I guess he was trying to intimidate me, or make me run, or... or something like that. He actually, I can remember me and Kelly going to the Sonic one time, I guess he was trying to act like he was under cover or something -- I don't know what the guy's intentions were, but, we were sitting at Sonic in West Rome. There used to be like a little workout gym down there, and uh, he pulled down there and he pulled -- he pulled up through the parking lot so I could see -- I guess he was trying to make himself known to me. And he -- he pulled down there and backed into a parking spot in front of the little gym the whole time we were sitting there eating. And he was kind of like staring me down, you know, like -- I'm like, really? I'm trying to eat. Can you leave me alone, please? But, I figure after the guy -- you know, he seen my daily routine, you know, I mean, if you watch somebody intently like that you're gonna eventually get an idea of who they are and uh, I'm like, maybe he'll just go on and leave me alone. But evidently that wasn't the case.

Rabia Chaudry: So, we're going to talk a little bit now about Stanley Sutton's work history. In September of 1972, he was hired by the Floyd County Police Department as a patrol officer. On March 2nd, 1973, he was certified by the Police Officer's Standards and Training Council as a Peace Officer and graduated from the Police Academy. A few years later, on January 11th, 1976, he was promoted to Sergeant. On April 11th, 1978, he became a Sergeant Investigator. Four years later, in 1982, he graduated from the FBI National Academy in Quantico. His resume then says that from 1985 to 1987, he was a Sergeant assigned to the Rome, Floyd Metro Drug Task Force. More on that later, though.

In 1987, he became a Senior Sergeant. And at the time of his retirement in 2005, 33 years after he started working for Floyd County, he was a police Intelligence Officer. But Sutton's career was definitely a mixed bag. And we know that because during this investigation, GIP, the Georgia Innocence Project, actually pulled the personnel files for both Sutton and Moser.

Susan Simpson: One of the reports in Sutton's file that seems a little bit emblematic of his career on the force and his interactions with other agencies comes from 1982 when a superior wrote,

"Dear Sergeant Sutton, On or about March 29th, 1982, four inmates escaped from the Floyd County Jail. The custody of these prisoners is the responsibility of the Floyd County Sheriff's Department. I was informed Friday evening, April 2nd by Captain Tommy Shiflett and Sheriff Bill Hart that you had conducted an interview with an inmate who was in the custody of the Sheriff's Department. It is my understanding that this interview was conducted at the request of Sergeant Doug Killgo. If your intentions were to aid a fellow law enforcement officer in the performance of his duties, you are to be commended for your assistance. However, if you were aware that the Sheriff was conducting an internal investigation into the escape, and you injected yourself into the investigation without prior approval from this department, you are in serious error and in violation of department policy. Officers from this department must not allow personal motives to govern their decisions. Our department policy requires that we maintain a close working relationship with other law enforcement agencies, and for some time, our relationship with the Sheriff's department, to say the least, has been strained. I am not blaming you for the conditions of the relationship, but your actions certainly didn't help. The most disturbing thing about your actions is that you failed to even inform your immediate supervisor about the request from Sergeant Killgo. It is your responsibility to stay familiar with department policy and to govern your actions accordingly."

Now, as with just about everything in Sutton's personnel file, it's written in innuendo and vague allusions to bigger problems going on. Here, all we know is that Sutton interviewed someone in conjunction with the escape from the jail. But, for some reason, this warranted a reprimand and a comment from a supervisor, "Officers from this department must not allow personal motives to govern their decisions. Now, what personal motives these would have been or why they would have caused Sutton to interview this person, is never explained.

Colin Miller: Well, I mean, it's an example of what you said before, about him going off book instead of being by the book. He's not informing his supervisor, he's conducting this interrogation off-book and, as you say, it's sort of wishy-washy language, it's equivocal, but it seems quite clear that he has done something in this case that's based upon his own personal feelings and by doing so he has caused tension in the relationship among these different law enforcement agencies.

Rabia Chaudry: He sounds very much like the archetypal, in my head, southern law enforcement officer who just, you know, he's the law. He does what he wants to do, as he wants to do it, as long as he gets the results that he wants.

Susan Simpson: But the results he wants here, at least, I think the implication is, they're not about law enforcement, strictly. It's some personal agenda. Anyway, looking at Sutton's annual evaluations, you kind of get a sense that the grasshopper story I told earlier wasn't a one-off thing. In a 1988 report, his supervisor wrote, for employee strengths, "Stanley is a very effective investigator. He is a very good witness in court." As for areas where he needed improvement, the supervisor wrote, "Sometimes he carries on too much B.S. at inappropriate times." At the bottom of the sheet, Sutton was able to respond to these evaluations, and he wrote, "That is my personality, having fun. So therefore, I will continue with B.S., as Chief Jim Free calls it."

Rabia Chaudry: He's definitely not taking the feedback seriously on that.

Colin Miller: Yeah, I mean it's someone who seems to have a large personality and think that they're larger than the law and yeah, it seems, they're complimenting him, that he gets good results, but at the same time, he's playing by his own rules and he quite blatantly is responding, that's just me, that's my personality, it's what I do.

Rabia Chaudry: So, there aren't any other serious reprimands that are in the personnel files that were maintained by Floyd County, but there are little hints of scandal here and there. Like in the letters of commendation he's received over the decades. For example, in 1997, after his demotion as the commander of the Rome Floyd Metro Drug Task Force, here's what one citizen wrote, "Sergeant Sutton's tenure as commander was the finest highlight of what one man could do to alleviate the drug problem here in Rome. The drug dealers feared and respected him, because they knew that once their name came across his desk, he would not stop until they were behind bars where they belonged. As a private citizen I can tell you that I do not believe that replacing Sergeant Sutton will slow the drug trade in this city. The rumors that permeated his committee concerning his rotation were spawned more likely by some individuals that were looking for revenge and to besmirch his reputation. But the people who know Stanley Sutton know that the job that he did to remove the drug elements from the streets has gained him more respect than any rumor could ever take away." So, that makes you wonder, what was the rumor, or rumors?

Then you have another letter from a prosecutor that was written earlier in his career, in 1984. "Stanley, we have had our differences in the past. However, I admire your ability to get along with a stubborn prosecutor like me who insisted on pushing the court as much as necessary to prevent Ellis from getting out on bond. I felt and I continue to feel that it was essential to keep him in jail to prevent any further cases. You will recall that we were accused of mis-using our authority. I am aware of nothing that has been done in this case that would not have been done in a similar gang rape under similar circumstances in another jurisdiction or by any other prosecutor. The accusations made against you by the defendants' families, etcetera, are unfounded, as acknowledged by certain people in the

courtroom during last Wednesday's hearing. It appears to me that you were doing nothing more than your usual good job in this case."

Colin Miller: Yeah, I mean, that said, while we have these things where there's at least nibblings of misconduct or bad behavior, there are plenty of favorable comments about his performance. For instance, we can see in his files that in more than one occasion, while off-duty, Sutton responded to accidents that he happened to be close-by to when they occurred and saved the lives of victims, including one time during a hunting accident and another time when the sides of a hold collapsed on some road workers.

Also, his superiors frequently referred to Sutton as one of Rome's best investigators, and, as was noted in one of the personnel comments before, he apparently was an excellent and thorough witness in court, so good, in fact, that when he testified before a Grand Jury, one of the grand jurors wrote to him after the hearing in April, 2001.

"Dear Officer Sutton, I'm currently serving on the Floyd County Grand Jury and heard your presentation on the Dawkins case. I'm impressed with the thoroughness with which you gave your presentation. In discussion with one of the other ladies also serving, the other members were equally impressed. It was very obvious that you take your position seriously, and the drive to delve into every channel that might give you more information. I don't believe that this case is an exception, I believe that you enter each one with the same energy. I did not feel comfortable, my first time to serve, to ask any further questions, however, you covered so completely every phase. Let me congratulate you on your ability to present with such clarity. I would like to meet with you face to face and congratulate you in person."

Now, on the other hand, when I did a Westlaw search, I found four cases that involved Sutton. One was just generally noting his involvement in the case, but the other three actually all involved some misconduct by Sutton, so let's quickly do a rundown of those cases. The first of these cases was Hendricks versus State and in Hendricks Versus State, Hendricks was accused of two counts of violating the Controlled Substances Act, and Sutton arrived at Hendricks' work place and was told that Hendricks was deaf. Sutton's response was that, "He'd taken three months of sign language at Floyd College three years ago and could do a little bit of signing." As a result, he felt comfortable questioning Hendricks. He then indicated that he used sign language to communicate to Hendricks that his son had marijuana at school and had told a school official that he got it from Hendricks. Now, according to Sutton, Hendricks responded that he wanted to see the pot, which prompted Sutton to take him to the police station. Upon arrival at the station, Sutton got a consent form and basically talked to Hendricks to get him to read the consent form, asked him if he would give permission to go to his home to get the pot, and according to Sutton, Hendricks signed the form after Sutton explained, "If he didn't give us permission, or if he didn't sign this, that we'd have to talk to a judge and try to get a search warrant. There are two ways we could go about this, you know." So, Hendricks signed the consent form, they

proceeded to Hendricks' house, and Sutton found the marijuana. During the whole course of this investigation, Sutton never read Hendricks the Miranda warnings and he never got a qualified interpreter as was required by Georgia law.

So, of course, Hendricks filed a motion to suppress the evidence in the case, it was before Judge Matthews of the Floyd Superior Court and the motion was granted and that was affirmed on appeal. On the interpreter question the court ruled that in this case, Sutton was not certified as a sign language interpreter, he had not kept up with the development of sign language and the changes in signs, he had not had any other courses in it since 1972, or 73, so decades earlier, Sergeant Sutton also confirmed he had made no attempts to call or locate a certified interpreter for the death at any time.

On the Miranda issue, Sutton's claim was, well, I didn't have Hendricks in custody, and the court flatly rejected that claim saying, your actions clearly would have lead a reasonable man in Hendricks' shoes to feel he was not free to leave, he was in custody, you had to read him the Miranda warnings.

So, you know, Rabia and Susan, this is a case, again, of Sutton thinking he's above the law, thinking, I'm not really trained in sign language but I can substitute for an interpreter, I don't have to get the Miranda warnings, and it comes back to bite him, where the court of appeals says, you can't use the evidence you recovered from his house.

Rabia Chaudry: This is kind of amazing to me, because, I'll be honest, I actually took a whole year of sign language in college and in this point I probably couldn't even ask somebody what their name is, because if you're not using it, there's no way you -- so I think this was -- you know, I would love to see how Stanley Sutton actually tried to use the sign language, but I think it was him just taking advantage of the situation.

Colin Miller: Then we have the case of Wilson versus State, and this was in August of 1989, and the Georgia Bureau of Investigation began conducting undercover drug operations in and around Rome, Georgia. This is sort of consistent with what we discussed before with the drug issue that was occurring there and there was a confidential informant who introduced GBI agents to suspected drug dealers, those agents would then try to make purchases of drugs from persons implicated by the informant, and if the agents in fact made this controlled buy from a particular suspect, the arrest was postponed to avoid compromising the success of the continuing operations in the area.

So, on August 17th, 1989, the informant and agents Scott Whitley, Cathy Sap and Cheryl Bowers travelled to a residence in Rome, they purchased drugs, and Agent Whitley ultimately purchased the cocaine at issue from a person identified by the information as Alfred Turner, also known as "Big Al."

Now, the following April, so several months later, the BGI concluded the operations and they went to conduct the arrest of Al Turner, and when they couldn't find Al Turner, all of a sudden, Sutton, who was involved, had, whatever you might describe it as, a light bulb, something else, said, well, actually, thinking about it, Agent Whitley's description of Al Turner matched the description of another man named Alfred Lee Wilson. And so Sutton took Agent Whitley to Wilson's place of employment, Agent Whitley identified him as the person who sold him drugs, there was an arrest, and we had the trial. And, you know, in essence, the claim by the defendant was, well, it wasn't me. It was this other individual, Al Turner, that was the person identified by the informant and you need to tell me who the informant is, because I need to figure out whether in case he was claiming that I sold the drugs or Al Turner, which was the name that he used.

And both men were African American, the photos used to show the witnesses in the case who the person could be were low-quality, and eventually the court finds yeah, absolutely, you have to turn over this confidential informant and this is according to the language from the court of appeals of Georgia, "in this case we find that the state failed to establish at trial that the name actually communicated to the police by the confidential informer of an actual person residing in the vicinity could not have been the name of the person who committed the crime. So again, this is sort of a case where it's tough to say exactly what happened, but it certainly seems like it's possible a personal vendetta, but it's Sutton taking the name given to him by the informant and saying, well, it's not him, but there's someone else who looked like that person. Let's arrest him and... possibly disastrous consequences.

The third and final case that I'll discuss is the Ellis case, it was the one referenced previously in the personnel file and it sort of combines what we've been discussing of Sutton both acting outside the law a bit and serving as a good witness, and so Ellis versus State was a 1987 case in which Tommy Ellis was charged with rape and related crimes, Sutton had an arrest warrant for Ellis, found out that he'd been taking into custody in Cedar Bluff, Alabama, and at trial he testified that he went down to Alabama, he identified Ellis, and told him who he was, and of course, Ellis knew who he was, then the prosecutor asked a very simple question, "Who was he?" and Sutton replied, "Tommy Ellis," which was the only response he should have given, but then he added on, "and at that point, I advised him of his Miranda warnings of the United States, which I had a waiver of counsel, we had a form that I read him his Miranda rights and I read it also and he refused to sign it and wanted his attorney."

The defense counsel of course, in this case, immediately moved for a mistrial because the second half of the answer was both non-responsive and constituted an adverse comment on Ellis' invocation of his constitutional rights. The trial court denied that motion for a mistrial, but immediately gave a curative instruction that the jury was to ignore Sutton's response, Ellis later appealed the decision not to grant a mistrial and the court of appeals disagreed. They found, though, that Sutton acted completely inappropriately. They found, however, that the immediate instruction from the trial court, to the jury

to draw no inference from the unresponsive answer by Sutton, was sufficient to correct any possible harm.

So, again, Sutton extremely effective as a witness, but its by going outside the bound of the law, commenting on his invocation of his Miranda rights, and then, beyond that, we have the personnel file, which was not part of the case, where apparently the defendant's families took objection to whatever it was Sutton did in the case where, again, it's elliptical, we're not quite sure what happened, but beyond what he testified to, seemingly there were issues in the case.

Rabia Chaudry: So up until very recently, just the week of August 22nd, we thought that this was the entirety of the information that we knew about Stanley Sutton's career. But then, we came across a couple of stories about an incident that occurred in 1989.

Here's a story from the Rome New Tribune dated March 20th, 1989.

"A veil of secrecy surrounds the suspension of Sheriff's Captain Stanley Sutton and Floyd County Commissioners say they're not even sure they can lift it. Sheriff Mike Thorton said this past Friday that he had suspended Sutton, the department's warrants commander, fifteen days without pay retroactive to March fifth. He had placed Sutton on administrative leave with pay on March 2nd after an inmate at the Floyd County Jail filed a written complaint charging that Sutton had violated department policy and had committed an unspecified misdemeanor offense.

Thorton had not said when the incident occurred, or when the complaint was filed. Sutton, formerly a Sergeant with the Floyd County Police Department, joined the Sheriff's department on January 1st, when Thorton became Sheriff. Thorton said an investigation of the incident by Sheriff's department and Rome police department personnel confirmed Sutton had violated a department policy listed in a general order of policies and procedures. But, he said, it failed to prove or disprove Sutton also committed a misdemeanor offense. Thorton also placed Sutton on six months' probation because of the violation. Sutton was to have returned to work on Monday."

So, this is kind of odd, because, Sutton's own resume doesn't mention at all that he ever worked as a Sheriff's captain, and while we do have Sutton's personnel records, there was no mention of this incident in them. So, Colin asked Clare about this, and she noted his irregularities as well, but she also said that she did an open records request with the Floyd County Sheriff's Department for anything related to the incident, but she was told that all those files had been destroyed pursuant to retention policies. Having said that, one document related to the incident still existed. A July 1989 document titled, "Probably Cause Committee Recommendation to Counsel." And this is where things get interesting.

Colin Miller: After everything I'd read about Sutton, I'd considered calling him the deep south Dirty Harry because of his unconventional way of seeking justice. I refrain, though, because I thought the label might be unfair, but this report reads like something right out of Magnum Force or Sudden Impact. The report contains the following allegation:

"On March 2nd, 1989, the law enforcement unit received a complaint from an inmate that said officer, Stanley Sutton, had pointed a weapon at the inmate while inside the lock-up area of the jail." Sutton, of course, refuted the allegation, kind of. According to the report, "said officer claims he came through a door and began, "clowning around," "jiving," or engaging in "horseplay," with the inmate. When said officer removed the weapon from said officer's pocket and allegedly pointed it at the inmate, said officer admitted exhibiting the weapon, but denied pointing it at the inmate."

Susan Simpson: And I will say, this section here kind of reminded me of a interview I had with one witness, who didn't want to be named, but talked about a time that they'd had "horseplay," with Stanley Sutton that resulted in the witness having a few bones broken. The committee actually sided with the inmate. Here are the findings of the internal investigation, "On March 1st, 1989, said officer, that is, Sutton, did carry a loaded weapon to a lock-up area of the jail. Said officer exhibited the firearm to the inmate in a threatening and/or intimidating manner. The weapon was an unauthorized weapon as dictated by departmental policies." That report goes on to note that the loaded weapon was a nickel-plated revolver, and the investigation revealed that the inmate was an informant who Sutton had used over the years.

Apparently, however, this time, the informant hadn't been providing Sutton with the information he wanted. So Sutton decided to interrogate him by other means. And it seemingly wasn't the first time this had happened, "the investigation revealed that a similar incident possibly happened on two other occasions. One inside the jail and one outside while said officer was a detective.

Rabia Chaudry: So, this is obviously deeply troubling for a number of reasons. First, it's completely unacceptable for a police officer to try and extract information from someone at gunpoint. Both because of the threat of violence and the likelihood that the coerced information is not going to be true. Second, the report makes it clear that this very likely was not an isolated incident. And the fact that Sutton improperly removed his tenure at the Sheriff's office from his resume means that defendants in any number of cases had no idea where to find a record of this report.

Now, in our first season case, we discussed how multiple murder convictions were thrown out in Baltimore, because the state failed to disclose personnel records that showed that Detective Darrel Massey was engaged in a scheme to fraudulently receive overtime. The non-disclosure of this incident or these incidents with Sutton seem several orders of magnitude worse and much more important.

Susan Simpson: Of course, it wouldn't have been Brady in this case, because Stanley Sutton never testified at Joey's trial. No, I don't know why. Yes, that's weird. Super weird. Stanley Sutton was the lead investigator of the case, the one who made Joey's arrest and conviction happen. So, why didn't he testify. Tami Colston tried to argue in her closing arguments that it was because the trial had already gone on long enough, so why waste any more of the jury's time when the Fourth of July was coming up.

But Sutton's testimony wouldn't have been merely a repeat of everything else that had already been said at trial. Sutton more or less was the case. So, why didn't they call him? And Joey has wondered, too, why his attorneys didn't call Sutton if Tami Colston didn't do it.

Susan Simpson: So, Sutton was in the court room.

Joey Watkins: He was in the court room. He sat at the table with her, the whole time.

Susan Simpson: He said at the main bench?

Joey Watkins: Prosecution -- yes, he sat at the prosecution table.

Susan Simpson: That's -- and then they didn't call him to the stand.

Joey Watkins: Nope. I don't unders- that's just -- I can't fathom that, why -- you have a lead detective in a murder case and you don't put him on the stand. I couldn't believe, I mean, couldn't my defense call him to the stand? Was there any way possible they could have...

Clare Gilbert: Yeah. Yeah. No, they absolutely could have called him to the stand.

Joey Watkins: Okay. This is what I don't understand. When I asked Rex Abernathy, "please put him on the stand, get him on the stand, get him on the stand," he's like, "I can't. I can't do that now. I can't do that."

Clare Gilbert: Oh, he could. He absolutely could.

Joey Watkins: And he's like -- and I'm like, why aren't you not calling him to the stand? The guy's already taken the fifth amendment, call him on the stand. Put him on the stand. And Bill, even Bill O'Dell was mad. Bill and Rex argued about that.

Susan Simpson: Here's Clare and I driving back to Atlanta in the rain after a long day of wrangling up witnesses in Rome, or at least attempting to. We'd just tracked down the phone number for who, in 2000, was Rome Police Department Captain Marshal Smith. Or rather, we tracked down his daughter,

who called him for us. And why he wouldn't give his phone number to Clare, he did agree to speak to her briefly on his daughter's phone.

He told Clare that he didn't remember much of anything about the case and that he'd only been on the crime scene after Isaac Dawkins' truck was loaded onto the wrecker, and that was kind of the extent of his involvement. But, Marshal Smith did remember what happened after Floyd County took over the case.

Clare Gilbert: But he also, it was interesting, his take on that was also, you know, Stanley Sutton's the one who -- who found the evidence in the case, he's the one who did the arrest, so.

Susan Simpson: Just now he said that?

Clare Gilbert: Yeah.

Susan Simpson: So he remembers something.

Clare Gilbert: He does.

Susan Simpson: Sutton found the evidence. That's an interesting way of putting it.

Clare Gilbert: I thought so, too.

Susan Simpson: And the only evidence he found were those snitches.

Clare Gilbert: Snitches. With completely inconsistent stories.

Colin Miller: Now, Stanley Sutton had a knack for finding people in jail that had heard confessions from other inmates. And his strategy was actually pretty ingenious. Put up reward posters in the jail block of whoever it is you want to be your suspect, offering money for anyone who gives information leading to a conviction in the case.

So, after Sutton was brought on to the Isaac Dawkins case on February 28th, 2000, that same day he put up reward flyers in the Floyd County jail. And just a few hours later, he got his first hit. A deputy at the jail called and said a man named Barry Mullinax was there, and he had some information that Rome Police Department Jim Moser and Sutton might want to hear. According to Mullinax, he was an eye-witness to the shooting, and he in fact had seen who pulled the trigger.

Rabia Chaudry: I know up until now we've only mentioned one eye witness to the shooting, Wayne Benson. But some of you might have been doing some digging on your own and found the Supreme Court of Georgia's opinion in Joey's first appeal back in 2003. If so, there are probably a lot of things you're confused about right now, things the Supreme Court talks about in denying his appeal that we actually have never mentioned until now. Things that seem pretty damning of Joey. Things like the following, from the Supreme Court's reciting of the facts.

"Shortly after 7 p.m., on January 11th, 2000, Dawkins was driving his truck north on Highway 27 after leaving his class at Floyd College. An occupant in a blue or green passenger car fired a shot through the truck's back window and hit Dawkins in the head. One eye witness identified Watkins as the shooter."

That sounds like kind of a big deal. An eye witness that identified Joey as a shooter? Case closed, right? Well, at trial, a man named Barry Mullinax did testify that he had been on Highway 27 that night, and that he had seen Joey Watkins in a little green Pontiac Sunfire and that he'd watched as Joey shot out the driver's side window of Issac's truck just before the truck veered off the road. And although Mullinax came forward after Sutton was on the case, for some reason, maybe just because who was on duty at the time, it's actually Moser, with the Rome Police Department, who actually speaks to him, on the evening of February 28th.

Moser's notes from his first conversation with Barry Mullinax are kind of sparse. There's nothing written about what Mullinax actually said, but based on what Moser did next, we've got a good guess. Mullinax told him he was behind Issac and Joey's vehicle when the murder occurred. That's when Mullinax would say the next day, anyway, and immediately after this first call with Mullinax, Moser picked up the phone himself and made a call to Wayne Benson. This time, Moser had a very important question for him.

Other than the mysterious blue Honda, was there anyone else between you and Issac's truck when it went off the road. And Benson told him no, there was no one.

So Moser goes to interview Mullinax the next day and he gets a recorded statement from him. We don't have the audio for that, because Moser's tape recorded interviews have never shown up despite all of Clare's searching. But here's Clare's take on Mullinax from Susan's first trip to Rome back in December.

Clare Gilbert: There's not a word that comes out of that man's mouth that's the truth, that I can figure out. Um, and in his interview with Detective Moser, he goes through this whole just insane story of, heading north on Highway 27, after searching for jobs at two specific job places, I think it was a Henderson Mills and one other place, I can't remember.

Susan Simpson: It really is an insane story. And, while we'd love to let you hear Mullinax testify in his own words, the Floyd County judiciary is too terrified to let it be heard what actually happened in their court rooms, so we can't share the audio with you. But here's a summary of what Mullinacks said. According to Mullinacks, back in December of '99, he'd been working at a Crystal down in Cedartown, but he quit, or was fired, when he tried to get a few days off because his best friend had died.

Then, on January 11th, he drove back to the Crystal in his red and grey Ford Ranger and asked for his job back. He went to Han Manufacturing to put in a job application before driving north on Highway 27 at around 6:30 p.m.. While driving toward the top of a hill, he saw a white pickup truck being chased by a small green car, probably a "Pontiac Sunbird," thats a direct quote, by the way, and possibly a Nissan Ultima. Now, remember, Joey's sister Tandi drove a Pontiac Sunfire.

Mullinacks also says that the white truck came past him, then the small greenish car. I mean, Mullinax' first statement was taped -- we don't have the audio -- but, what he says there is in many ways, well, I'm sure you're not surprised to hear this, but very different from what he actually says at trial.

One thing he does say in his first statement, though, is this woman, who he's sure at the time is a woman, is with Joey in the little green car, and that one of them fired at Issac's truck, but he says, "I don't know who the woman is, but I seen Joey Watkins in that truck. And I don't know if he shot or the woman shot."

Colin Miller: Next, let's turn to the cross examination of Mullinax by defense attorney, Bill O'Dell. During cross examination, Mullinax claims that he was right behind the little green car, only two or three car lengths behind it. O'Dell then confronts Mullinax with his initial statement to Detective Moser. In that statement, Mullinax had said that the long-haired blonde person in the car with Joey was definitely a woman, and, in fact, O'Dell reads Mullinax the transcript of his statement where he clearly says "there was a blonde-head girl in the car," but Mullinax at trial makes that claim that he never said that and that what he told Moser was, it could have been a man or a woman.

Susan Simpson: But in his statement, he was pretty clear, it was a woman. A blonde-headed woman. And he says that, "Joey turned right around near the Light House Church, turned back around, went back up to the left, and I seen -- I don't know who the woman is, but I seen Joey Watkins in that truck -- I don't know if he shot or the woman shot." So, again, I don't know if Mullinax is just confused or misspeaking, but he now thinks that Joey's in a truck, not a Sunbird, and he knows there's a woman and a man, well, a woman in Joey in the truck, or car, but he doesn't know if the woman shot or if Joey shot.

Colin Miller: And then there's the matter of the third person in that vehicle. Because O'Dell follows up by asking Mullinax whether he told Moser that there were three people, not two people, in the little green car, and Mullinax is adamant at trial that he say three people actually, not two people. O'Dell

then goes back and reads him the transcript of his interview with Moser in which Mullinax was asked by Moser whether there was anyone else in the little green car other than Joey and the long-haired blonde woman, and Mullinax' response in his statement is, "that's it."

On the witness stand, though, at trial, Mullinax is adamant. He says on the stand, "I said there was three people." Saying that he told Moser there was three people. Saying that he told Moser there were three people in the vehicle despite his recorded statement clearly indicating he only said there were two people.

In addition to these inconsistencies about the number of people in the vehicle that allegedly had done this shooting, there's the question of, who exactly was in Mullinax' vehicle. At trial, Mullinax claims that his girlfriend, Tina Pru, and no one else was in the Ford Ranger that he was driving, and in fact, that it was Tina Pru's Ford Ranger. Now, he also notes that several people have tried to talk to Pru, but that she refuses to talk to them.

In addition to that, there's this, which pretty well sums up the cross examination of Mullinax. O'Dell reads a statement from Mullinax's initial interview with Moser in which he said, "Well, hell, I had my girlfriend and her three kids in the damn car." Mullinax responds by quibbling over whether Pru was his girlfriend before O'Dell steers the conversation back to the three kids, prompting the following exchange.

Question: Now, are you saying today the three kids were in there, but awhile ago you said it was just her. Answer: I remember, I don't remember saying... Question: Oh. Answer: The three kids was not in the car with us. Question: Oh, they weren't? "Well hell, I had my girlfriend and her three kids in the damn car. Answer: I don't remember saying nothing about no three kids. Question: Okay. You forgot your own lie when you were telling him the story, didn't you? Answer: I wasn't lying. Question: First you told him you didn't have anybody in the car, and then you slipped up and told him you had somebody in the car, then he starts asking you, well, how is she? Answer: Well, let me ask you this -- Question: No, I'll ask the questions.

Rabia Chaudry: So, it seemed like what he's saying that, this woman, Pru, was in her car, but then, were her three kids there or not? And then there's this.

O'Dell read Mullinax a different portion of his initial statement in which Mullinax said that there were two people behind him on January 11th. Jamie Wyatt and "someone named Kevin." And when I say, "behind," I mean in cars behind him. So this prompts another fairly typical exchange in this cross examination.

Question: So, now you're saying there was someone behind you. Answer: I didn't say she was behind me. I said, see, you're trying to get me confused. Question: I'm just reading what you said. Well, of course, you're saying that you didn't say these things, but, "I had two people that was behind me. And that was Jamie Weldon? Where was he or she? Answer: I didn't say they was directly behind me. I remember saying that now, sir, I said they was, had followed me when I left the service station, and they were behind me, but they weren't -- I didn't say they was directly behind me and see what happened, I do remember saying now, sir, but her name ain't Jamie Wyatt. Her name is Jamie Weldon and she used to be an employee at the Waffle House.

We could go on, but you get the point.

Susan Simpson: Now, Moser did investigate what Mullinax was saying. In fact, even before having taped interview with Mullinax, he was investigating by calling Benson, who immediately said, no, there's no way there could be a truck with Barry Mullinax that was in front of me watching this like he says no. But, Moser also does other things. For instance, he goes to the two places that, according to Mullinax, he was at applying for jobs that day. One of them said they had nothing on record for any Barry Mullinax applying for a job there, ever. But the other one said, yeah, we do have an application here for Barry Mullinax looking for a job, but it's dated January 24th. Now, that was never told to the defense, but it's clear that his story about applying for that job on the 11th is bogus.

And Moser also went and talked to the various people that Mullinax mentions who could corroborate his story. And of course, none of them actually corroborated it. Everything about this story is almost too crazy to take seriously, but Clare and I did a little experiment of our own on our drive up to Rome back in December.

Clare Gilbert: What he says that he did, was flash his lights, or turn his brights on, and then in the reflection of the rearview mirror of the cars in front of him that are going 20 miles-an-hour faster than he is, he could see the occupants of both separate cars and he could see that it was Joey driving and he had a girl in the passenger seat with long blonde hair and --

Susan Simpson: So, we're driving in the dark right now. Like, there's not any chance in the world we're gonna see, like --

Clare Gilbert: No, let's try it.

Susan Simpson: Let's do the brights on.

Clare Gilbert: So.

Susan Simpson: Yup.

Clare Gilbert: Completely black.

Susan Simpson: I can see the license plate.

Clare Gilbert: Yeah, and I'm sure they're like, screw you. Turn your brights off. Yeah, you can actually see more of the occupant --

Susan Simpson: But you can see less inside of the car cause of the reflection.

Clare Gilbert: Right, you can see more of the shape of the occupant without the brights on than with the brights on. But you certainly can't see any defining characters.

Susan Simpson: So, despite all this, Barry Mullinax was a witness at Joey's trial. But Mullinax's story was so obviously flawed, that even Tami Colston was unable to call him to the stand with a straight face.

Clare Gilbert: If you read the transcript, at right before he testifies, Tami Colston says, "We're calling our next witness, for what it's worth, Barry Mullinax." And you know, she's like, he's a liar, he's this, he's not credible, I get it.

Susan Simpson: Then why'd you put him on?!

Clare Gilbert: But I'm gonna put him up and I'm gonna tell you, how could he have known this fact otherwise, therefore he was there.

Susan Simpson: She knew he was lying.

Clare Gilbert: She abso- she knew all these people --. Well, I don't know that. But.

Susan Simpson: She knew this one. She knew this one was lying. You don't introduce the witness with, "for what it's worth."

Susan Simpson: For whatever it's worth, I call Barry Mullinax to the stand. That's the kind of vouching Tami Colston is willing to do with the people she puts in front of a jury.

Rabia Chaudry: I think it's clear that Colston knew that Mullinax was gonna be lying on the stand, and the only reason to call him was to confuse the jury. So what she does is she tells the jury she's not responsible for the truth of what Mullinax had to say, which to me is kind of, I'm flabbergasted the prosecutor would even say that. But that she was presenting them all the evidence. But of course, that doesn't immunize her from knowingly presenting false testimony to a jury.

I don't even understand. I've never seen a case in which a prosecutor himself, or herself, offers to the jury that hey, I'm not responsible for whether or not this witness is telling the truth. You just assume that a prosecutor only puts on witnesses that they believe are telling the truth.

Susan Simpson: I have a hard time giving Tami Colston the benefit of the doubt and thinking that she didn't know Mullinax was lying because she's not an idiot, she knew Mullinax was lying. Everyone knew Mullinax was lying. Well, everyone investigating the case did. I just don't find it plausible that she did not know Mullinax was lying at the time. And if she didn't, well, maybe there were bigger problems going on.

Colin Miller: Yes, let's turn to the law on this. A prosecutor, like any attorney, has a duty not to suborn perjury. Now perjury is willfully telling a lie in court after having taken the oath, an suborn means "to get from a witness." So in other words, an attorney can't knowingly get knowingly false testimony from a witness.

Under Georgia rule of professional conduct 3.3A4, a lawyer shall not knowingly offer evidence that the lawyer knows to be false. And according to comment 8, which accompanies that rule, the prohibition against offering false evidence only applies if the lawyer knows that the evidence is false. A lawyer's reasonable belief that the evidence is false does not preclude his presentation to the trial or fact. A lawyer's knowledge the evidence is false, however, can be inferred from the circumstances.

Thus, although a lawyer should resolve doubts about the veracity of testimony or other evidence in favor of the client, the lawyer cannot ignore an obvious falsehood. Now, rule 3.3 is a rule that deals with attorney discipline and is had a maximum punishment of disbarment. Meanwhile, *Kitchens versus State* is the key Georgia case on when subornation of perjury entitled the defendant to a new trial.

In the *Kitchens* case, the state secured Kitchen's conviction for arson largely through the testimony of George Hernden, who testified at trial that Kitchens and he set the fire at issue. Thereafter, in an affidavit offered in support of Kitchen's motion for a new trial, Hernden swore that his trial testimony was false and had been the result of beatings and continued threats administered by members of the Sheriff's department. The statement was corroborated by an attorney, two other inmates, and a relative of Hernden.

In reversing Kitchen's conviction, the Court of Appeals of Georgia concluded that conviction of a crime following a trial in which perjured testimony on a material point is knowingly used the prosecution is an infringement on the accused fifth and fourteenth amendment rights to due process of law.

Now, let's turn back to Joey's case and see whether Mullinax's testimony meets the standard.

Rabia Chaudry: Here's district attorney Tami Colston previewing Mullinax's testimony in her opening statement, "You need to be listening to him to judge this, judge the credibility of another witness that is, quite frankly, I don't know what to tell you about him. His name is Barry Mullinax, and just because the state puts up a witness, we are not vouching for anybody's credibility. We are just putting up a witness for you to decide what you are going to decide. But the only way you're gonna be able to decide what the credibility of some of these witnesses is, and whether they are telling the truth or not, is looking for those little details they wouldn't know otherwise unless they were telling the truth. This is what I am gonna ask you to do. Is to look at those." And then in her closing she says, "I put Barry Mullinax up there. I don't know how much you know about him, what you think about him, I don't know. He says he was there. He knows some things about where it occurred and the trajectory of the bullet, but you need to hear from him. I told you, I'm not vouching for the credibility of any witness. I'm bringing to you what has been found this investigation that has been relevant, admissible evidence in this investigation. What is relevant and admissible."

Susan Simpson: Colston asked the jury to look for those little details that they wouldn't know otherwise. Look for the little niggling things that are in there that show they're telling the truth. And she means it to say that, well, Mullinax saw that Joey turned around at Parish Drive and went back to the scene and her actual quote it, "I will tell you what, that is very probable," and therefore that validates what Barry Mullinax says about you. But I think there are other details in Mullinax's testimony that are worth paying attention to.

Things like there was someone with long, blonde hair in the car. And an odd detail like, the car with the shooter only had one headlight. Now, I don't think Mullinax saw anything, and if he heard anything it was probably from the cops themselves, but we know of someone with long blonde hair and a car with apparently one headlight that was driving that night. But it wasn't Joey. It was Heath Wilson.

He had shoulder-length blonde hair, and one witness for the Highway 20 shooting recalls seeing only one headlight on his blue Honda. So why isn't Mullinax testifying, or telling the police that he saw a car with one headlight and someone with long blonde hair that did the shooting of Issac Dawkins?

Rabia Chaudry: What do you think's happening here? Do you think he's just getting things confused, cases confused? How is this -- considering the police themselves didn't take Heath Wilson seriously -- how is this happening?

Susan Simpson: Not a clue. Could he have gotten information from the police about the Highway 27 and 20 shootings and he muddles them up? Yeah. Could he have heard from someone else about this one headlight car and the long blonde-hair driver. Maybe. We don't know, we don't have any clue, because Mullinax is the most unreliable witness in the history of unreliable witnesses ever.

Rabia Chaudry: We do have Jay.

Susan Simpson: You know, I will take Jay over Mullinax because Jay approaches coherency once in awhile. But I just find it fascinating that Tami Colston tells a jury, "Just look for those details, that'll tell you the truth of what he's saying." But those details, or the ones that match up with other facts we know, seem to point in a different direction. Anyway, apparently the question of whether or not to call Barry Mullinax to the stand was the source of some tension on the prosecution side. Although Sutton didn't testify at trial, according to Joey, he was present. Actually sitting at the prosecution's bench beside Colston. And, after Mullinax testified, Joey recalls seeing Sutton and Colston squabbling over something.

Susan Simpson: It blows my mind that Tami Colston called him as a witness. I don't understand how an attorney could do that.

Joey Watkins: Does it say what she said in the transcripts when she called him to the stand?

Susan Simpson: What do you recall?

Joey Watkins: Because, in the transcripts it says, "For what good it's worth, I'm gonna call Barry Mullinax to the stand. I'm never gonna forget that."

Susan Simpson: How was her tone when she said that?

Joey Watkins: She picked up the -- she had a folder in her hand and she kinda waved it and took a sigh and was like, "for what good it's worth, we call Barry Mullinax to the stand." And she looked back at uh, she looked back at Stanley Sutton and they were actually arguing after she put him on the stand.

Susan Simpson: After he testified?

Joey Watkins: Yeah.

Susan Simpson: You could see Sutton and Tami Colston arguing?

Joey Watkins: Yeah, they were arguing while -- during my trial.

Susan Simpson: I guess you couldn't hear what they were arguing about.

Joey Watkins: No, I couldn't hear what they were saying, but they were actually bickering at one another.

Colin Miller: Yeah, and what's maddening about this is that the mere fact that Mullinax testified to seeing Joey commit the murder was sufficient for the Supreme Court of Georgia to cite to that fact in its decision on Joey's appeals, because in assessing the evidence against Joey, they recite the facts and throw out casually, "an occupant in a blue or green passenger car fired a shot through the truck's back witness and his Dawkins in the head, one eye-witness identified, Watkins the shooter."

So they're using the fact that Mullinax testified as just sort of a straightforward fact supporting his guilt, when obviously there were serious questions about his credibility. And here's Joey himself talking about the usage of the testimony at trial.

Susan Simpson: What about Mullinax? You ran into him in prison, right?

Joey Watkins: Yeah. I ran into him. We stayed in the same place for a year, even though this guy took the stand and the Supreme Court of Georgia denied me because he said he seen me.

Rabia Chaudry: So, here's my question and I'm gonna push back just a little bit on this. Is that you frame it that the mere fact that Mullinax, well, why is that a mere fact? I would think that that's kind of an important fact. Lead to a conviction. So, wouldn't a Supreme Court rely on these kind of finding of fact from the trial record anyways? It doesn't seem unusual to me that they would cite to something like this. I think I've seen this in Adnan's case as well, were you have, they pull from the record and this is part of the record that lead to a conviction.

Susan Simpson: Yeah, it's the sufficiency of evidence standard. It doesn't matter how good the evidence was, as long as it's there, as long as it exists, it's sufficient.

So, doing what Colston did isn't harmless. Deliberately calling an eye-witness that you know is lying so that he can identify the defendant as the shooter? I don't care how many, "for whatever it's worth" you preface testimony with, that's horrifying. And besides, Colston fought back very hard to try and rehabilitate Mullinax, to try to make his testimony seem more credible. By, for instance, using Detective Moser to attempt to explain away some of the inconsistencies that they'd found.

For instance, when she was questioning Moser about how he investigated Mullinax's testimony, she asked him about the whole job application thing. Moser says, yeah, we checked out the jobs he applied for, but it didn't work out, they didn't say he applied there. And Colston asks Moser, did you talk to any temporary replacement services, and Moser says, no, no ma'am, I don't recall. As if to suggest to the jury, he applied for different jobs that Moser never checked out.

Now, this next one is one of Colston's favorite moves. I call it playing the "Throwing Moser Under the Bus" card. Because, it's not Colston's witnesses that are the problem. It's this idiot investigator Moser, who keeps asking her witnesses the wrong questions, which causes these problems.

Because, gee, poor Barry Mullinax. He had applied for a job, probably, just like he said. But Moser never checked any temp agencies, so he didn't figure it out.

Rabia Chaudry: So, if you're like me, you're probably wondering a lot about this other apparent other passenger who was with Barry Mullinax. He says it at trial, he says it in his statements, that he wasn't alone in his car, he was with his alleged girlfriend at the time, Tina Pru. But Pru never came to trial, so the question is, came Pru corroborate what he had to say?

Susan Simpson: We tried reaching out to Tina on Facebook, but never heard back. So, one day when I was in Rome already, I decided to swing by her house, just to see. I was with a friend of mine from Atlanta, and she'd volunteered to go on a few trips with me, so the two of us showed up on her doorstep, and apparently Tina's first thought was that we were Jehovah's Witnesses. Then, when we introduced ourselves, she thought for a moment we were there on Barry's behalf and almost turned us away. It wasn't until we explained that we were actually there investigating what Barry had claimed that she welcomed us in and agreed to an interview.

She remembered Barry, sort of. But almost entirely because of this case, and her being interviewed by the cops as a result of it. And she'd certainly never been Barry's girlfriend. She met him back around the time when she moved to Rome, and they went on a couple dates, maybe, but that was it.

It quickly became apparent that she didn't want to get involved with this Barry guy, and the next time she heard anything about him was when the two cops showed up on her doorstep asking if she'd witnessed a murder with him. This is her explaining why she hadn't gotten back to us after we reached out to her on Facebook, and her response to Barry's claims at trial that she'd been too scared to admit to the police that she'd witnessed the shootings.

Tina Pru: And that, too, is something that I dwelled on a lot. Like, even when I seen that on my Facebook is like, really, they're still believing this boy's lies? I'm not even gonna mess with

it because honestly, I don't think I have anything to offer, that's the same thing I told the cops, I mean, what can I offer if I wasn't there?

Susan Simpson: Well, it does help for the defense to know that you weren't there, because Barry did testify at trial, and the jury heard only his story that you were there with him. And that made him sound more credible, if they heard that he said his girlfriend, Tina Pru, was in the car with her kids, that makes him seem more a reliable witness.

Tina Pru: Dude, look, if I had my kids in the car and I seen somebody dead, or get shot, first thing I would do is go to the police and get protection for my children. That'd be the first thing. Foremost, my kids would come first, you know?

Susan Simpson: So you wouldn't have -- if you'd seen someone shoot or kill someone, you would call the cops?

Tina Pru: Uh, yeah.

Susan Simpson: Unsurprisingly, Tina told us that everything Barry said was untrue. She also told us, though, something we didn't expect, that the cops had told her something about Barry Mullinax's statements that don't show up in the files.

Susan Simpson: So what'd the cops ask you when they came up to talk to you?

Tina Pru: Just if he was driving my truck, which is, he never drove my truck, period. Nobody drove my truck but me that I know of.

Susan Simpson: What kind of truck was it?

Tina Pru: It was a green Dodge Ram quad pick-up truck.

Susan Simpson: Is that an extended cab? So, like --

Tina Pru: Yeah.

Susan Simpson: Okay, so you could've fit three kids in it theoretically.

Tina Pru: Well, yeah, you can, theoretically, but why would you take kids with on a job interview?

Susan Simpson: Valid point.

Tina Pru: Okay, that makes no sense to me and I've never put an application in Cedartown anywhere, so I would like to know where. I've never been there, I've never been to Cedertown, um.

Susan Simpson: Were you aware that at trial, Barry testified that you were just too scared to get involved and that's why you told the police that you hadn't been there.

Tina Pru: No. I just knew that like, when he said that, I didn't know, um -- see I can't even really testify to that part, cause I can't remember if the cop told me he was trying to make a deal cause he got in trouble.

Susan Simpson: Wait, what about a deal?

Tina Pru: Like, I think Barry got arrested at Floyd County and he told detectives about the murder. I do believe that's the way it happened.

Susan Simpson: Did Barry ever mention a reward?

Tina Pru: For who, him?

Susan Simpson: For coming forward about the murder.

Tina Pru: Like I said, for some reason, before you to not even have mentioned to me, I thought he was in jail and getting offered something, but it could have been that he was looking for the reward. I don't know. It was something along those lines of some thing.

Susan Simpson: But you're pretty sure it was something.

Tina Pru: Yeah, it was something. I just can't remember. I mean, I'm pretty sure they wrote it down in their notes, it could have been that they were telling me the award and I just didn't understand what they were talking about, maybe I just assumed.

Susan Simpson: So if uh -- if Barry testified at trial that he didn't receive anything for coming forward, would that be contrary to what you heard from the cops?

Tina Pru: It would be... like, I -- I knew he was getting something. I don't know if he was arrested, getting a deal, but they did mention something that he would be getting.

Susan Simpson: When we spoke to Tina, though, she'd had no idea that Barry Mullinax ended up testifying at a trial. Or that the prosecution had claimed to a jury that she'd been too scared to come forward after witnessing a murder. So, I showed her the transcripts and let her see for herself what Barry had said in court.

Susan Simpson: Here is where he testified and called you his girlfriend and that he didn't want to get you involved, but unfortunately had to.

Tina Pru: My thing is, where's the investigation's notes? If they asked me, and I told them no, and they found no -- where's that at?

Susan Simpson: They mentioned that you denied it. But then at trial, said it's because you were scared and didn't want to get involved.

Tina Pru: But how could somebody speak for somebody at court if I wasn't there? That should be, like, there's all kinds of mis - you cannot speak for somebody else.

Susan Simpson: That is usually how it works.

Tina Pru: Do you know how bad I feel? This is terrible?

Susan Simpson: At Joey's trial, during Detective Moser's cross, Moser was asked about whether Tina had ever mentioned a deal, and Moser denied it. The question was, "Tina Pru said that Barry Mullinax was a big liar and that there was nothing to his story. She said that he was trying to help himself on a deal, didn't she?" Answer: "I don't remember about the deal part, but the liar part, yes."

But according to Tina, Detective Moser, or whoever the detective was that was out there that day is the one who told her in the first place that Barry's reason for coming forward was to seek a deal.

Colin Miller: Now, this might all sound like shocking new information that was just uncovered recently for the first time, but that's actually not the case. And what we have is an excerpt here from Detective Moser's write-up on Tina Pru, and this was known to the prosecution before trial:

"Tina Pru can testify she was not with Barry Mullinax on Highway 27 South on January 11th, 2000. Ms. Pru can testify that Barry Mullinax has never driven her vehicle, that she knows nothing about the shooting on Highway 27 South, that Barry Mullinax is a liar, and she did not go with Barry Mullinax to Cedertown for her to file a job application with Harriet and Henderson.

And so, cycling back to what we discussed before with the Kitchen's case, and with rule 3.3, if this was known to Tami Colston at the time of trial, did she knowingly suborn perjury, and is that grounds for a new trial? Well, before I cited it to opinion of the Court of Appeals of Georgia in the Kitchen's case in which something similar happened and ultimately the witness in that case recanted their allegations against the defendant after trial, and in this case we have something very similar.

Susan Simpson: After Joey's trial, Mullinax did recant. Didn't take too long. A couple years later, Joey was in prison and Mullinax was actually assigned to the same prison he was in, so Joey and Mullinax got to talking.

Susan Simpson: Did he ever explain to you why he lied? I know he set a lot of reasons why, but did he ever tell you anything that seemed true?

Joey Watkins: He told me something about his kid. He's got a special needs kid and uh, he had a charge -- had a pending charge, theft, and assault charge or something and Stanley Sutton told him that if he would say what he wanted him to say that he would get those charges off of him. And he did.

Susan Simpson: So, Mullinax told you he did get the charges off of him.

Joey Watkins: Yes. He got the charges off of him.

Susan Simpson: Thereafter, Mullinax wrote down two notes and sent them to Joey.

Rabia Chaudry: Here's what the note said, "Joey, Look, I'm sorry dude. I told Rex and Bill O'Dell that Stanley Sutton forced me to lie on you. I got a life savings of about \$20,000 that I will put towards getting you out. My life has been hell ever since that day in court and sometimes I want to kill myself for all the pain I caused you and your family. I ask for your forgiveness and may God help us get you out and put Sutton where he belongs. Barry."

The second note reads, "Also, they have got me on lock down, but I don't care. Just have Rex/Bill come see me ASAP. Cause I feel that Stanley's gonna try to do me in when I get out of prison. I'm suing Floyd County because this has made me go crazy. And Joey, I wish I could take your place, 'cause you don't deserve to be in prison. Barry."

Susan Simpson: So, when Barry Mullinax next is out of prison, Joey Watkins' father picks him up, and he drives him to a law office where they sit down for a deposition. And Mullinax tells them everything he knows about why he testified to what he did at trial. Or, well, that's what they were hoping he'd say anyway.

Rabia Chaudry: Here's what Mullinax says, "When I was forced to lie on Joey Watkins in court by Stanley Suttons, I've -- I've tried several times to commit suicide and then when I -- it put me in a mental -- mental illness state where I was diagnosed with post-traumatic syndrome. Question: Post-traumatic stress disorder? Answer: Yes, sir. They housed me there due to the fact that I was at the verge of killing myself cause I was dealing with emotional stress due to the fact that I forced and threatened that if I didn't lie on in Joseph Watkins' case, saying that I knew everything that went on, which I did not know anything about that case at the time until I was -- until I was confronted by Stanley Sutton, and asked me to lie. If I didn't lie, he said I would -- one of my family members would deal with the consequences. Me, or one of my family members. So, at the time, I didn't want nothing to happen to my daddy, who was disabled, or my mother. So I was forced into a situation to lie in court. Question: Alright now, who -- he said this, Stanley Sutton, you're saying, under oath, that Stanley Sutton said this in the presence of Tami Colston? Answer: No, Tami Colston and them wasn't in there. he was in there with -- we was in the room by ourselves, and then later on he brung Tami Colston and this other guy in, and once he was in there, he had me read this. Question: Read what? Answer: What he wanted me to say. Question: Alright, now, tell us. Answer: I don't remember what he -- I don't remember what I was supposed to say. Question: Was it typed up? Answer: It was typed up, telling me to say something about a car, the time that I seen Joey's arm come out the window and shoot this person, which -- and I -- I didn't ever see none of that, and I -- far as I can remember, if -- I could be wrong, but I do believe I was incarcerated at the time of this murder. I'm not for sure. It's so close to the time I got incarcerated, but I do believe I was incarcerated at the time of the murder.

Susan Simpson: Now, I want to clarify that everything Mullinax says about Sutton coercing him and threatening him to testify against Joey should be just as reliable as what he testified against Joey as his trial, because nothing Mullinax ever says seems to make any sense and he's happy to spin from one story to the next.

Rabia Chaudry: But again, I have to ask what the incentive would be. Unless he is continually seeking attention, for him to write Joey those notes in prison, or maybe he just became close to Joey and suddenly, I don't know, but to me it's like, what is the incentive for him to now come forward and say this stuff, especially about somebody who seems quite powerful, like Sutton. These are kind of serious allegations to make.

Susan Simpson: I mean, if Colston thinks that Mullinax's testimony is valid against Joey, then yeah, this is valid against Stanley Sutton, and it's "proof," that he threatened a witness and gave him a false statement to read. But I don't think either happened.

Rabia Chaudry: You don't think Sutton did that?

Susan Simpson: Here's the thing, when Barry Mullinax first came forward, it was to Moser, not to Sutton. Now, he talked to Sutton later, we don't know about what. There's no notes or recording of what actually went on. But, as far as we know, Sutton wasn't actually involved when this story first came to light. Or, at least, the person Mullinax was talking to was the Rome officer, not the Floyd County one.

Colin Miller: For me it comes down to, Mullinax is just completely unreliable. I don't know whether he's making up the story about Sutton. He might be, he might not be, but it seems pretty clear overall, he has no clue whatsoever about this Issac Dawkins shooting. He wasn't there, that's clear from Benson's statement, it's clear from Tina Pru's statement, it's clear from the fact that he didn't apply for the jobs he claimed he applied for. So, again, I can't say for certain whether Sutton had a role, or had significant a role, but regardless, it's clear, Mullinax, not a witness to this shooting, has nothing to tell us about this crime.

Rabia Chaudry: Regardless of the fact that Barry Mullinax recanted his testimony, it wouldn't make a whit of difference for Joey Watkins. The truth is, there was no eye-witness, ever, who could identify the shooter. But for Joey, the damage was done, permanently. And it remains that way even until today.

Mullinax is a prime example of how dangerous and unreliable jailhouse snitches can be. And thanks to the continued efforts of Stanley Sutton in this case, Mullinax was only one of dozens -- yeah, I said dozens -- of jailhouse snitches that came forward to not only implicate Joey, but to help Sutton nail down the person that the state would eventually charge with being Joey's accomplice; Mark Free. Next time, on Undisclosed.

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Dennis Robinson: Clare Gilbert of the Georgia Innocence Project here to help me read the credits. I'm excited. Clare, it sounds like you've been getting some love from Undisclosed fans down at GIP, can you tell me about that?

Clare Gilbert: We have been getting some love. We have a new website and new fundraising platform and people have been using it and noting in the comments section that they're Undisclosed fans and that they're donating to us because of that and to keep up the good work on Joey's case and we really, really appreciate it.

Dennis Robinson: That is so cool. Undisclosed fans, thank you for stepping up. I want to note, you know, Joey's case is obviously important to you all because you're listeners, but Joey's case is just one of many that the Georgia Innocence Project handles. They are overwhelmed and they could use all the help that you could send them. So, please, please, please, donate to the Georgia Innocence Project so

they can keep doing great work for cases like Joey's and the dozens of others they have to handle. So, go donate. And also, hey, thanks Clare, you should come back and help me read the credits next week. But, for this week, here they are.

Let's go, sponsors up. First, we've got stamps.com, great sponsor, thanks for coming back. [Blue Apron](#), our most delicious sponsor, we appreciate you very much, and, as always, [Mack Weldon](#). The comfort you give me every day is greatly appreciated. Thank you.

Podster Magazine did a really cool write-up of Undisclosed in it's most recent issue. The Evidence Professor contributed to that article, so make sure you go check it out. You can find the article at www.shelfmediagroup.com.

Let's talk about our producers. Rebecca Lavoie of Partners in Crime Media and the great podcast Crime Writer On makes this thing sounds wonderful. She gets help from Hannah McCarthy, and Brooke Gittings of the Actual Innocence Podcast.

Patrick Cortes and Ramiro Marquez composed our theme music. The infamous Ballookey did our logo. Our website was created by Nina Musser and she gets help from Christie Williams with our website. There are some very cool people maps there designed by Heidi Phelps. Also, episode transcripts for those who would rather not hear our voices, but would read out words. Behind the scene we have producer Mital Telhan putting it all together. One of the coolest parts of her job is helping out with social media, particularly the Instagram.

You can get at us on the social medias by finding @UndisclosedPod. We're on the Twitter, we're on the Facebook. We're on the YouTubes, too, which is pretty cool. Got some videos there you should definitely check out. Talk to us using our handle, but also drive the conversation on the social media using #Undisclosed. Or, in the alternative, you can send a question to Mr. Jon Cryer, host of the fabulous Undisclosed Addendum, by tweeting at him with the hashtag #UDAddendum. Ask him a question, and maybe he'll read it on air.

The executive producer for this magical journey of a podcast we call Undisclosed is Dennis Robinson and he looked forward to seeing you next week for episode nine. Until then.