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**UNDISCLOSED SEASON 2:**      **THE STATE VS. JOEY WATKINS**

**ADDENDUM 3:**                      **A THOUSAND SHIPS**  
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**Jon Cryer:**                              Hello! And welcome to the *Undisclosed Addendum*. I am Jon Cryer and this is the podcast about all things *Undisclosed*. The *addenda* are a chance to bring some very special guests into the conversation about the podcast, and get your questions answered as well. Season 2 of *Undisclosed* is centered on the case of *The State vs. Joey Watkins* – a 16-year old Georgia murder case that was never what it seemed. First a traffic accident, then mysterious shooting, then crime of passion. Now with us today are Colin Miller – host of *Undisclosed* and evidence prof. *par excellence* – Hey Colin, how you doing?

**Colin Miller:**                              Doing well Jon, how about yourself?

**Jon Cryer:**                              Great. We also have two very special guests – we have Rebecca Lavoie, who’s a producer of *Undisclosed* – Rebecca is the co-author of four true crime books, including *Our Little Secret* and *Dark Heart*. She’s also the co-host of the hit podcast, *Crime Writers On*. By day, Rebecca oversees digital news and program content for New Hampshire Public Radio, where her team has won several national awards for multi-platform journalism, including two Edward R Murrow awards.

Another special guest we have today, is Professor Marcia Chatelain. She’s an associate professor of History and African-American Studies at Georgetown University, she’s a scholar of African-American life and culture, a national speaker on social movements past and present – including Black Lives Matter – and she hosts *Office Hours*, a podcast.

Hey Marcia! How you doing?

**Marcia Chatelain:**                              I am great. I’m very excited to be here.

**Jon Cryer:**                              Well, first can you tell me a little bit about *Office Hours* as a podcast?

**Marcia Chatelain:**                              So, I host a weekly podcast. It’s a wonderful look at just what college students are like today. And one of the things that I think is really cool is that so many of my students are interested in criminal justice reform.

**Jon Cryer:**                              Well that gives me hope! Now Marcia, you have informed me that you are in fact an *Undisclosed* ‘superfan’.

**Marcia Chatelain:**                              In an unhealthy way!

**Jon Cryer:**                              [laughs] So it’s disturbing. So it’s like it’s gotten to hoarding... You know, you buy a bunch of Top Ramen and just sit in the house for days... Is that what we’re looking at?

**Marcia Chatelain:** What I love about *Undisclosed* is the educational value – I feel like I’ve gone to law school over the course of a season, and a few episodes. But I love that Colin and Susan and Rabia are just informing the public about such important issues.

**Jon Cryer:** How did you discover *Undisclosed*?

**Marcia Chatelain:** I was a ‘deep dive’ into *Serial*. I mean, I’m a 37-year old college professor, so it’s just all NPR and elbow patches in my life and so...

[laughter]

**Marcia Chatelain:** I guess after *Serial*, I really appreciated the way that *Undisclosed* was committed to educating a broad public, but also just the commitment to justice. I think that Rabia’s engagement about Islamophobia, and about racism in criminal justice – it so aligns with the things that I teach about, that *Serial* became, you know, so integral in talking to my students about what’s going on, and then *Undisclosed* has done such a masterful job so, I just love it.

[03:02]

**Jon Cryer:** What are your impressions of the Joey Watkins case?

**Marcia Chatelain:** I think that there’s just all these really interesting things about gender, and about Southern dynamics, and culture. The small-town feel of Rome, and this idea that everyone knows each other’s secrets and their business. And the reaction to the *Undisclosed* team coming to town, I think is really fascinating. But also this idea that women are at the center of all of these battles among men. And the idea that Joey would go to these lengths to avenge this relationship is so bizarre, but I think it kind of fits into a narrative about the power of women and their ability to do these things to men. Even when it doesn’t make any sense.

**Jon Cryer:** So that power is perceived as threatening?

**Marcia Chatelain:** Well it seems like it’s motivating beyond any kind of reason. I think it was great that Colin opened up with the Helen of Troy metaphor – that was like, classic ‘professor’ move! Because I think that historically – especially in the South – women, white womanhood, being protected at all costs, has animated a lot of racial violence and a lot of panic. And so seeing it play out in the context of what seems to just be really unhealthy relationship behavior – but it doesn’t seem to stand on its own as a motivation for crime – I think is really fascinating. Because I think that it’s those ideas and tropes that everyone is falling back on.

**Jon Cryer:** So, in this third episode, ‘Helen of Rome’, we learn that the prosecutor in Joey Watkins’ case, Tami Colston, appears to have hung much of her case on Joey’s motive for killing Isaac Dawkins – his supposed ‘rage’ at the fact that his ex-girlfriend Brianne Scarborough [sic] had dated Isaac. But the tangled web of teenage relationships in this story doesn’t give up its secrets easily. Now Colin, you brought up the phenomenon of ‘focalization’ – I hope I’m saying that correctly – Gérard Genette’s theory that one’s perception of people and events is tied to their context and the circumstances that they receive the information in – but isn’t this something that happens in almost every case? I mean, there’s usually a blizzard of information and accounts from witnesses, you know, much of it contradictory, but juries have to wade through this, they always have. I mean isn’t that built into the system?

**Colin Miller:**

Yeah, and it's interesting because there's actually a Supreme Court case – the Scheffer Case – where the Supreme Court is saying definitively, “We don't have to accept polygraph evidence”. And Justice Thomas has a famous quote where he says, “The jury is the lie detector”. And that's a problem because studies have shown that whether it's jurors, regular people, even people who are trained in the field... They're just not very good at it, and it's not even necessarily ‘lies versus the truth’ – as you said with focalization, you sort of have this parade of witnesses coming in and often it's a battle of these character witnesses, where you have some people saying, “Oh, this defendant's a great guy! He wouldn't harm a fly”. And other witnesses saying, “This is the worst person in the world”. And probably the truth is somewhere in-between, because we all see a person in a different sphere – I see people at work, in my family, day-to-day life at the grocery store. And you might see the best of the person or the worst of the person. And yeah, I mean that's-- We have pinned people's innocence and their freedom on the 12 men and women of the jury box, and it *is* a bit troubling. It might be the best system out there, but certainly there are issues.

**Jon Cryer:**

One thing I noticed, is that there are certain character tropes we impose on narratives as we hear them. When I was listening to the podcast. And when I was hearing much of Brianne's account, in this case, I found myself associating her with character traits of people who I've known – you know, superficially seem like her. And I was immediately seeing her as that *kind* of person – who draws drama into their life, and you know, despite their many protestations, actually enjoys it. Now, of course, this isn't fair. You know, Brianne is an actual human being, she may not be like this at all, but this was the *impression* that I was imposing on her. And I imagine these kind of biases come into play for juries all the time. I mean, how are we supposed to wade *through* it?

**Colin Miller:**

Yeah Jon, that's a- a big problem that we see with juries. There's a natural tendency – it's called ‘modeling’ – and that is, people in the jury box would see a witness and compare that to a friend or relative, *et cetera*. And the problem with that obviously is, there's a lot of baggage associated with people you know, both good and bad. And it's tough to disentangle the two. And referencing back, I'm a big fan of Marcia's podcast as well, *Office Hours*, because professors do the same thing – you see a student a certain semester and you think, “Oh this is just like the student I had before”. And the great thing, I think, about her podcast is it's these one-on-one conversations with this next generation of students and you really get to see a fuller picture, and it's that picture that often the jurors don't see. They see, again, a *sliver* of that person on the witness stand, without understanding the full context of that person's life.

**Jon Cryer:**

Which actually brings me to the topic of Brianne's allegations of *abuse*. As she told it, it involved, a fairly long history of many incidents – the hair-pulling during the accident, the ammonia cleaning fluid that was flung at her in the shower... She was slapped, she claimed she got punched in the ribs on Christmas Eve... All of this, superficially, completely follows the outline of domestic abuse in relationships. There's no reason that this shouldn't be believable. And in many cases, obviously, women don't come forward, specifically *because* they're worried they won't be believed. So, how do we judge allegations of abuse without projecting these things on them?

**Colin Miller:**

It's really difficult. I worked at Legal Aid for a summer, and worked primarily on domestic violence cases, and it is, as Rabia pointed out in the podcast, just really difficult because the rules that apply in that type of case are just so different than the rules that apply in other cases. And, you know, one of my big hesitations about taking the case this season were these allegations. And you know, the tough part here is, obviously we've discussed how that July 1999 shooting wasn't Joey, we had at the end of the episode in Episode 3, with the Troup County incident, and you would look at those and say, “Well that really casts a pall over many of Brianne's allegations in this case”. But it's certainly *not* something you can reject out of hand, and they *are* troubling allegations, and it *is* really difficult to assess exactly how much weight we should give them.

[09:13]

**Rebecca Lavoie:**

This is something that's come up, you know, a few times, when my husband and writing partner – Kevin Flynn – and I have been writing books together. At least two of our books have involved teenage women, actually, who in the course of either their defense or in the course of, sort of, telling their story to police later... Or in their discourse in their community, made allegations of abuse that we couldn't necessarily corroborate *nor* disprove. But it was an essential part of the prosecution of the case. So... What's really tough – and this is what I told the *Undisclosed* team when they were having this discussion and I was listening in – is that all you can do in these instances is say what *happened*. And if it weren't relevant, if she made these accusations of abuse sort of *outside* the sphere of the prosecution, if Susan heard that she had been gossiping about it, it's very different that if it is actually part of the fabric of the State's story and the prosecution. Which, in *this* case it was. I mean, it *is* relevant to talk about, because it is part of the narrative, and all you can do is tell the audience, "This is what she said happened". I think to make a judgement call in whether or not it happened is *one* thing, but to also throw out, "This is *also* what she said" that looks like it's not true... You know you sort of let the audience or the reader or the listeners decide... What they feel about those allegations in that instance. But it is a tricky line, and I think in this case it's relevant to bring in, just because it's such a crucial part of the prosecution.

**Marcia Chatelain:**

One of the things that I think is interesting about this case, in contrast to Adnan's, is that it really helps challenge people who want to do criminal justice reform and think about exoneration, about what happens when you don't have the perfect person. And I think that in delving into a case that *is* complicated, with a person who admittedly has done a lot of bad things, it makes the larger public *really* think carefully about what a justice system is supposed to do, and how it *can't* proceed because a person is unlikeable. And I think that this issue comes up a *lot* in a lot of the ways we talk about police shootings, and Black Lives Matter, and it doesn't matter, kind of, what we think of a person, what does it mean for everyone to have access to justice.

**Rebecca Lavoie:**

That was really a central theme in *Making a Murderer* – the Steven Avery case, even.

**Marcia Chatelain:**

Oh, absolutely.

**Rebecca Lavoie:**

You sort of have somebody who's living in tremendous amounts of poverty, who has, you know, a life story that's not a life that necessarily anyone would be proud to have lived – you know, abused animals, and so forth, and yet deserves fairness in the justice system. Just like everybody else.

**Jon Cryer:**

Well I've noticed a scary impulse by people to label people by actions they've taken. Like, anybody who transgresses becomes labelled a 'criminal'. And thus, once they are a criminal, has to be dealt with a certain set of expectations, as though the time that they have transgressed *once* defines who they are. And we find in these cases, we're dealing with people who are highly imperfect people, and people in the justice system have a tendency to label them, even when they've been through the incarceration process – then they're labeled ex-convicts. And they cease to be *human*. And people cease to give them the rights that humans should have. Now, I actually had a question for Colin: Has Joey admitted any of the abuse that Brianne's alleged?

[12:27]

**Colin Miller:**

No, Joey does not have the same recollection of any of the incidents that Brianne mentioned. You know, for instance the mall incident at Christmastime. That's something where Joey says there *was* some type of confrontation, someone sort of jumped on his back and, reflex-wise,

he was responding, but there was no volitional punch. There was nothing where intentionally he was seeking to harm Brienne. It was sort of a spur-of-the-moment situation where someone jumped on him, and he reacted reflexively. So, again it's something where I think what we tried to express in the episode was, there was at least a grain of truth to everything stated in there, but the shading is really important. Again, we can't say anything definitively, it's just to say there *are* some inconsistencies there, and certainly different people have some different perspectives on what happened.

**Jon Cryer:** So Rebecca, I actually have a question: As you and your husband are writing these true crime books, do you keep focalization in mind? And try to be super careful about how you describe people and how you describe events?

**Rebecca Lavoie:** Oh yeah, absolutely. And *I'm* the first to admit that I'm the worst perpetrator between the two of us. I'm the person who will be like, "You *know* what this reminds me of? It reminds me of that guy who used to date my friend..." And then, you know...?

**Jon Cryer:** [laughs]

**Rebecca Lavoie:** But, you know, focalization is not *good*, but it actually *can* be a valuable tool to help you explore things that sometimes *can* lead you somewhere. Obviously that's not what you want your jurors to do, but as writers, sometimes I will get clues from behavior that's been reported or an interview that we do that will lead me down a path based on my experiences, and I'll end up finding something there. And so, what I have to do is always just sort of pull myself back, remember the same rules that we use in the newsroom where I work that just like, "Corroborate, corroborate" all the source material you can, and make sure that you can source everything and not make assumptions. But sometimes, assumptions turn out to bear fruit in the writing process. It's a little bit of a trickier situation.

**Jon Cryer:** And do you get pressure from publishers to sort of jazz it up and make it have more of a point of view?

**Rebecca Lavoie:** No, actually, you know, we work with a major publishing house – Penguin Random House – and our manuscripts are vetted for a period of about a month by a legal team who has us source *every* conversation, every quote, every fact that we state in the book. And you know in our last book we had some stuff that isn't typical that you're able to gather as an author, especially the state the case ours was in, because we had access to all these court records, which was basically like, 800 pages of Facebook messages between the perpetrator and his accomplice. And we got a *lot* of questions about, "How do *you* know this is what he thought?" and I was able to say, "Because it says right here, 'I think this'". [laughs]

**Jon Cryer:** [laughs]

**Rebecca Lavoie:** And so no, no.

**Jon Cryer:** It helps.

**Rebecca Lavoie:** I mean we're not asked to jazz it up a all – I mean I know there are certain publishers that did or *do* do that kind of thing, but we are not working with one of those and I'm glad that we are not.

- Jon Cryer:** When I was writing my book, I had off-handedly mentioned that one of my friends growing up was gay, and I got a call from the lawyer at Penguin – who, coincidentally, puts out *my* book – and they said, “Okay, we gotta ask – is he *still* gay?” [laughs] I ended up having to call him and say, “Hey man! Just out of curiosity... Are you still gay?” [laughs] He *is*. He’s happily married to another guy, just FYI.
- Colin Miller:** [laughs]
- Rebecca Lavoie:** Fact checking!
- Jon Cryer:** Yes, exactly. Actually Marcia, I wanted to circle back about the ‘abuse’ thing with you for a moment, because I know that your area of expertise is the effect of police brutality on women of color, and often in those situations sexual abuse comes into play. And obviously in the case of Daniel Holtzclaw – that police officer who was abusing women for, what – over a decade? I believe? Obviously the women in that situation felt in no way that they could come forward, and I’m trying to think, how do we build a legal framework that supports women coming forward, and being truthful, but also protects the rights of the accused?
- Marcia Chatelain:** I think that this is probably one of the most challenging things to engage my students about, or for me to wrap my head around. What does it mean if we take seriously: a) criminal defense and b) a process in which a person can be held accountable for their behavior? But also I think that rehabilitation part... We have to really also believe that there are mechanisms to help people who have hurt other people. I mean, at it’s most basic level. But what we find in the justice system is that the long and pervasive impact of stereotyping on who we see as a victim and who we *don’t* see as a victim. And so, when we think about police brutality as *only* happening to men, or only happening to men of color, we lose sight of the various ways that women can be victimized. And we also, I think, lose sight of who believes that they have the right or they have access to police.
- And so I think what’s interesting in this case is that you have a lot of young people who are using the police as a resource. In the sense that they feel like they can call them and tell them what’s happening, and they have a trust with the police. But when we have communities that have had such negative personal and historical relationships to the police and policing, then where do they go to get some type of relief? And so, I think that all of these issues, when we think of criminal justice reform, we don’t just start with, “Okay the system is broken”, we think about where in the *society* do we have some real cracks and fault lines. And it’s often about who we think is valuable and who we think is disposable.
- Jon Cryer:** You you’re saying that you think the *legal* framework isn’t necessarily where we need to approach this?
- Marcia Chatelain:** It’s all hands on deck. We have to think about it in terms of, if you care about criminal justice reform, then you are working on eradicating racism in all its forms – in housing, and in employment, and in everyday life, in the *words* you use and what you act like in front of your kids, right? It’s some of this *big* picture stuff because, as Colin was talking about, the justice system relies on juries, it relies on judges that are either appointed or elected, it relies on structures that fund criminal defense, or *not*... And so, in many ways, you know, we can’t just look at this system as the one that’s reflective of *some* problems, rather we say, “Okay, there is a whole structure underneath that we have to work on”. And I think that, in thinking deeply about these issues, we get closer and closer to solving those problems.

- Jon Cryer:** Well I certainly hope so. Now I wanted to go to some Twitter questions, if that's okay with everybody. We got one from 'Elisa' who says, "I have a question for the *Addendum*. I wonder how the police there are reacting to the investigation? Good? Bad? Indifferent?"
- Colin Miller:** I guess 'all of the above' would be the correct response. So, we've seen sort of the entire spectrum as to how people have responded to this investigation.
- Jon Cryer:** Another question from 'Brooke Carter' – "Is Brianne aware of the podcast? And would she be interviewed to clarify about the July shooting incident?"
- Colin Miller:** Yeah, she was called several months ago in connection with the case, and essentially she refused to talk. And then before we premiered this third episode we reached out to her again... Sent her emails to various accounts that we think are connected to her, and have not – as far as I know, at least – gotten a response from her.
- [19:45]
- Jon Cryer:** Okay, and we have another question here from uh, 'Be Senz,' and she says, "Can Brianne or anyone perpetuating rumors that landed Joey in jail be charged with any crime for their false statements?"
- Colin Miller:** No, there wouldn't typically-- Well, if you make an official statement to police, there *is*, in many jurisdictions the crime of false reporting of a crime. So *that* potentially could lead to charges being brought against ones-- Like in the Casey Anthony case – I seem to remember in that case the mother, who was on trial, had made accusations against the nanny, I believe? And I think there were charges brought against that for false allegations of a crime. If it's just sort of, in the community or among the group of friends saying, "This person did that," or whatnot, that would *not* be grounds for any type of criminal charges.
- Rebecca Lavoie:** So Jon, is it okay if I ask Colin a quick question about the podcast?
- Jon Cryer:** Please proceed!
- Rebecca Lavoie:** We heard in this episode that Brianne filed her complaint against Joey's harassing phone calls, allegedly stalking her, in his *parole* file...? How would someone even know how to do that? I've never even heard of that before.
- Colin Miller:** Yeah, I mean, unless you knew someone in law enforcement you likely wouldn't even know that. Most people probably don't even know about the parole process. Yeah. I mean, you have to imagine that she did a good deal of research to figure out, "Yeah this is the process I follow to file a complaint with the parole board, so that when he goes up for parole, it's going to be there and work against him getting that parole".
- Jon Cryer:** Is it possible that any kind of reports like that are *automatically* put in the parole file?
- Colin Miller:** No, I'm pretty sure in this case she actually made a *separate* complaint to go in the parole file, because the *initial* criminal complaint was dismissed against Joey. I'm not sure whether what she did initially in the case – the criminal complaint – *would* be put into the parole file.

- Jon Cryer:** She *does* seem to have a remarkable comfort with the justice system. I mean she brought him to court back when the shooting incident was discussed. Although she didn't bring him to court specifically for *that*, right? It was for something else.
- Colin Miller:** Right. It wasn't *specifically* that July 1999 shooting when Joey was in Panama City. That I think was sort of a pattern of behavior she alleged, and we don't have the *exact* documentation to show what else she was alleging. What we *do* know, again, though, is that that *was* a big part of that hearing and when Joey could establish he was in Panama City that was why the judge dismissed it and said, "This is typical teenage drama".
- Jon Cryer:** I got one more Twitter question actually – this is from "P Megarella", who asks, "I'm confused about the timeline. Did Joey date Brienne *again*, after she had accused him of shooting at her?" And the reason I think this is an interesting question is because, she later alleged a whole pattern of abuse. But again, this conforms to the pattern of many relationships that have domestic abuse in them – that people stay in the relationship despite of it. So I imagine she *did* stay with him after that. Am I correct?
- Colin Miller:** Yeah that's correct. So Joey dated Brienne on and off until, I think, early 1999. Then she dated Isaac, including during July 1999 when the shooting supposedly took place. Then later that fall Joey and Brienne dated *again* before Joey broke it off later that year. And yeah, again, it's complicated. You can't say that just because they dated *after* these events that there was no abuse in their past. There's the 'Fading Effect Bias' that says you tend to remember the good and forget the bad, and that's why in so many of these situations – whether it's just a bad relationship or in an abusive relationship – you do see this cycle where people might break up or break it off and then get back together into a bad relationship. So, we're not sure here, but yes, after this July 1999 event, the supposed shooting when Joey was in Panama City, Brienne and Joey *did* get back together again.
- Jon Cryer:** And interestingly, when I was reading contemporaneous news reports of the trial – they kept consistently labeling Joey a 'stalker', and a 'bully'. Which surprised me, obviously, because... *Journalism*... And they're meant to eschew those sort of things – but it's interesting because it hasn't, in my understanding of the case from what I've gotten from *Undisclosed*, that *hasn't* been the case when they actually investigate the *actual actions* that occurred.
- Colin Miller:** Right. We've covered a few of the incidents where there was alleged to be poor decisions made by Joey – to put it lightly. And a lot of those turn out not to be true and we'll get to more of those going forward. There is-- I think probably that article's relying upon a specific incident that had testimony at trial, and was considered the most important piece of character evidence against Joey. And *that* becomes pretty interesting because what's testified to at Joey's trial very much changes when that same witness testifies at the trial of his co-defendant, Mark Free, and calls into question this characterization in the article. There's a lot of things in the news articles that turn out not to be true, or not accurately represent what actually happened at the trial.
- Jon Cryer:** So which witness *was* that, may I ask?
- Colin Miller:** The witness-- You know, and again, the article could be referring to any number but it could be Yvonne Agan, who we will be discussing going forward, who was a very important witness at Joey's trial and turned out to be much *less* important at Mark Free's trial.
- [24:59]
- Jon Cryer:** Interesting. So Rebecca, do you have any *more* questions?

**Rebecca Lavoie:** The thing that is sort of, to me, really sticks out is the *teenage-ness* of all of this... And one of the books that we wrote did have teenagers as central characters – at least when they committed the crime, they were teenagers – and there is sort of a heightened, like, relationship narrative around teenagers than there is around adults. And that certain behaviors that, when you're a teenager are just, drama. When you're a teenager, look at it as an adult, no that's *abuse*, that's not drama. And I'm wondering how well, Colin, you think, the justice system, juries, do in sort of parsing out, sort of – what's teenage stuff, and that lens is just a little fuzzy, right?

**Marcia Chatelain:** One of the things that I think is interesting about this case is that, *again*, these dynamics of a small town in the South – while *none* of this behavior is isolated to that context, I think the dating culture of teenagers having very serious and intense relationships is considered *positive*. I used to be on the faculty of the University of Oklahoma and I think it's interesting that, a lot of the young women I taught... Relationships were really, really valued in their family, and in their town. Adults knew who were the homecoming king and queen, and who was involved with each other. And I think as someone who came from a big city I always thought it was weird how much adults kind of encouraged that. And I think it has to do with getting married early, or, you know, staying in, you know, some of these things we label 'traditional values'. So I think that 'teenage-ness' of bad, abusive, unhealthy boundary stuff always concerns me, because I think it *normalizes* a lot of the verbal abuse that we see back and forth between these two.

**Rebecca Lavoie:** Right.

**Marcia Chatelain:** But I also think *another* element of it is the fact that the context in which the relationship is happening is also so much structured by people knowing everything, and there's always being an *audience* for this. So I definitely think there's something to be said about the context in which it's happening. I was gonna say another thing I forgot.

**Rebecca Lavoie:** Well I think that- I think that even comes out in Joey talking about cruising, right?

**Marcia Chatelain:** Yes.

**Rebecca Lavoie:** Because cruising is not something that happens everywhere. And cruising is just an activity that has to do with driving around so you can see people so they can see *you*.

**Marcia Chatelain:** Oh! What I was going to say about *Joey* that I think is also interesting, is that every incident involving him is about being really *reactive*. And this crime, if we're supposed to believe one of the prosecution theories of it, seems really calculated and really *specific*. That he goes from a person who has like, an anger control problem, to someone who is masterminding killing someone on a highway. There's something about that that also seems very strange to me.

**Rebecca Lavoie:** Hmm.

**Jon Cryer:** They *do* seem like very different skill sets. [laughs]

**Marcia Chatelain:** Absolutely.

**Rebecca Lavoie:**

[laughs]

**Jon Cryer:**

Perhaps that's the wrong choice of words! Well interestingly, I grew up in New York City, where all of those 'normal' teenage societal bonds don't really exist. You go to a massive school full of thousands of kids. When I was a kid it was uncool to participate in a lot of the normal teenage rituals. And in a way, our socialization was *very*, very different because of that. We were not hyper aware of status, things like that. It just-- We could buy *out* of that kind of system. Rebecca, what were you going to bring up?

**Rebecca Lavoie:**

I agree. I mean, I grew up in the tristate area, as well, but even like where I live now in New Hampshire, my kids go to a *tiny* school, do not date people in school, do not get serious because, "I gotta go to school with them again next year". And the parents... As parents in my community we're all like, "Whoa! What do you mean, you have a girlfriend?!" You know? It's very much seen as like, "Don't take this seriously..." And you're right. I think there is something cultural, I think that's a very, very interesting angle that I hadn't thought of.

**Marcia Chatelain:**

There's a racial element to all of this, also. So when we look at accountability and the move to sentence juveniles as adults, a lot of that was informed by the changing racial demographics of large urban areas. And part of what I research is, why African-American children, specifically, are not considered *children* in various contexts. And so I think that there is also an element of 'boys will be boys', kids just having fun, that has a lot to do with race and class as well.

**Jon Cryer:**

I was reading your bio, Marcia, and one particular statistic that was mentioned in your work just *stunned* me. Which was that black girls are disproportionately pushed out of school and to the criminal and juvenile justice system, although they make up just 16% of America's female student population, black girls account for more than *one third* of all female arrests that take place on our school campuses. I'm sorry, that blew my mind. I had *no* frame of reference to take that in.

**Marcia Chatelain:**

A person who's done great research on this is a woman named Monique Morris who wrote a book called *Push Out* about the criminalization of African-American girls. And she talks about it in a *modern* context, and I trace it in my work from the early 20<sup>th</sup> Century. That when you have a critical mass of children of color who are coming from the South to cities like Chicago, and New York, and Los Angeles, you *have* a criminal justice system that *really* believes in incarcerating juveniles or under-funding opportunities for youth. And so *that* is also a large part of the origins of the criminal justice problems that we see today. It's hyper-criminalizing children.

**Colin Miller:**

Yeah, and Marcia, I wanted to follow up with you on that because I know, you know a big part of that too is the rise of 'zero tolerance' policies in schools, and this whole idea of the 'school to prison pipeline', and I'd love for you to share with our listeners, you know, some of the data and thinking on that.

**Marcia Chatelain:**

Well, you know, 'school-to-prison pipeline' is a framework for people to think about the ways that school policies around *discipline* and around keeping school safe, their origins come from some reaction to school integration and others about the criminalization of poverty. And so people who do this research often think about the presence of police officers, of metal detectors, the fact that schools are doing, you know, the version of the 'three strikes and you're out' but with *kids*. And so, the more and more young people are out of school, the more and more they are vulnerable to becoming victims of crime, or finding themselves perpetrators of crime. And so I think that a *lot* of really important justice work is tied to

thinking about not *why* people commit crimes but what are the structures that are *neering* a lot of the expectations of the criminal justice system. And so school-to-prison pipeline research has been *so* helpful in helping teachers and school administrators think about the ways that we've adapted a lot of the practices of prisons and jails and given them to *kids*. And I think that *one* of the things that is really important to keep in mind, again, is that if people really want to get involved in reforming the system, they have to start with the schools and the communities and the resources available to kids.

[31:53]

**Jon Cryer:** Now Rebecca I have a question: Do your kids go to a school with metal detectors at the door?

**Rebecca Lavoie:** Nope! My kids go to a school with-- / I went to a school with metal detectors at the door...

**Jon Cryer:** So did I.

**Rebecca Lavoie:** Yeah. My kids go to a school that is shockingly non-metal detector-y.

**Jon Cryer:** [laughs]

**Rebecca Lavoie:** I mean, it's not-- I think it's *good* that it *can* be, but it was a big culture shock to me when I moved to New Hampshire, was how it seems that *that* isn't even in the thinking of schools. I mean the philosophy seems to be that, sort of proactively I think, where *I* live, that where if you do *that*, you are pointing to something that they would like to work on in other ways. At least, that's my optimistic view of why there are no metal detectors in my kids' schools!

**Jon Cryer:** Well it was interesting. I went to New York City schools, but in the '70s, and obviously the '70s was a very troubled time for New York City, so, you didn't *have* to throw the kids into prison from school – the schools already *felt* like prisons. We had metal detectors, we had metal grates..

**Rebecca Lavoie:** Cops?

**Jon Cryer:** Well, I had cops in high school, not in junior high and in elementary school. Actually my elementary school felt fairly light-hearted and rural. [laughs] In some respects – even though I was on 96<sup>th</sup> street. But by high school, it was – and you know, I understand this – parents demand safety for their children at school – it was a time when there were enormous fears of street gangs, and in my mind, honestly, a lot of those fears were misplaced. I went to the Bronx High School of Science. Our street games had Rubik's cubes. I never felt for a *moment* in my high school that my safety was at risk. *But*, we had metal detectors and cops, and I do recall a couple of fights, that you know, got out of hand, and there *was* some kind of intercession by the police, but do you believe this is an *overreaction*?

**Marcia Chatelain:** From my perspective, two things, I think, have happened to animate this. The first one is, the type of mass shootings that we see in places like Columbine... Although they're happening in economically-advantaged schools with a lot of white students, the anxiety about school shootings will trickle down to all schools. And I think that there is a real bias in thinking how some kids need to be kept safe and other kids need to be held in line. So that in poor communities and in communities of color, safety means putting police officers in the building, and treating students like they're in a prison. I think in more affluent communities, it's

lockdown drills. And it's procedures about an outside threat. And so I think that there is a panic about safety that, you know, we're all familiar with because people are watching the news and they're seeing these horrible images. And in light of all the data that tells us that this is probably the safest we've ever been in terms of crime, the reaction to it and how different communities get those resources are just so unequal.

**Jon Cryer:**

Well, also, people's risk assessment is *completely* off. I mean obviously the likelihood of a school shooting is *miniscule*. If you want to worry about things, there are lots of other things you can worry about.

**Rebecca Lavoie:**

Well, they're real things! I mean, you know, in my tiny town you can go on the anonymous social media sites where the high school kids post and you see them posting sexually-abusive remarks. And you see them talking about, you know, *pills*, and you know, the kind of drugs that can't be sniffed out by dogs. You know, this is like, you have to know where to look, and you can never, ever see a shooter coming. You can never see that coming. But there are things that we're just not looking at because we are, as a society, preoccupied with 'big, dark scary' danger. In a way that is, I think, keeping us from being able to look at what's really going on. I think about this a lot with this Joey Watkins case. I mean this relationship that was, you know, maybe condoned by adults, these intense level relationships that were happening with these kids. What were the parents focused on? They were focused on, you know, what kind of cars their kids were driving or whether or not there was a fight that was going to happen at their house? There's an interesting cultural disparity there.

**Jon Cryer:**

Yeah, and I don't want to blame the parents, obviously, because we have *no* idea what their interactions were.

Marcia now being that you are an *Undisclosed* fan, do you have any big questions about the Watkins case that you'd like to throw at Colin?

[35:55]

**Marcia Chatelain:**

The *MacDonald's* thing is so confusing to me. About the harassment claim that Brienne makes. Is she suggesting that Joey was on some type of work-prisoner excursion? The *MacDonald's* thing was the part that I was so fixated on that I couldn't figure out.

**Colin Miller:**

Yeah. And that's something where we don't have a clear answer because the question is: Is Joey misconstruing what happened? Did Brienne make a claim that he was at *MacDonald's*...? But right. Yeah I mean the point is, he was in prison – he was never on work release – there is *no* way he was at *MacDonald's*. So the question is – and we're not sure – did Brienne ever make that allegation or did somehow that information, in a perverted form, get to Joey? And that's why he was thinking the allegation related to him being at *MacDonald's*.

**Marcia Chatelain:**

*Got it.*

**Jon Cryer:**

Do you have a list? Do you have a checklist of things you're going down now? [laughs]

**Marcia Chatelain:**

Maybe I'll just go to the first 100... I guess my other question about doing an investigation like *this* – the questions about, you know, public information and access to records is really interesting, especially as a historian. When the *Undisclosed* team can't get material, what are people *telling* you?

- Colin Miller:** Yeah. I mean, it is essentially the claim that these audio tapes aren't public information. Or the information doesn't exist. I mean we've encountered that *both* seasons. The Season 1 with Adnan, trying to get the Crime Stoppers information. We have documentation from Crime Stoppers about this tip, and yet, when we make the Information Act request to the relevant police departments they're saying it's not there. And then in the Joey Watkins case, when we're trying to get this documentation, sometimes at first they say, "We're not obligated to give it". Other times, "It doesn't exist" and sometimes it turns up eventually. I'm actually recently now in Adnan's case, trying to get information related to Jay's 'stet' on March 5<sup>th</sup> and we've gone through maybe five or six different routes. Those didn't work, and there may be a *sixth* route that might have more information. So it's a variety of reasons that they give, and sometimes they seem valid, sometimes they don't seem to hold that much water.
- Rebecca Lavoie:** It is a bureaucratic quagmire.
- Colin Miller:** Yeah.
- Rebecca Lavoie:** And it's something that I've experienced a *lot*. It's that very often, you know, as much as I think in Adnan's case- as people who've been following the case are thinking, "That's obstruction!" But very often what it is people working in an office who are like, "I don't have time to give that to you, I can't give that to you". Like that's just, "I have to *check* and see if I can give that..." And there's just like a lot of requests, a lot of people asking for things, and it can be a bureaucratic *quagmire*, absolutely.
- Colin Miller:** Yeah absolutely. The term is over-used, but I mean it literally is 'Kafkaesque'. When you think about-- I mean, that's one of my favorite novels is *The Trial*, and that is essentially what it is about: Is, a person has been charged with a crime, and it's almost like this nameless, faceless prosecution, and you're trying to get information, trying to figure things out but it's just this bureaucratic state that leaves you in this state of *limbo* when you're really just trying to prove your innocence.
- [38:53]
- Jon Cryer:** I had a question: So the Crime Stopper's tip. So they're now claiming that they don't have the paperwork on it? They don't even *know* that information anymore?
- Colin Miller:** Well so we got written documentation from Metro Crime Stoppers itself saying there was a \$3,075 reward. There was a tip on February 1<sup>st</sup>. And it was paid out in full on, I believe, November 1<sup>st</sup>. So from Crime Stoppers, they have always said the information exists. When we have made the request to the relevant police departments, they have come back and said that they have no documentation. Now as we have said, the person, at least, in Baltimore County, in charge of those public information act requests is the attorney who made the argument at Adnan's bail hearing about the 'Pakistani jilted boyfriends killing their girlfriends and going to Pakistan'. So, she obviously has an interest in not releasing documentation that's going to make Baltimore look bad. But yeah. Right now we're not getting it. If there is a retrial, and it looks possibly more and more likely that there *could* be, there will be subpoena power for Justin Brown and the defense team, and *that* might force some more answers.
- Jon Cryer:** Got it. But if the actual documentation doesn't *exist*, then no answers can be had, then.
- Colin Miller:** Well they could subpoena the lead detectives on the case – Ritz and MacGillivray. They could get them under oath. Because, the way it works is with Crime Stoppers, this full tip amount of \$3,075 is paid out. The way that works is the lead detective on the case goes through everything that the tipster provided and has a checklist and is checking off the different things

to determine, do they get part of the reward, the full reward, *et cetera*. So either MacGillivray or Ritz seemingly *has* to know the identity of the tipster. And, if they're called to the witness stand, either they're going to plead the Fifth or presumably they're going to answer to who that person is.

**Rebecca Lavoie:** Was there Crime Stoppers abuse? Like systematic abuse by detectives who were using Crime Stoppers for funds, to get witnesses to give statements?

**Colin Miller:** Yeah, and this is documented. Metro Crime Stoppers – the same organization that had the tip in Adnan's case – I believe a year or two later there was an *exposé* where there was massive corruption, both by a person at Crime Stoppers, and people also said that the detectives were using it as a slush fund. So yeah. I mean, certainly there was a lot of misconduct involved with Metro Crime Stoppers.

**Jon Cryer:** That makes one of the biggest arguments *for* a retrial. Obviously nobody wishes for Adnan Syed to stay in prison for another *day* for something that he did not do, but I don't know *how* all of this is going to get publicized and cleaned up unless these people are brought to account. Are there going to be other avenues for us to pursue?

[41:33]

**Colin Miller:** Yeah. And I mean, if you listened to the *Breakdown* podcast – the Justin Chapman case – where actually Georgia decided they're not going to re-prosecute him, there was a reward in that case. The Joey Watkins case! We'll get to this later in the season. There was a significant monetary reward in this case and there are big questions related to *that*. The question is, "Will anything be done?" The answer is, "Probably not". I can't think of a single case where a person has been prosecuted for Crime Stoppers abuse. And when there's not any type of follow-up like that, there's not a disincentive to engage in that type of abuse.

**Jon Cryer:** Well, but just revealing that it's going on, I think would be an enormous public service, don't you think?

**Colin Miller:** Yeah, and I mean, that's the tough part, is – and I've sort of toyed with the idea and maybe someone out there will take the torch on it – is, it's so tough to say... On balance, is Crime Stoppers efficacious? In that, does it tend to lead to, on average, mostly guilty people being caught? *Are* the abuses a small minority of cases and we risk throwing out the baby with the bathwater by doing a rigorous investigation? *Or* is it that in a decent chunk of cases there *is* this abuse, and that it's leaving the people pointing the finger at the wrong person? That's what I'd love to know. I mean, I think there needs to be reform but the question is: How big is the problem? And I'm not sure of the enormity of the problem.

**Jon Cryer:** Well, okay, last chance ladies to throw questions at Colin.

[laughter]

**Colin Miller:** I did have a question if we have *time*, that I would love to throw to the three of you?  
**Jon Cryer:** It was super fun to work with Molly Ringwald, if that's what you're about to ask.

[laughter]

**Colin Miller:** Yes, that's what I-- [laughs]

- Jon Cryer:** [laughs] No, go ahead Colin.
- Colin Miller:** Well it just seemed like the perfect opportunity because we have on the one hand the person who created the Ferguson syllabus, which was crowd-sourcing people, bringing in music and films *et cetera*, to talk about criminal justice, we have the host of *Crime Writers On*, and we have you, Jon Cryer, who's been involved in, you know, Hollywood and pop culture for so many years. I mean what are the takes that you three have about what effect pop culture can and *should* have on educating students, on the way that people view the criminal justice system, the police, *et cetera*.
- Rebecca Lavoie:** You know, what you just said about Crime Stoppers, and how there have been, I believe you said, articles and reports on this Crime Stopper issue? And yet those journalists... Their work is not being seen, heard, cared about, by those of us who are asking questions about it. You know, you'll say, there's a scandal that breaks, "Oh *The New York Times* reported on that 10 months ago". The *only* way to get people in the United States, it seems, to pay attention to things, it seems, is to invest them in a pop culture project. I mean if you *look* at the fact that Dean Strang has become a folk hero in America because of his, you know, adorable sweater-vest justice crusade in *Making a Murderer*, and all the issues he brought forth. If you look at movies like *The Thin Blue Line*, if you look at *Serial*, and just the attention that's put on the criminal justice reform and the Baltimore Police... You look at *The Wire*. *This* is how you get people to care. I'm not saying that that's *ideal*, I mean, as a journalist by *day*, of course you want everyone to read your story and go, "Oh god!" But it's really the great TV show, movie, book or podcast that gets people *talking*. And, I really think in some ways it's today, almost the *only* way to get stuff done.
- Jon Cryer:** Well I think there's a cognitive disconnect. You can *hear* information, but until you *experience* it on an emotional level, it doesn't really affect you. And that's one of the great things that pop culture is capable of.
- Marcia Chatelain:** One of the things that I like about social media, as an academic, is that I think it's just an opportunity for people to come closer to a set of ideas or problems that they may not have access to. I know that some of my colleagues find Twitter, you know, an unacceptable way to have intellectual dialogue, but I think it's an incredible space for smart people to talk about smart things and bring people closer to it. And so I think that without social media and without pop culture, really wanting to engage this issue of criminal justice reform, people would *not* have access to some of the big issues that are associated with it, and I think it also helps them understand ways that they can actually be part of the solution.
- Jon Cryer:** Well I think it also gives a very interesting pathway to, you know... As bad as social media can be – some people find it emotionally very draining and awful – it is also a pathway right into the human 'Id'. [laughs] You know? People are willing to be *horrible* on social media. And I think that actually, you know, once you step back and understand we're dealing with input from *millions* of human beings across the planet Earth, you can sort of take it in a much more generalized fashion, and not take it personally.
- Well, I just wanted to thank you guys so much for being here today, it was a pleasure talking to you. Thank you Marcia, thank you Rebecca.
- Rebecca Lavoie:** Thank you!
- Marcia Chatelain:** Thank you.

**Jon Cryer:** Colin, Colin, it wasn't so great talking to you. [laughs]

**Rebecca Lavoie:** It never is.

**Jon Cryer:** [laughs] But thank you so much, and hopefully we'll be talking about more episodes of *Undisclosed* soon.

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