

1 count charged against Jeffrey Deskovic.

2 In the name of God, do your duty.

3 I thank you.

4 THE COURT: Thank you, Mr. Insero.
5 We'll take a ten or twelve minute
6 break.

7 (Whereupon, the Court declares a
8 recess at 12:20 p.m., and the trial
9 resumes at twelve-thirty p.m.)

10 THE COURT: Are you ready?

11 MR. INSERO: Yes, your Honor.

12 MR. BOLEN: Yes.

13 THE COURT: All right, bring the
14 jury in.

15 (Whereupon, the jury enters the
16 courtroom.)

17 THE COURT: Okay, Mr. Bolen.

18 MR. BOLEN: "What type of a person
19 do you think did this to Angela?" "A
20 sick person." "Was there a good reason
21 for doing this to her?" "There's no
22 good reason." "What was the reason?"
23 "He got mad and snapped." "He probabl'
24 wasn't in control of himself."

1 That colloquy took place some time
2 after two o'clock on the afternoon of
3 January 25th, 1990 in the offices of
4 Dan Stephens.

5 To refresh your recollection,
6 ladies and gentlemen, that would have
7 been in response to item nine on the
8 Arthur's polygraph examination
9 procedures, the form that's in
10 evidence. The responses given by
11 Jeffrey were in response to three
12 specific questions that appear on that
13 form, the type person, good reason and
14 what was the reason.

15 And, as Investigator Stephens had
16 done earlier that afternoon in response
17 to item seven, knowledge, Jeffrey gave
18 those responses, and Investigator
19 Stephens simultaneously recorded them.

20 Those few words can express far
21 better than I as to what happened in
22 this case. They are succinct, they are
to the point and they give you an idea
of just what happened.

1 If I can digress now, Judge
2 Colabella, Mr. Insero, Miss Sayegh,
3 Jeffrey Deskovic and Mr. Foreman and
4 the remaining members of the jury, the
5 regular jurors and the alternates, we,
6 all of us, sincerely express to you our
7 sincere thanks for your patience, your
8 understanding and your sense of humor
9 and your willingness to sit on the case
10 which during the voir dire was
11 described to you as perhaps one of the
12 most, in many ways, unusual experiences
13 that you will probably undergo.

14 We have heard here some eighteen
15 witnesses spread out over some six
16 days. You have heard about numerous
17 exhibits introduced into evidence, some
18 of which you have yet to see. You have
19 visited the scene yesterday. And in
20 doing that, perhaps first hand you were
21 able to get a feel which you could not
22 get from the diagrams that are
23 introduced into evidence.

24 And with respect to the testimony

1 that you've heard testimony introduced
2 into evidence, along with your visit to
3 the scene, you may, and perhaps you
4 should, and I urge you to draw the
5 collective reasonable inferences that
6 can be drawn from all that evidence.

7 There has been some inference to
8 direct and circumstantial evidence. I
9 alluded to it perhaps in my opening to
10 you. The Court will explain to you the
11 difference, but the People's evidence
12 rests on both direct and circumstantial
13 evidence.

14 If I could give you two examples
15 of the facts of this particular case,
16 when the police responded to the scene
17 and eventually their attention was
18 drawn to that dirt path that you travel
19 down and off the macadam path, when you
20 came to that rock in the ground and
21 looked off to the left, before further
22 proceeding down the hill where it
23 dropped down somewhat precipitously, it
24 was near that rock in the ground which

1 was used as a reference point by
2 Detective Astrologo that he, along with
3 other officers that day, noticed the
4 torn bra lying on the ground.

5 And not too distant from that
6 there were observations had and a
7 photograph introduced into evidence at
8 what has been described as a groove or
9 a furrow in the dirt not too far from
10 the bra. And not too far from the
11 ground, literally within feet, and you
12 saw it, you heard testimony about
13 flattened leaves and flattened grass.

14 Now, Detective Astrologo when he
15 observed those and saw that torn bra,
16 he saw those with his eyes, that was
17 direct evidence. He saw what he
18 described as a groove. He saw what he
19 described as flattened leaves and
20 grass. In and of themselves, perhaps
21 it's innocuous. But circumstantially,
22 what can you reasonably draw from that?

23 The groove, the furrow, could it
24 be consistent with a heal, a young

1 girl's heel while being raped, trying
2 to struggle, digging the heel into the
3 ground, a ground that's moist, because
4 we know earlier that morning on
5 November 15th John Papp told us it
6 rained lightly. And the dirt adhered
7 to the heel of the shoe. The flattened
8 leaves and the flattened grass, what
9 could cause that? The supine body of a
10 young girl being raped and brutally
11 murdered.

12 Now, looking at those things it
13 doesn't jump out at you, but is that
14 not a reasonable inference to be drawn
15 from that set of facts that you see
16 from your eyes? That's direct and
17 circumstantial evidence. This is what
18 this case is all about. You have to
19 use your collective common sense to
20 draw reasonable inferences in this
21 case.

22 And that is what I want you to do
23 when you review all of this evidence
24 here. Follow the law that Judge

1 Colabella will give to you tomorrow
2 morning at 8:45, and render an
3 intellectual and honest verdict that
4 speaks the truth of what transpired on
5 that fatefull November afternoon in the
6 Griffins Pond area.

7 Now, ladies and gentlemen, what do
8 the People have to prove in this case
9 beyond a reasonable doubt, and what do
10 they not have to prove? As you sit
11 here now, based upon your
12 preconceptions you might think that I
13 have to prove certain things, which I
14 don't.

15 We have five counts in the
16 indictment, counts one, two and three,
17 which each charge the Defendant with
18 murder, but a different theory of
19 murder. And count four charges him
20 with rape in the first degree, and
21 count five charges him with criminal
22 possession of a weapon in the fourth
23 degree. All the People have to prove
24 in this case is the material elements

1 contained in each of those counts,
2 coupled with the fact that the
3 Defendant is the one who committed
4 them. That is all we have to prove.

5 And tomorrow the Judge will
6 explain to you what those material
7 elements are. That is all we have to
8 prove. We don't have to prove anything
9 else.

10 Now, let's look at these three
11 counts, particularly the three theories
12 of murder. Count one, intentional
13 murder: The Defendant intentionally
14 caused the death of [REDACTED]. The
15 key element in that case is intent.
16 What was the Defendant's intent on that
17 particular afternoon between
18 three-thirty and four-thirty in the
19 Griffins Pond area, as he was in close
20 proximity with [REDACTED], as he, the two
21 of them, were on that dirt path?

22 I submit to you, the main acts
23 that conclusively led to [REDACTED] death
24 occurred in that area off that dirt

1 path. Yes, she had been struck before
2 in the head, momentarily dazed. But
3 yet she was able to recover and run
4 away. And instead of going straight
5 towards the condominium complex, she
6 turned right, wittingly or unwittingly.
7 But she never got to the end of that
8 path.

9 With respect to intent, the Court
10 will instruct you in the law. But talk
11 about preconceptions. Some of you
12 probably think that when Jeffrey
13 Deskovic woke up that morning he had to
14 say to himself, "I plan on murdering
15 [REDACTED] that day." Some of you
16 think that I have to prove that he did
17 with this forethought, pre-planning,
18 premeditation. That is not the law,
19 that is not the law.

20 We have to prove to you at the
21 time he did the acts we alleged that
22 caused her death he did so
23 intentionally. Let me give you an
24 example.

1 All of you, I would think, have
2 driven automobiles, and I hope you do
3 it lawfully. But for those of you who
4 don't have a license, let's include you
5 in this. A traffic light, green, red,
6 yellow. You know what that means.
7 It's a very long block. You're driving
8 along midday. One hundred feet ahead
9 of you, you see the light is green.
10 You don't have to make any decisions,
11 unless you're going to make a turn.

12 If you go straight through, you do
13 it. Similarly, one hundred feet before
14 the light is clearly red. What do you
15 have to do? If you're a law-abiding
16 citizen, then you're going to stop.

17 But what happens? You're driving
18 along, the speed limit, almost at the
19 intersection. And just before you get
20 there the light turns yellow. You have
21 a decision to make, ladies and
22 gentlemen. You do this every day.
23 What are you going to do? What
24 intentional acts are you going to do?

1 You're going to put your foot on the
2 breaks and stop, or you're going to put
3 your foot on the accelerator and hoping
4 you get through before it turns to red.

5 You see how we couple intent with
6 volitional action on your part? That
7 typifies best why you must not forget
8 your common sense in your everyday
9 lives when you come into a courtroom
10 like this. When you hear about intent
11 there are no magical or mysterious
12 things you have to do to satisfy
13 yourself that the People have proven
14 intent beyond a reasonable doubt.
15 Please keep that in mind.

16 Depraved mind, murder, second
17 count. Under circumstances evincing a
18 depraved indifference to human life,
19 the Defendant recklessly caused the
20 death of [REDACTED]. The intent
21 element there is recklessly, as
22 distinct from intent in intentional
23 murder. It's not simple recklessness.
24 It's elevated, depraved indifference to

1 human life.

2 You, based upon all the testimony
3 here, and perhaps the one source that
4 you should draw upon -- two sources,
5 Dr. Roh's testimony, and the only one
6 autopsy photograph in evidence, this
7 photograph which you haven't seen. You
8 haven't seen this yet. You're going to
9 have to look at it.

10 Dr. Roh's testimony, you will
11 recall -- look at this photograph.
12 Does this bespeak acts of the Defendant
13 that are brutal, callous, dangerous,
14 inhuman, devoid of humanity? Is there
15 any question as to that?

16 As to both these counts, counts
17 one and two, intentional and depraved,
18 you will be charged that of the two,
19 assuming you ever reach that point, you
20 can return a verdict of guilty as to
21 one. It's either or, but not both.
22 Listen to the Court's charge with
23 respect to that. It's either or, and
24 not both.

1 However, while that is true with
2 respect to count one, intentionally
3 murder, and count two, depraved, you
4 may independently consider the third
5 count, felony murder. I've already
6 read that to you in my opening
7 statement.

8 Basically, ladies and gentlemen,
9 what I have to prove to you beyond a
10 reasonable doubt is that this
11 Defendant, while either committing the
12 crime of rape in the first degree, as
13 the Court will charge you, or
14 attempting to commit the crime of rape
15 in the first degree, during the course
16 of that or in furtherance of it caused
17 the death of [REDACTED].

18 The distinguishing feature between
19 felony murder and the other two is that
20 we need prove no intent to cause death.
21 It's like a strict liability type. If
22 you find the rape and death ensued
23 during the course of that rape, that is
24 beyond a reasonable doubt, the

1 Defendant is guilty of felony murder.

2 The fourth count is rape in the
3 first degree. Have the People
4 satisfied you beyond a reasonable doubt
5 that the Defendant engaged in sexual
6 intercourse with [REDACTED] by means
7 of forcible compulsion? And those
8 terms will be defined for you.

9 Again, disassociate yourselves
10 from certain preconceptions here.
11 Listen to what the Court has to say
12 with respect to penetration of the
13 penis with respect to the vaginal area.
14 There is no requirement in the law that
15 the People prove that the person
16 accused of rape in the first degree
17 ejaculated outside the vagina, in the
18 vagina or anywhere else.

19 And with respect to rape in the
20 first degree, keep in mind the
21 testimony of Dr. Roh when asked, in his
22 opinion, based upon his autopsy
23 results, his examination of the vaginal
24 area, the tears that he noted, the

1 tissue specimens that he took which
2 indicated fresh hemorrhaging, whether,
3 as he said, they were inconsistent with
4 consensual intercourse, but forcible.

5 And, lastly, the weapons count,
6 the least significant of the counts you
7 will be considering. Did the Defendant
8 on the day in question possess a weapon
9 with intent to use it unlawfully
10 against [REDACTED]? The indictment
11 references a bottle. With respect to
12 that, keep in mind, assuming you credit
13 the testimony of Detective McIntyre of
14 around between five and five-thirty on
15 January 25th, coupled with, if you
16 credit the testimony of Detective
17 Levine when he said he went back to
18 January 25th and went back to the scene
19 and found that Gatoraid bottle cap.

20 Lastly, Dr. Roh's testimony that
21 the injury to the right rear side of
22 [REDACTED] head, the laceration, the
23 underlying fracture, the underlying
24 hemorrhages is consistent with having

1 been caused by a blunt object
2 consisting of, among other things, a
3 bottle.

4 We have heard talk here of
5 reasonable doubt. I cannot discuss
6 with you what that means. The Court
7 will do that tomorrow morning. But the
8 key here is the concept of
9 reasonableness, not unreasonableness.

10 Similarly, the concept of
11 reasonableness will occur in two other
12 contexts and has arisen in two other
13 contexts in this case, and I will
14 discuss them with you. You will
15 consider the concept of reasonableness
16 with respect to the voluntariness of
17 the Defendant's statements, and I've
18 already alluded to you a third area
19 where reasonableness comes up; to wit,
20 drawing reasonable inferences from the
21 evidence.

22 As to reasonable doubt, again
23 listen very carefully to the charge by
24 the Court tomorrow when the Court tells

1 you what it is and what it is not.
2 Anyone can entertain a doubt without
3 anything. We must prove the case
4 beyond a reasonable doubt, and if we
5 don't meet that burden you render a
6 verdict of not guilty.

7 Similarly, no one can prove
8 anything to an absolute certainty. So,
9 that's not the standard either. It's
10 reasonable doubt, what reasonable men
11 and women determine in a particular
12 case.

13 With respect to the concept of
14 reasonable doubt and all the other
15 propositions that you have and will get
16 tomorrow, I urge you, ladies and
17 gentlemen, not to use any of them --
18 and I don't mean to offend you, but
19 don't use it as a convenient subterfuge
20 to avoid doing a disagreeable thing,
21 and that is convict the Defendant.
22 Because, make no mistake about it, I am
23 here to urge you to convict this
24 Defendant. I am an advocate.

1 I am asking you to convict a
2 seventeen year old boy, a kid, a young,
3 a young man, a young adult, whatever.
4 I'm asking you to convict Jeffrey
5 Deskovic. You have seen Jeffrey
6 Deskovic, you have seen members of his
7 family in the audience. Obviously you
8 can never see [REDACTED]. But there
9 is a photograph of her in evidence, the
10 Polaroid, the Polaroid identified by
11 Mr. Harrison.

12 Here is [REDACTED]. Look at
13 [REDACTED]. The whole point of what
14 I'm saying now is, you cannot allow
15 sympathy or prejudice for or on behalf
16 of anyone to influence you in your
17 rational, unemotional dialogue in the
18 jury room with respect to ascertaining
19 whether the People have met their
20 burden, which is a heavy burden, of
21 proving the guilt of the Defendant
22 beyond a reasonable doubt.

23 In my opening I brought out to you
24 affirmatively certain particular things

1 as I then did on my direct case,
2 specifically DNA evidence and certain
3 hair evidence. As to the hair
4 evidence, you heard the testimony of
5 Linda Duffy. She was the individual
6 who removed certain artifacts during
7 the course of the autopsy, as well as
8 the testimony of Dr. Peter Deforest,
9 who both sides agreed is a recognized
10 expert in his field.

11 With respect to the pubic controls
12 taken during the autopsy, as opposed to
13 the pubic combings, there is no
14 question, and there is a slide in
15 evidence, of a hair that, in Dr.
16 Deforest's opinion, is a growing, a
17 growing Mongoloid head hair.

18 Let's go back to circumstantial
19 evidence and reasonable inferences.
20 Did we really need to have Dr. Roh
21 submit head hairs? Cannot a reasonable
22 inference be drawn here, mindful of Dr.
23 Roh's statements to you at the scene
24 that he bent over the body to examine

1 the bloody discharge, as well as
2 bending over during the course of the
3 autopsy to remove the combings, and
4 growing head hair was found there.
5 Would you seriously consider that the
6 real killer here was some Asiatic? If
7 you do, not guilty.

8 Similarly, with respect to the
9 artifact removed above the right sock
10 on [REDACTED] right leg, if I'm not
11 mistaken, you heard the testimony of
12 Dr. Deforest that had Negroid
13 characteristics. I don't recall
14 whether he said it was head hair or
15 not. It would be your recollection.

16 Again, just as I asked you to do
17 with Dr. Roh, Dr. Roh's assistant, Ken
18 Mangrone, a middle-aged black
19 individual who went to the scene.
20 Detective McIntyre left this picture
21 for you just before the body was
22 removed. Dr. Roh and others are at the
23 head of the body and Ken Mangrone is
24 towards the feet.

1 If you're going to pick a body up
2 and put it into a stretcher you're
3 going to do it with the head, perhaps
4 with the arms and somebody will be at
5 the feet. And you're going to put both
6 hands right around the ankles. Can
7 that reasonably explain that artifact
8 there? I submit to you it does.

9 But that leaves us with the DNA of
10 Dr. Deadman. It also leaves us with
11 Dr. Deforest's testimony that in the
12 pubic combings there was a Caucasian,
13 not Negroid, not Mongoloid, but a
14 Caucasian head hair in the pubic
15 combings which was not the Defendant's
16 and not [REDACTED], although your
17 recollection controls, and I don't know
18 whether the doctor could completely
19 rule out it being [REDACTED] in the
20 various stages of maturation. But
21 let's assume for the sake of argument
22 it wasn't that of [REDACTED].

23 We know that Dr. Deadman stated
24 that the seminal fluid within the

1 vaginal area removed by Dr. Roh, that
2 with respect to that Jeffrey Deskovic
3 was not the source. I don't contest
4 that. So, where did the semen come
5 from? Where did that pubic hair come
6 from?

7 Well, let's look to the testimony
8 of John Laurino. John Laurino told you
9 that some time during the fall of last
10 year he was perhaps even amorous of
11 [REDACTED]. He wrote two notes. Because
12 he was shy, he had asked a friend to
13 deliver it. But, interestingly, only
14 one was delivered. Query: What
15 happened to that other note? We'll get
16 to that.

17 But on cross-examination Mr.
18 Insero brought out the fact that within
19 the note John had asked if he could go
20 out with [REDACTED], and that [REDACTED] came
21 to him and said she didn't really want
22 to go out with him, or words to that
23 effect, because she liked someone else.
24 This is John Laurino.

1 We have the testimony of Henrietta
2 Compos who, with respect to the note
3 and the body retrieved by Officer
4 Ubben, which subsequently was dried out
5 by Detective McIntyre, and despite
6 efforts to lift prints, he could not,
7 that the writing on that was that of
8 ██████████, the "Dear Freddy" piece of
9 note. It's a very interesting piece of
10 paper, because I, too, urge you to take
11 it into the jury room, because we don't
12 know what happened to the rest of that
13 note.

14 But isn't it ironic and
15 interesting that the piece drawn on one
16 side has "Dear Freddy," and on the
17 other side has the date. I find that
18 very significant, very interesting. I
19 will explore that with you later on.

20 We also have the Defendant's own
21 words to the authorities, including his
22 typed notes, question six, seven,
23 eight. ██████████ liked Freddy. The next
24 one is Freddy Claxton. I indicated the

1 taped statements to Levine and McIntyre
2 on January 10th. His statements to Dan
3 Stephens on January 25th. It wasn't
4 taped.

5 It was during his conversations
6 with Dan Stephens at the knowledge
7 portion some time around two o'clock
8 when asked with respect to the Arthur's
9 examinations procedures, "Tell me what
10 you know about the case," and do you
11 recall Stephens testifying he took down
12 what Jeffrey was saying, asking him to
13 stop so he could catch up.

14 At some point, assuming you
15 credited him, he said, "All right, she
16 was raped. He probably had intercourse
17 with her. I don't know if he
18 ejaculated."

19 After that is the testimony of
20 Linda Duffy. Linda Duffy told you
21 certain things with respect to how long
22 seminal fluid can stay within the
23 vaginal area of a live woman and a dead
24 woman. Their policy, their policy is

1 upwards of twenty-four hours, although
2 she said in the literature it's several
3 days. And with respect to a dead
4 person it's upwards of a week,
5 assuming, policy-wise, it was deposited
6 within twenty-four hours.

7 Lastly, we have the testimony of
8 Dr. Roh. I forget exactly how he
9 phrased it, but the way he phrased it
10 was done artfully and diplomatically,
11 mindful of the particular
12 circumstances, but he said that [REDACTED]
13 was sexually active.

14 I submit to you, ladies and
15 gentlemen, that on or about November
16 15th, and some time in the past [REDACTED]
17 [REDACTED] was certainly romantically
18 linked to somebody else, and in all
19 probability it was Freddy Claxton. And
20 that she had on or about that day and
21 shortly before sexual relations with
22 another person. And that the semen
23 that was found in her vaginal area was
24 ejaculated during the course of a

1 willing, consensual relationship, and
2 not during the course of a forcible
3 sexual act for which she resisted with
4 her life.

5 I submit to you that in his
6 conversations with the Defendant, in
7 his conversations with Dan Stephens
8 when he used the third person or
9 referred to the other person as the guy
10 or the killer, that the Defendant, for
11 whatever reason, was referring to
12 himself.

13 One last thought: They're in
14 evidence, the simultaneous handwritten
15 notes. They're on the back of two
16 exhibits in evidence. They were
17 written down well in advance of Deadman
18 notifying the police that the DNA
19 results were negative. That's well in
20 advance. Keep that in mind.

21 So, you can't even go into the
22 jury room and hypothesize that what was
23 done here was done deliberately in the
24 face of negative DNA, to go back in

1 time and account for semen that was not
2 belonging to the Defendant's. I
3 suppose you could if you wanted to, but
4 talk about inferences on inferences on
5 inferences. It just doesn't fit.

6 Do you remember during the voir
7 dire I told you that we are not here to
8 make moral judgments about anyone. We
9 are here to see whether I proved my
10 case beyond a reasonable doubt. And
11 that is true of Jeffrey and that is
12 true of [REDACTED]. I suppose what the
13 testimony of Dr. Roh tells us is that,
14 like you and like I, [REDACTED], a
15 young girl, that she was human. She
16 grew up in the eighties.

17 I'm looking at you, and some of
18 you are perhaps older than her. You
19 might have different values and
20 morrays. Perhaps when you were young
21 you would not have done certain things
22 until perhaps you were married. But
23 today is the eighties, today is the
24 nineties, whatever it is. For good or

1 bad, today's young are more
2 sophisticated than perhaps you and I,
3 and I'm dating myself.

4 But, ladies and gentlemen, the
5 point is that she is human. We all
6 make mistakes, including this
7 prosecutor. I can assure you of that.

8 But this whole case is about human
9 frailties and desires that
10 unfortunately go wrong, myself
11 included.

12 Now, let's talk about the concept
13 of reasonableness as it relates to the
14 Defendant's statements. Make no doubt
15 about it, in large part the People's
16 case is predicated upon the various
17 things Jeffrey Deskovic said to the
18 police. And you will hear law with
19 respect to that tomorrow morning.

20 You have heard testimony that --
21 and I'll use the word alleged -- that
22 Jeffrey allegedly said certain things
23 in the presence of Levine to McIntyre
24 on December 12th. Thereafter, there

1 was a significant hiatus when on
2 January 9th, some time shortly after
3 eight, Martin Burrett showed up at
4 headquarters. Levine goes out and, lo
5 and behold, he sees Jeffrey.

6 The following day Jeffrey came to
7 headquarters in the afternoon and spent
8 the better part of six hours either in
9 headquarters or at the Griffins Pond
10 area.

11 The next day in question is
12 January 22nd. That was the day when,
13 if I'm not mistaken, Levine taped the
14 incoming call from Jeffrey. And
15 shortly after that, upon exiting the
16 Burrett residence, Levine has better
17 eyesight than I do, and he noticed
18 someone near a tree. Eventually they
19 get into a car. It turns out to be
20 Jeffrey.

21 The next day is January 23rd, some
22 time in the afternoon. Jeffrey shows
23 up, deals with McIntyre initially,
24 something about a key. And eventually

1 Levine is there and there's something
2 about taking a polygraph examination,
3 which Jeffrey first broached it on
4 December 12th and declined, saying he
5 didn't trust them. Nevertheless,
6 McIntyre urged him to reconsider it.

7 No doubt, January 23rd was the day
8 that he was asked to reconsider it.

9 On January 24th, unannounced,
10 Jeffrey shows up with Levine. And then
11 on January 25th, let's say from the
12 hours of nine-thirty in the morning
13 when he first deals with Levine, until
14 late in the afternoon.

15 A number of dates here, but from
16 the People's vantage point perhaps the
17 most significant dates and the most
18 significant conversations took place on
19 December 12th, January 10th and January
20 25th.

21 There are a number of things that
22 you have to do with those statements.
23 First of all, you have to decide
24 whether or not any of them were made.

1 You can decide they weren't. End of
2 discussion. Assuming they were made,
3 were they voluntarily made? You have
4 to decide that.

5 And then you're going to have to
6 grapple with the issue known as
7 custody. On any of those days, no
8 matter who he was dealing with, was
9 Jeffrey in custody as the Court will
10 define it for you? And if he were, and
11 you so find, did Jeffrey get his
12 Miranda warnings? And if he got his
13 Miranda warnings, did he get them all?
14 And assuming he got them all, did he
15 then make a knowing and voluntary
16 waiver and an intelligent waiver of his
17 rights? There are a lot of steps that
18 you have to go through.

19 This is where I alluded to before,
20 the second area where we deal with the
21 concept of reasonableness. It arises
22 in the context of custody. On any or
23 all of those days we don't deal with
24 Jeffrey's subjective belief, but what a

1 reasonable personal, innocent of any
2 crime, would have thought in dealing
3 with the police on any or all of those
4 days.

5 I submit to you, ladies and
6 gentlemen, that on not one of those
7 days was Jeffrey in custody such that
8 he had to be given Miranda warnings. I
9 submit to you that's even true of
10 January 25th, because think about
11 January 25th. He comes in at
12 nine-thirty, meets Levine. He says,
13 "You don't really have to take the
14 test." He says he wants to take the
15 test.

16 He's given his rights. Yes,
17 Levine didn't ask him to sign it. So
18 what? There is no legal requirement
19 that when a card is utilized anyone has
20 to sign it. The key is, did he get his
21 rights, and did he waive them
22 knowingly, intelligently and freely?

23 Then McIntyre meets him. They go
24 into the car and chat for a while in

1 the car before they leave for Brewster.
2 "Is this what you want to do?" "Yes."
3 "Do you want to contact your mother?"
4 "No."

5 They get up there. They're
6 introduced to Stephens. For the better
7 part of three hours there's no
8 interrogation with respect to the crime
9 here.

10 My adversary is a true
11 professional in every sense of the
12 word. If I can digress for a second,
13 this case moved as expeditiously as it
14 did due, in part, to Mr. Insero. He's
15 professional in every sense of the
16 word. He knows what he has to do, and
17 he did it. His summation to you is
18 indicative of that.

19 But for him to tell you that there
20 was, in effect, an uninterrupted
21 interrogation for six hours, that is
22 just not the case.

23 First Jeffrey read the polygraph
24 journal within which there was question

1 six about "Do I have to take the
2 polygraph?" "No." Then there was
3 participatory Miranda where Jeffrey, in
4 response to questions, indicated
5 clearly and convincingly that he knew
6 what his rights were.

7 And then we have the release. You
8 haven't seen the release yet, but in it
9 is the Miranda warnings. So, that day
10 Jeffrey got his warnings in some
11 fashion or another three times. And on
12 prior dates he had gotten it on
13 December 12th, January 10th, both with
14 the card and on the tape, and from
15 McIntyre on January 23rd.

16 Now, some of you might be saying
17 to yourself, "Well, if Bolen says he
18 wasn't in custody, then why did the
19 police officers give warnings?" Simply
20 because somebody is given warnings
21 doesn't create an otherwise
22 non-custodial situation into a
23 custodial situation.

24 Am I telling you that I have the

1 best of all worlds here? Yes, I do.
2 It submit that what you have here in
3 terms of Levine, in terms of McIntyre
4 and Stephens are professional police
5 officers.

6 Let's back up for a second. Think
7 about the way the Peekskill Police
8 handled the crime scene here. I mean,
9 do we have a bunch of Mickey Mouse
10 police officers not knowing what the
11 heck they're doing when they got to the
12 crime scene, trampling it, destroying
13 it, not knowing what they're doing? To
14 the contrary. We have a crime scene
15 that was maintained in what I deem to
16 be an extraordinary professional
17 manner. You name it, they did it.

18 When Curtin and O'Buck and the
19 State Trooper O'Hearn found the body it
20 was immediately secured. Curtin and
21 O'Hearn were told to stay there, while
22 Mark O'Buck, so nobody could use it,
23 including the media, went to the school
24 to get help. He returns. The area is

1 cordoned off with tape. Of course,
2 anybody can go through the tape. But
3 police officers are positioned there.

4 Then, and I don't know the order,
5 people are interviewed including, among
6 others, Jessica Salch. What do they
7 find? Evidence is recovered from crime
8 scene three, two and one, and it's
9 significant, significant evidence.
10 Photographs are taken, measurements are
11 taken. With respect to items
12 recovered, it is dusted for prints, and
13 nothing of value is found.

14 I mean, what more can you expect
15 of them? They did it as seasoned
16 professional police officers. They
17 conducted themselves in a professional
18 manner in the same way, particularly
19 McIntyre, Levine and Stephens, although
20 Stephens is not a member of the
21 Peekskill Police, they conducted
22 themselves appropriately.

23 And with respect to the crime
24 scene we have the end result of a

1 diagram that Detective Astrologo
2 prepared. Critical evidence and
3 observations, ladies and gentlemen, was
4 never released to the press. I can
5 list them for you, but perhaps the most
6 significant I submit to you is the torn
7 bra in evidence, the fact that there
8 were three distinct crime scenes.

9 As a matter of fact, ladies and
10 gentlemen, what more could the police
11 have done? They assiduously avoided
12 revealing any of this to the news
13 media. They assiduously, and
14 particularly Detective Levine and
15 Detective McIntyre, did not disclose
16 any of their observations or any of the
17 evidence they recovered from Jeffrey
18 nor, for that matter, to anyone else
19 they interviewed, for the simple reason
20 as was intimated during the Defendant's
21 summation, that during the source of
22 the police investigation the police
23 were to deal with someone who made
24 certain statements, who revealed

1 certain intimate details that only the
2 true killer would know, having said
3 those, and be arrested could not then
4 say, "Hey, they were fed to me by the
5 police, I heard them as rumors, I used
6 my common sense, and it's simply
7 theories."

8 Ladies and gentlemen, it doesn't
9 wash in this case, it just doesn't
10 wash. Simply an observer there could
11 see what happened. But there are three
12 distinct crime scenes. You visited the
13 scene yourself.

14 All right, maybe the Defendant
15 secreted himself when the real killer
16 confronted [REDACTED] on the path when she
17 had on the head phones, the cassette
18 recorder on her body, and carrying the
19 bag with the camera. To the extent
20 that Mr. Harrison during his daily
21 constitutional described [REDACTED]
22 wearing a white sweater, sneakers and a
23 bandanna, we know that's not accurate.
24 He made a mistake. Mistakes occur.

1 In all likelihood the bandanna
2 were head phones. [REDACTED] told you
3 there were head phones near the bag.
4 They were never recovered. Sometime
5 between the 14th and the 16th somebody
6 had to have seen them, and they were
7 recovered. That's got to be the
8 explanation.

9 Assuming for argument sake Jeffrey
10 saw that, where will he secrete himself
11 on the path? Where will he secrete
12 himself when, after he walked down the
13 path, walked down that little area,
14 turned to the left, walked past the
15 campfire and into the depression area
16 which only some of you observed, where
17 was he going to hide to see that?

18 And if, and if that was the case,
19 where, in response to all these
20 questions, where are you getting these
21 theories, and he says somebody told me?
22 And he says who? So, why would he
23 refuse? For somebody who told him, as
24 Jeffrey told Levine, it was Jeffrey.

1 I'm getting ahead of myself, but I
2 don't profess to be a psychiatrist or a
3 psychologist, but we're dealing here
4 with a very complex individual. I will
5 get to that later on.

6 Now, let's turn to see how the
7 police dealt with Jeffrey, particularly
8 McIntyre, Levine and Stephens. Rather
9 than belaboring this point, ladies and
10 gentlemen, while it's true that you
11 don't have Stephens on tape, you do
12 have McIntyre and Levine on tape with
13 the Defendant, and that can give you
14 some idea of how the two of them dealt
15 with Jeffrey during those times when
16 they were not being recruited, in terms
17 of how they said things and their tone
18 of voice.

19 As far as Stephens is concerned,
20 what axe does he have to grind in this
21 case? None, I submit.

22 We have here, ladies and gentlemen
23 of the jury, Jeffrey Deskovic being
24 given his rights numerous times. Every

1 one of his rights were religiously
2 adhered to. There was no type of
3 overbearing, no hint of promises made,
4 no deceptive tactics utilized such as
5 to elicit any incriminatory admissions,
6 no threats of violence. Handcuffs
7 placed on him? Guns drawn? Beatings?
8 None of this.

9 In short, ladies and gentlemen,
10 assuming you choose to credit any of
11 the things the police officers say
12 Jeffrey said, you've got to credit
13 what's on the tape. But assuming
14 you're going to credit what's not on
15 the tape, and by that I mean all the
16 other oral statements that weren't
17 recorded, that's your prerogative.

18 But what about the typed notes?
19 What about the two diagrams, the two
20 diagrams admittedly drawn while the
21 tape is off, but which Jeffrey
22 acknowledged on the tape and signed and
23 dated?

24 And if during that period of time

1 that the tape went off, and while the
2 diagrams are being drawn, and while the
3 blood was being drawn, and after Levine
4 conferred with Tumolo and then came
5 back on when the tape started at 5:22,
6 whatever it was with the rendition of
7 the reading of the rights, we knew at
8 some point Jeffrey knew the tape
9 recorder was there, because it came
10 out. Levine came out and placed it on
11 the desk, and you can hear that on the
12 tape.

13 At that point if he had been
14 abused in any fashion, could not and
15 would not Jeffrey have availed himself
16 of the opportunity to say that while
17 the tape was being played?

18 When he, Jeffrey, chose to speak,
19 to do so, he did that of his own
20 volition only, of his own free will, with
21 intelligence and voluntarily. I urge
22 you, that with respect to almost
23 everything he said, with few
24 exceptions, what he said should be

1 relied upon you as being reliable.

2 You have to decide with respect to
3 anything Jeffrey said at any time
4 whether it was true or false, in whole
5 or in part. Was it self-serving? Did
6 he say things to tease and to taunt, to
7 titillate?

8 Remember, during the tape on
9 January 10th with Detective Levine,
10 towards the end Jeffrey says, "Why are
11 we playing dumb? You know the answers
12 to the questions you're asking?"
13 That's on the tape.

14 And then when he gets out of
15 Levine's car on January 22nd, and I
16 could be wrong, as he gets out, what
17 does Jeffrey say? Jeffrey says, "Hope
18 you don't run out of tape with that
19 last conversation." It's the last
20 thing on the tape.

21 We have no idea what Jeffrey's
22 academic performance is, but we
23 certainly know or we can deduce that we
24 are dealing here with a street-smart

1 young man.

2 As to the evidence now, ladies and
3 gentlemen, especially that third
4 context where I discussed the concept
5 of reasonableness, specifically
6 reasonable inferences, I submit to you
7 that the following is what occurred in
8 this case, and it is based principally
9 upon the following:

10 November 17th, 1989 the police
11 make a determination that there were
12 three distinct areas to this crime, and
13 the physical evidence was recovered
14 from each, especially with respect to
15 scene two, the torn bra, which I submit
16 to you that you can get a flavor of it
17 in the photograph.

18 Now, I realize the analogy is that
19 a picture speaks a thousand words.
20 It's somewhat problematic here, but
21 remember we're dealing with a fifteen
22 year old, and there are photographs.
23 Every female is different in terms of
24 the breast area. But here, mindful of

1 the age, we're dealing with a bra which
2 I submit was readily capable of being
3 ripped off, torn off as she lay on her
4 back. One strong hand, one pull at the
5 center will pull it right off. You can
6 almost see it in the straps here.

7 Remember, on this day [REDACTED] was
8 five-foot four, if I'm not mistaken,
9 and one hundred six pounds.

10 Do you remember John Laurino. He
11 told us back then Jeffrey was about
12 five-ten, give or take, and about one
13 hundred forty, give or take.

14 Part the groove or furrow on the
15 ground, there's a photograph of that in
16 evidence.

17 The Salch child, the indication of
18 where the bag with the camera was found
19 which McIntyre and Jeffrey had occasion
20 to discuss on the tape, where that X
21 was put, it's essentially the same area
22 indicated by the Salch child. How
23 would this child know this?

24 And then the Gatoraid cap, it was

1 found there. Yes, it's two months
2 later. On the day of the crime there
3 were some bottles that were recovered,
4 but some distance away, dry, not wet.
5 On that day did the police know to look
6 for a Gatoraid bottle?

7 Remember, people walk along this
8 area. Who knows who walked along
9 there, who collects what, and what, if
10 anything, is collected for recycling.
11 Am I insulting your intelligence here?

12 By the way, when they're in the
13 car, who is chewing a bottle cap? It's
14 Jeffrey. It's on the tape.

15 Take a look at the bottle cap in
16 evidence. Clearly, these are things
17 observed and things recovered that in
18 no way were revealed to the media, nor
19 the students or the teachers
20 interviewed, nor to the Defendant.
21 Again, I'm talking about the sources.
22 I am going to get to the scenario here,
23 but I am continuing with the basis of
24 the scenario which you can do, as well

1 as that I can.

2 THE COURT: Why don't we take five
3 minutes here.

4 (Whereupon, the Court declares a
5 recess at 1:25 p.m., and the trial
6 resumes at 1:35 p.m.)

7 THE COURT: Are you ready to
8 proceed?

9 MR. BOLEN: Yes.

10 MR. INSERO: Yes.

11 THE COURT: All right, bring the
12 jury in.

13 (Whereupon, the jury enters the
14 courtroom.)

15 THE COURT: Okay, Mr. Bolen.

16 MR. BOLEN: Thank you.

17 Ladies and gentlemen, where we
18 left off, and hoping I would conclude
19 in the not too distant future,
20 continuing with the sources of what I
21 submit to you is the way the crime
22 occurred, as well as you and I could
23 probably deduce, the testimony of Dr.
24 Roh -- as a matter of fact, if you take

1 the police testimony as to the events
2 of November 17th, coupled with the
3 testimony of Linda Duffy and Dr. Roh, I
4 would submit to you that you could
5 probably deduce what occurred here
6 using your common sense in terms of
7 where the crime occurred, how it
8 occurred, evidence, what she might have
9 been doing or wearing, what relations
10 she might have had with anyone that day
11 or before.

12 The testimony of John Laurino, if
13 I can capsulize it for you, during the
14 summer at the pool in the buildings
15 where he lived, along with Jeffrey,
16 they were neighbors, one floor above
17 the other. At the pool he was with
18 Jeffrey and Diana and [REDACTED]. Do you
19 recall Jeffrey's statements to
20 Detective McIntyre on December 12th?

21 Secondly, he was in a class, a
22 global studies, social studies with,
23 among others, [REDACTED] and Jeffrey.

24 Three, his testimony about writing

1 notes to [REDACTED], but using Jeffrey as
2 the intermediary. Thanksgiving just
3 passed, but that conjures up about John
4 Alden and Priscilla. I don't even know
5 if I have the right figures here. In
6 response to one of the notes, [REDACTED]
7 was not interested in going out with
8 him, because she liked somebody else.

9 The wake, yes, Jeffrey was very
10 emotional. John was not. And,
11 interestingly, John's testimony was
12 that after these events occurred
13 Jeffrey missed school.

14 Do you remember in the typewritten
15 notes there is a question about Shariff
16 missing school? Do those questions,
17 some or all, pertain to Shariff, or do
18 some or all pertain in his own mind?
19 Is he talking about himself? We'll
20 never know.

21 Henrietta Campos, why did she come
22 in? She came in to say she saw [REDACTED]
23 at school that day. She was wearing
24 white pants. We know she must have

1 changed her pants, because she was
2 wearing jeans. More importantly, she
3 found the note written by [REDACTED]. She
4 also identified a notebook recovered
5 from [REDACTED] locker by Detective
6 Levine in the presence of the principal
7 which you haven't seen yet, but
8 apparently during -- and a notebook
9 which apparently pertains to global
10 studies. [REDACTED] had apparently started
11 writing a note to "Dear Freddy."

12 She stopped, for whatever reason.
13 She didn't continue this note. If you
14 compare that "Dear Freddy" with the
15 "Dear Freddy" on the note, they are all
16 synonymous, or identical in terms of
17 the writing.

18 Angela apparently wrote a note
19 either before that or after that, but
20 that same day. The question we face
21 now is how Jeffrey or Shariff or
22 perhaps being one and the same, found
23 out about that note, because there were
24 particular references to [REDACTED] writing

1 a note that day.

2 On the notes Jeffrey has the day
3 right, but the date wrong. Wednesday,
4 November 14th. It happens.

5 Let's talk about the note. It's a
6 very interesting note. I alluded to it
7 before. On one side it says "Dear
8 Freddy." On the other side it's
9 November 15th. You can read the note,
10 as well as I can. There is a
11 translation prepared by McIntyre.
12 Obviously it is not controlling on you
13 if you feel there are any differences.

14 However, on the side where you
15 have "Dear Freddy" is written ledgibly,
16 albeit on different lines, the
17 following: "Have those eyes", and the
18 next line, "They kill me." It says,
19 "Have those eyes" and then "They kill
20 me".

21 I suppose men and women can be
22 attracted to each other for any number
23 of reasons. There have been allusions
24 to being attracted to the way a young

1 girl on a summer afternoon appeared in
2 a bathing suit. But there are other
3 ways a young girl or, for that matter,
4 a mature woman, can be attracted to a
5 young man or an older man. There are
6 various parts of the anatomy, and at
7 some time or another all people are
8 attracted to each other or say things
9 about eyes. I forget who it was, "The
10 eyes are the pictures to the sole."

11 But we have the testimony of
12 Detective Levine who said he knew
13 Freddy Claxton, had met him. If we
14 recall anything, we recall from
15 Detective Levine's vantage points
16 Freddy Claxton's eyes were pretty
17 distinctive. They jumped out at you,
18 he said. He even gave the color. I
19 forget the color, blue, green or
20 something like that.

21 How would that note get under
22 [REDACTED] body? Or why there? Where
23 was the rest of it? The police looked
24 for it and couldn't find it.

1 It's perplexing, very perplexing.
2 And why only that portion of the note,
3 one side saying "Dear Freddy" and the
4 other side saying "November 15th,
5 1989."

6 We know that Jeffrey knew about
7 that note, because he references it in
8 his typed notes. How did Jeffrey find
9 out about that note?

10 Continuing with the source of my
11 basis for the scenario which I assure
12 you I will get to, Athena Dellaportas,
13 around 11:15, eleven-thirty, as she's
14 gazing through her kitchen window doing
15 dishes she sees [REDACTED] go up the steps
16 and through the gate.

17 On the tape, if I'm not mistaken,
18 with McIntyre, Jeffrey says something
19 about a gate, carrying something, which
20 she is unable to discern, in a hurry,
21 through the gate. A right, down the
22 driveway, a left on High Street.

23 Interestingly enough, Athena says
24 within the recent past she had done

1 that once or twice before. Remember,
2 during the interview had between
3 Investigator Stephens and the Defendant
4 where, in response to the knowledge
5 question, while Stephens wrote it down,
6 Stephens said, "There was something I
7 had to write down, because Jeffrey
8 wanted it written down. She had been
9 there to the Griffins Pond area once or
10 twice before." And couple that with
11 the fact that towards the tail end of
12 the taped interview between McIntyre
13 and Jeffrey, Jeffrey says the same
14 thing.

15 McIntyre says, "Jeffrey, did
16 ██████████ know anything about this area?"
17 He says, "Maybe once or twice before".
18 How would Jeffrey know this?

19 Mr. Harrison, out for his daily
20 constitutional, walking down the
21 macadam path past the intersection,
22 spots a young girl framing. And as is
23 his style with the walking cane, hard
24 of hearing in one ear, he generally

1 looks down, said hello and kept on
2 walking.

3 If Jeffrey was in the area, you
4 might ask yourself, how did Harrison
5 miss him? How did the Salch girl miss
6 anybody? Well, we know that, having
7 been to the area, Mr. Harrison was
8 coming from the school along the
9 macadam path. Eventually he comes to
10 the end of the macadam path where, if
11 you kept on going, it becomes a
12 concrete path. Those of you probably
13 who went down there who didn't want to
14 jump over the guard rail saw it.

15 In dealing on the tape with
16 McIntyre, Jeffrey says he she went on
17 the concrete path. Very interesting.
18 And then she went into the woods. And
19 perhaps a slip, but a trail in the
20 woods. A trail in the woods, he said.

21 Now, you were there. Position
22 yourselves where the concrete path
23 becomes the macadam path, and you're
24 walking, and the guard rail is to your

1 right. Eventually you get into the
2 macadam path. As you're walking, and I
3 think it's an incline, if I'm not
4 mistaken, did any of you see that dirt
5 trail before you went off to the right
6 as you got to the intersection? It's
7 on the diagram.

8 Lieutenant Astrologo put that dirt
9 path which forked, and both formed an
10 intersection with the macadam path
11 running north and south to the
12 condominium complex.

13 Now, if, as he wanted to do, he
14 walked with his eyes down, Mr. Harrison
15 could have missed him. Or, if Jeffrey
16 was there and saw him, he very easily
17 could have ducked off that dirt path
18 and intercepted [REDACTED], which I suggest
19 he did, on that macadam path.

20 Detective Astrologo and Officer
21 Rooney, again being my sources, when
22 the camera is recovered from the Salch
23 residence, within it is undeveloped
24 film. Officer Rooney said he could

1 only make four readable prints. The
2 four prints were two of a bird bath and
3 two of a pigeon in a window. I don't
4 know whether you've seen them yet, but
5 you have the option to see them.

6 Remember the testimony of
7 Detective Astrologo? He said he had a
8 relative who lived on High Street, on
9 the left side. And the bird bath was
10 the bird bath in the yard of his
11 relative, the route that [REDACTED] took
12 and the route that Jeffrey said that
13 [REDACTED] took that afternoon. And you
14 can have it played back for you.

15 But on the tape with McIntyre on
16 January 10th the Defendant says,
17 "[REDACTED] took pictures on the way up."
18 The way up where? To Griffins Pond.
19 How would the Defendant know that?
20 Those pictures were taken on the way
21 up. It was on the way up High Street.

22 Listen very carefully to these
23 tapes. I've listened to them five
24 million times. You've only listened to

1 them once.

2 Detective McIntyre testified to
3 you that [REDACTED] house keys were
4 missing. On the tape who brings up the
5 fact the keys are missing? The
6 Defendant. How would he know that?
7 First he says, and this is probably in
8 the context of, "What do you think,
9 Jeff, motive, robbery, jewelry?" "No,
10 she didn't carry that much money.
11 Keys, maybe they were taken."

12 But then he says, upon reflection,
13 "She probably lost them." And then he
14 says something about the keys. Maybe
15 you can make it out. I couldn't. A
16 distinctive set of keys or something
17 connected with the keys. Never, never
18 recovered. How does he know the keys
19 are missing?

20 And, lastly, in terms of the
21 source material for the scenario I'm
22 about to give you, we have the words of
23 Jeffrey Deskovic, the oral statements
24 to the police, the taped statements to

1 the police, the simultaneously recorded
2 notes of Investigator Stephens in
3 response to question seven and question
4 eight, knowledge, type of person. His
5 typed notes. The two diagrams he drew,
6 without any suggestion from Levine,
7 three distinct areas. Not to scale.
8 "A struggle, raped here, body under
9 leaves."

10 And he didn't get it from the
11 newspaper, no, he didn't get it from
12 the newspaper. He didn't get it from
13 the newspaper, because this is the
14 diagram that was in the newspaper. Do
15 you see three crime scenes there
16 denominated, crime scenes one, two and
17 three? I wasn't there. It's not here.

18 So, where did he get the
19 information from? Was it common sense?
20 You can barely hear that on the tapes.
21 His thoughts, his theories. Somebody
22 told him. Shariff Goodson, is that the
23 someone?

24 Okay, let's talk about Shariff and

1 Freddy now. You can draw whatever
2 reasonable inferences you want. I can
3 say anything, and you can accept it or
4 reject it. But we've got a piece of
5 note on the body. How did it get
6 there? I submit to you Jeffrey put it
7 there. "Dear Freddy," and the date on
8 the other side.

9 He alludes to the fact that
10 someone in the Hillcrest complex was
11 interviewed. You can hear it with
12 Levine or McIntyre or both. I forgot.
13 Nothing comes of it.

14 What do we next have of Jeffrey:
15 "Suspect, Shariff Goodson." Now,
16 Shariff is the suspect, with a possible
17 accomplice, but crossed out, "somebody
18 named Travis." Where is he getting
19 this stuff from? But he's feeding this
20 to the police.

21 Why would he say Shariff was a
22 suspect? Do you have a hint of it in
23 his conversations with Stephens on the
24 afternoon of January 25th where

1 Stephens indicated that the name
2 Shariff Goodson came up? As a matter
3 of fact, he wrote it on the back of one
4 of the pages. More importantly, in
5 response to one of the questions I
6 posed to him, the relationship between
7 him and Shariff, friendly or
8 unfriendly? It was unfriendly.

9 In the summer or 1989 Jeffrey was
10 at the pool. He sees [REDACTED] and her
11 sister and Amy, whoever that is. And
12 he's with John. He sees her in a
13 bathing suit. He begins to like her as
14 a girlfriend. That's what he said to
15 McIntyre on December 12th.

16 [REDACTED], Jeffrey and John were
17 sophomores at Peekskill High School.
18 They shared at least one class
19 together, global studies, social
20 studies, whatever you want to call it.
21 They were in the same class together.

22 We know, as is typical of most
23 teenagers, notes were exchanged, notes
24 were written, some by John to [REDACTED],

1 delivered to [REDACTED] by Jeffrey. We
2 know that [REDACTED] wrote notes, too, at
3 least one, if not more than one, to
4 Freddy. [REDACTED] was attracted to
5 Freddy. They were more than friends,
6 and the Freddy is Freddy Claxton. They
7 saw each other.

8 [REDACTED] was friends with Jeffrey,
9 but apparently from her vantage point
10 that was it, friends, acquaintances,
11 classmates, much in the same way that
12 Jeffrey started out in the interview
13 with McIntyre, to which McIntyre says,
14 "Jeffrey, if that's all you were, why
15 so distraught? Why did you go to four
16 sessions of the wake," to which Jeffrey
17 says, "I was only at three".

18 As was true with John Laurino, she
19 liked someone else. Is Freddy the
20 someone else?

21 Events build up to a head.
22 Perhaps in his own mind Jeffrey
23 envisions a relationship with [REDACTED]
24 much closer than [REDACTED] is willing to

1 engage in. Jeffrey knows about
2 ██████████ relationship with Freddy. He
3 says as much in his own typewritten
4 notes. Is there a hint of jealousy
5 here?

6 November 15th, 1989 ██████████ starts
7 to write one note to Freddy, and then
8 stops. But we know that she writes a
9 second note.

10 Somehow Jeffrey finds out about
11 that note. Listen to the tapes of
12 January 10th involving Levine and
13 especially McIntyre. The Defendant
14 intercepts the note in some fashion.
15 He has it. ██████████ was going to do two
16 things in that note, go to Griffins
17 Pond, the pit, take pictures and meet
18 Freddy. The note never got to Freddy.
19 Freddy never showed up.

20 Recall that portion of the tape
21 where McIntyre alludes to insider
22 trading in the context of how
23 information spreads, particularly with
24 respect to that note. It's on the

1 tape. And your recollection controls.
2 In response to the question, "What was
3 the cause for the argument?" Jeffrey
4 says, "She wasn't interested in going
5 out with him."

6 But then a little later he changes
7 that to, "She wasn't necessarily going
8 out with him, but not interested in him
9 anymore. She was going there to meet
10 another guy. A guy found out about the
11 note. She wrote a note, gave it to one
12 person to give to another who might
13 have told or shown the guy, or the guy
14 found out."

15 It's on the tape, ladies and
16 gentlemen. Listen to it.

17 McIntyre around this point says,
18 and we're talking about the third
19 person on January 10th, much like we
20 did with Stephens, McIntyre to Jeffrey
21 says, "We have a guy that cares for
22 her," meaning [REDACTED], "and doesn't feel
23 she's interested anymore".

24 Jeffrey interrupts McIntyre at

1 that point and says the following: "I
2 know, I know she's not interested
3 anymore." It's on the tape.

4 How does he know that? The guy
5 finds out she's going there to take
6 pictures and meet another guy. It's
7 the guy in the note. The other guy.
8 The guy went there to catch her before
9 the other guy got there.

10 It continues: She turns him down,
11 and the Defendant says, "It doesn't go
12 his way," meaning quite frankly, I
13 submit to you, that's Jeffrey. And
14 this is where I alluded to before.
15 This is after Brovarski comes in. The
16 tape is stopped, he comes back, and the
17 Defendant says, "██████████ had been to the
18 area once or twice before."

19 School is ended, her attempts to
20 join Henrietta on the trip were
21 rebuffed, not by Miss McDonald, but I
22 believe by another teacher, a trip to
23 some caverns which never took place,
24 and perhaps we can draw a reasonable

1 inference why that trip never took
2 place.

3 Does Jeffrey follow her home, or
4 somehow how does he get to where [REDACTED]
5 lives? I submit to you he sees her
6 leave through the front door, through
7 the side, up the gate and on High
8 Street. He sees her come to Constant
9 Avenue. She turns on the macadam path
10 and onto the guard rail.

11 I submit Jeffrey does one of two
12 things: He turns to the left without
13 seeing Harrison, or he does the same
14 thing with Jessica Salch. At some
15 point Jeffrey intercepts Jeffrey on the
16 macadam path where it is on the
17 decline. It goes down. Do you
18 remember how it goes down, which
19 attributed to Harrison's inability to
20 see what was going on. But he does
21 hear voices, muffled. He hears "you",
22 and I don't know if he used the word
23 "argument." He hears screams.

24 Does [REDACTED] have her head phones

1 on at that point? Does she have the
2 cassette recorder on her affixed to her
3 body with the belt clip? Where is the
4 belt clip found? It's not too distant
5 from the bra. Where is the cassette
6 recorder found? In that bush.

7 As you turn down the macadam path
8 going down, and I don't know whether
9 any of you noticed it, to the right
10 there is this large bush.
11 Interestingly, if you looked there you
12 would have seen a bottle in the middle.
13 If you saw that, that's the bush. I
14 don't know how that bottle got there.
15 That's where the cassette recorder was
16 found and, interestingly enough, in the
17 open eject position with the cassette
18 tape on the ground, New Kids on the
19 Block. [REDACTED] was interested in that.

20 I alluded to this in my voir dire.
21 She is dead and there is nothing we can
22 do about that. Some of you might feel
23 you can't bring her back, and why
24 compound the tragedy? Something to

1 that effect was said by Mr. Insero.

2 What about the concepts of
3 responsibility and accountability for
4 one's actions, no matter how old or
5 young you are? Enough said about that.
6 You know what your duty is. I'm not
7 going to insult your intelligence, but
8 I'm going to advocate here, and I'm
9 going to urge you to do something here.

10 She has the bag with her camera in
11 it and the cassette case and the lens
12 cap. Now, this is where we get to
13 McIntyre. Allegedly made? I submit to
14 you it was said. It starts out in the
15 third person and then he switches to
16 the first person. "What happened up at
17 school that day?" "I don't want to
18 talk about that." "I'll talk about
19 what happened up there," referring to
20 the pond.

21 He starts off, "The guy caught up
22 to [REDACTED] on the path. She was already
23 there taking pictures. He said hello,
24 and [REDACTED] said hi. The guy said,

1 don't do this, don't see another guy,"
2 referring to Freddy. [REDACTED] said,
3 "Don't tell me what to do." "I lost my
4 temper. She started to walk away. So,
5 we had our temper lost.

6 And to add insult to injury, she
7 turns away. "So, I hit her in the back
8 of the head with the Gatoraid bottle
9 that was lying on the ground. Then I
10 grabbed her around the throat, and she
11 got away and ran down the hill. She
12 ran down the dirt path, and I tackled
13 her. She landed on her stomach. I
14 then rolled her over and she tried to
15 scratch me. I began slapping her
16 around back-handed. I then put my hand
17 over her mouth. I may have done it too
18 long."

19 You will recall on the tape and in
20 response to the knowledge question,
21 that Jeffrey said at some point he, the
22 guy, in the third person, the killer
23 carried Angela from what we would
24 consider to be scene one to scene two.

1 Now he's telling McIntyre that
2 after hitting her in the head she broke
3 away and he ran after her. You're
4 going to have to work that out. Which
5 is the more accurate one? Or is it a
6 combination of both? She's hit in the
7 back of the head with the Gatoraid
8 bottle. You've seen the cap. It's not
9 a small little bottle. If you look at
10 the cap you can see.

11 We know the injuries that occur
12 with respect to the blow to the head.
13 Do we lose consciousness right away?
14 Are we stunned? Do we lose balance
15 such that the Defendant, in effect,
16 starts to try to carry her in some
17 fashion, but only she wakes up? She
18 regains her balance, so to speak, and
19 she's able to get away. In the process
20 he grabs for her throat. In the
21 process the bag with the camera is
22 dropped, the head phones go and the
23 cassette recorder lands in the bush.

24 There's no question that Jeffrey

1 never got beyond "I ripped off her
2 bra." I'll get to that. But I would
3 submit to you that after the Defendant
4 ripped off her bra in that area, off
5 the dirt path, and near that rock in
6 the ground he raped her, he had
7 intercourse with her and he didn't
8 ejaculate.

9 "Somewhere along the line she woke
10 up during the rape. She was probably
11 knocked out again. I think she was
12 strangled. He got up, and she was
13 still lying down. He walked to the top
14 of her head, picked her up by the hair
15 and strangled her, but I'm not sure if
16 he used a weapon to strangle her with,
17 but he probably did."

18 I'm reading from a portion of an
19 exhibit that's in evidence. Change
20 "he" to "I". Jeffrey is speaking. We
21 know at some point Jeffrey placed his
22 hand and exerted great pressure over
23 Angela's mouth, because Dr. Roh told
24 you about the injuries to the inner

1 lip. We also know that she was
2 asphxiated through a combination --
3 asphxiated to the extent that she could
4 no longer breathe. How was that
5 accomplished, by ligature, by manual or
6 a combination of both?

7 I submit to you, and I don't know
8 where that picture is, but Dr. Roh
9 carefully stated if this were a manual
10 strangulation, hands to neck with
11 nails, he would expect to see nail
12 marks. He didn't see those, but he saw
13 linear transverse lines consistent
14 with, as he ultimately testified,
15 perhaps a garment positioned around the
16 neck forced down with hands, either
17 while the Defendant was over her or, as
18 he said, he went up, went around the
19 head taking the sweatshirt and using
20 that as a ligature. Something you
21 wouldn't ordinarily consider to be a
22 weapon. But even here it was used as a
23 weapon.

24 I forget who first noted this, but

1 somebody first said, there was
2 something very strange the way it was
3 about the sweatshirt the way it was on
4 the body. You can see it. It's almost
5 as if it was taken off, used and put
6 back on. And isn't it interesting how
7 the jeans neatly find their way between
8 the two legs and the shoes at the foot.

9 And then what happens? She's
10 dead, she'd dead. He intentionally did
11 it. Were you there, was I there? Can
12 we get in his mind? Look at the facts.
13 How long does it take?

14 You take a gun, you shoot it, and
15 that's it. But to strangle somebody,
16 the time involved, the conscious
17 deliberative intentional acts. Forget
18 about intentional. Is that depravity
19 or what? Do we have to feel sorry for
20 someone capable of doing that?

21 And I tell you, ladies and
22 gentlemen, that if you reach the point
23 where you are convinced beyond a
24 reasonable doubt, don't let the

1 consequences of a guilty verdict
2 prevent you from finding not guilty or,
3 worst yet, compromising. Punishment is
4 for the Court, not you.

5 And I am raising my voice, because
6 as I sit here now it's going to pass
7 your minds, even if you don't
8 articulate. You have been here, you
9 have looked and you have seen the
10 audience. You are feeling, human
11 beings. Some of you are parents. Don't
12 let your empathy interfere with your
13 sworn duty, however distasteful or
14 uncomfortable it might be.

15 "She is dead weight". Jeffrey
16 says it on the tape. He drags her to
17 the ultimate, to her ultimate resting
18 spot. How do we know she was dragged?
19 He tells us, and we have those linear
20 abrasions on the underside. She is
21 dragged. I don't know whether it's
22 feet or head first, but she is dragged.
23 Like a piece of meat, dragged.

24 Why? The reason he didn't leave

1 the body there is because he told you
2 on the tape, it would be detected by
3 the people who perhaps walk down there,
4 perhaps walking their dog.

5 The body is covered with leaves
6 and twigs. The note is left, and he
7 leaves and goes home.

8 Jeffrey had trouble falling asleep
9 that night. Do you remember, he didn't
10 get to sleep until five o'clock in the
11 morning. That's the substance of the
12 conversation he had with McIntyre on
13 December 12th. Do you remember that?
14 "Jeffrey, why were you late for school
15 on November 15th?" "I had trouble
16 falling asleep. I didn't fall to sleep
17 until five." Three to four weeks he's
18 distraught.

19 You know, I started off with you
20 reading-- what was it I read, what type
21 of person do you think did this to
22 Angela? I'm looking for something
23 here. As usual, I always lose it. The
24 response was, "A sick person". What we

1 have here, ladies and gentlemen, I
2 submit to you, is a street-wise,
3 shrewd, calculating, manipulative, in
4 some way egotistical, creative and
5 knowledgeable young man.

6 His remark to Levine, "Why are we
7 playing games?" His cute comment to
8 Levine on January 22nd, "I hope you
9 don't run out of tape."

10 Why did he give his blood?
11 Because he knew his blood wasn't at the
12 scene and he hadn't ejaculated. He's
13 giving snow in the summertime, to coin
14 a phrase.

15 Why does he submit to a polygraph
16 examination when he initially expressed
17 distrust of it? Ego?

18 He was creatively and shrewdly
19 manipulative in this case. He did toy
20 with the police. But he was not
21 without a conscience, because on
22 January 25th ultimately, as McIntyre
23 said, he changed. His lips quivered or
24 he became subdued. I forget exactly

1 what it was. And he speaks in the
2 third, and then he switches suddenly to
3 the first person. But he only went so
4 far.

5 Yes, he ultimately wound up in
6 what has been you have physically
7 described as a fetal position. Does
8 that mean because he was the victim of
9 six hours of relentless interrogation,
10 first passive and then active? No.

11 What that is indicative of is
12 finally, but only partially
13 acknowledging his guilt to another
14 human being, realizing the full import,
15 but refusing to further articulate what
16 he did. He said as much to McIntyre
17 when he said, "Don't make me say any
18 more. I don't want to think about what
19 else I did. I don't want everyone to
20 know. They won't understand that I
21 didn't mean to do this, that I really
22 couldn't stop it. Everyone will know I
23 sometimes do things I can't control.
24 How will I face the kids?"

1 He can't even face himself.
2 Hence, the fetal position. His body's
3 emotional and physical reaction upon
4 fully realizing and verbalizing
5 partially what he had done. But there
6 is a recovery here, a multi-faceted
7 personality, a complex individual who
8 asked for coffee.

9 Ladies and gentlemen, listen to
10 the law tomorrow. When you go into
11 that jury room, don't go in twelve
12 directions at once. Work through your
13 Foreperson. Organize yourselves
14 rationally, dispassionately and
15 unemotionally when you review the
16 evidence.

17 Don't have testimony read back
18 just for the sake of reading it back,
19 because this gentleman over here takes
20 a long time to discern what it is you
21 want. But you have the right to do it.

22 Don't be different for the sake of
23 being different, but play the role of a
24 devil's advocate. Be reasonable at all

1 times. Reason to your fellow jurors
2 arguments. And if reason, logic and
3 common sense dictate it, be willing to
4 change your position, but only if
5 that's the case.

6 Stride, if you are able, to come
7 up with a unanimous verdict. And I
8 submit to you that once you've done all
9 that you will reach a point through
10 your Foreperson where you will and
11 should and have to find Jeffrey guilty
12 of the charges that will be submitted
13 to you.

14 Thank you.

15 THE COURT: Thank you, Mr. Bolen.

16 May I see both attorneys at the
17 side bar.

18 (Whereupon, the attorneys approach
19 the bench for a discussion off the
20 record.)

21 THE COURT: All right, we will
22 stop for today. The next step is the
23 charge to the jury by me. That will
24 probably take an hour and a half or