DRAMA

Chorus:
The augur has spread confusion,
terrible confusion;
I do not approve what was said
nor can I deny it.
I do not know what to say;
I am in a flutter of foreboding . . .
—Sophocles, *Oedipus the King*[1]

The trial resolves a mystery. There has been a charge of wrongdoing. Is the defendant guilty? Is the corporation liable? At the beginning no one can say for certain. But at the end the matter is finished so far as society is concerned.

How do jurors get from posing to solving the mystery?

Consider how mysteries are solved in crime fiction. The detective sifts evidence, questions people, follows leads, pieces together possible versions of what might have happened. A double narrative unfolds: the present story of the investigation and the past story of the crime. The detective, driven by desire to learn the truth about the crime, ultimately discovers it, and at that moment the two narratives, present and past, converge.[2]

Jurors are like detectives—only silenced and seatbound. While the proceedings unfold before them, they try to reconstruct the chronological sequence of events and to discover cause-and-effect relationships that can

explain them. They weigh scenarios, test hypotheses, form tentative conclusions. Finally they deliberate. They settle on a story. They match it to the best-fitting verdict among the choices the judge has given them. Their verdict inscribes the present on the past.

This movement toward judgment is propelled, as we shall see, by drama. The lawyers compete to induce dramatic responses within the jurors that will shift the way they frame the story. This dramatic potential is intrinsic to the trial form.

Two Decisive Hours

Let's return to the case of *Commonwealth v. LaRue Blaylock* described in the Introduction.[3]

The crier, you will recall, began the proceedings. Then Roger King made his opening statement, telling for the first time of the hideous murders the jurors had been called on to judge.

When King sat down, John Guilfoy, the defense counsel, announced that he would waive his opening statement.

King's first witness was Rupert Blaylock, who said he was the father of LaRue Blaylock and the father-in-law of the victim Donald Jones. King asked him if he had witnessed an argument between the two men the evening before the murders. "Yes, I seen them arguing, yeah." That was all King asked. Guilfoy had no questions, and Rupert Blaylock was gone so fast you could have missed him—except that he'd left a hint of a motive that might implicate his son in the crimes.

Now King called Mrs. Ellen Jones to the stand. She was wearing a black dress with a red vest and tie, and a small pearl pendant. He began:

Mrs. Jones, were you related to Marci Jones?
Yes.
How were you related?
She was my oldest daughter.
How old was she?
Eighteen.
Were you related to Audrey Jones?
Yes. She was my youngest daughter.
How old was she?
Sixteen.

Donald Jones, what was your relationship to him?
He was my husband.

There was something chilling to me in these simple statements. Ellen Jones was outwardly calm. She spoke crisply. King immediately began to lead her through her recollections of Monday, December 19.

She had left for work at an insurance company downtown about 7:30 that morning. Marci, who was home from school that day, called after 2:00 P.M. to tell her that Uncle L—Ellen Jones's stepbrother, LaRue—was in the house. Mrs. Jones asked what he wanted, and Marci replied that he'd come to pick up his tools. She asked Marci if he was angry.

Mrs. Jones was worried because she'd hired somebody else to finish the living room ceiling, which LaRue had been working on, and she didn't know how he would react to seeing that the repairs had been done without him. She had warned Marci not to let him in, because she wanted to be there when he first saw the ceiling. But Marci *had* let him in, and when Mrs. Jones asked her if he was angry, Marci grunted on the phone in the way that kids do, which indicated that he likely *was* angry. She asked her daughter to call her when he left, and Marci did in the next half hour.

Mrs. Jones arrived on her street at 8:30 that night, but instead of going directly home she went down the street to her mother's house, so she could hide the Christmas presents, pants for the girls, she'd bought on the way. At this point in her testimony she began to cry.

Guilfoy suggested she take some water or a break. But she recovered and went on, emotionally describing the conversation she'd had with LaRue at her mother's home.

LaRue didn't actually step inside the door of her mother's house, which struck Mrs. Jones as unusual. He stood there fidgeting, saying he had come to pick up some stuff. When she said Marci had told her he'd already gotten his tools, LaRue said no, that he'd decided not to mess with them until she, Mrs. Jones, got home. He'd just been down to her house, he said, but nobody had answered the door. So Mrs. Jones went over there with him. When she saw his tool bag she was surprised it was empty, except for a blowtorch. He took it, and the next thing she knew he was gone.

Standing on the enclosed porch, Ellen Jones noticed that the front door had swung back farther than usual. The bikes, the sofa, and the work table had all been pushed back so they weren't blocking the door, like they

had been. Tools were neatly piled, one on top of another, on the floor. Except for a lamp in the living room, the house was dark. Marci was supposed to be out shopping with her friend, and Audrey, sent to the house earlier by her grandmother to turn out a light she had noticed burning in the basement, must have stopped on the way back at *her* friend's. So Mrs. Jones went again to her mother's house.

At 10:00 P.M., assuming that the girls would be home by this point, she returned. There was a football game on the television. She changed the station and sat down on the sofa. She could hear a faint voice coming from the porch, and when she went out to look she found Marci's radio, which was unusual, since it never left Marci's room. Back in the living room she saw that a ceiling tile was out of place, and, thinking that one of the cats had crept into the space created by the dropped ceiling, she went to the top of the stairs to check.

There were clothes hanging over the banister that hadn't been there before. Her sewing machine was no longer in the hallway. She turned on the light in Marci's room and saw that the dresser drawers were all pulled out and that clothes were everywhere. Audrey's room was also in shambles, and the bed had been knocked down. Something was blocking the door to her own room; she had to force her way in. The light on her nightstand wouldn't work, and when she tried to turn on her son's television to get some light, it was gone.

She was scared. Somebody had ransacked the house. Leaving the room she tried to open the bathroom door but it wouldn't budge, and she saw a messy smudge on it. Mrs. Jones went downstairs and called her mother, telling her that the house had been ransacked, that she couldn't turn on the light, and that she should bring over the flashlight. When the older woman arrived they used the flashlight to go into the basement, since the switch at the top of the stairs wouldn't work. They found a bulb in a socket, turned it, and it came on.

At this point, for the first time in his questioning, Roger King sat down.

> *When it came on, was your attention directed anywhere in that basement?*
> Yeah. There were things—we had bags, storage bags and sleeping bags and tents and stuff down there. And all of this seemed to have been pulled out. But in the corner of the basement it looked like things had been piled up in a semicircle like, and my mother asked me what was that for. And I told her I didn't know, that I didn't put it there. And

there isn't a light back over there, so she used the flashlight and we went back over, and—

She did not go on, until King asked:

When you went back over, did you see any bed clothing from any section of the house?

In the middle of the—behind—even by the table and stuff that had been piled up there, it looked like one of the girl's quilts.

So what, if anything, did you do?

I reached down to pull the quilt up, and it wouldn't come up. So I pushed the things back that were around it and I tugged at it real hard. And when it came up one of the girls was there and she had—the tape was all over. Her face and her hands and her neck were tied.

Ellen Jones broke down, sobbing. The courtroom seemed suspended beyond time. Jurors were visibly moved. It was the climax to which her testimony had been building. Although everyone knew it was coming we did not know when or how, or what she would discover. Her recounting of the mundane events of the day, with the little discordances whose sinister meaning she could not grasp, and finally this flailing in uncertainty and fear, had created painful suspense, which now was supplanted by horror.

The silence could have lasted longer, but King broke it, asking the court to mark an item for identification as evidence. Judge Stout quietly rebuffed him: "Suppose we just wait a minute and let Mrs. Jones compose herself."

King asked for a bench conference. By the time he got the item marked as "Commonwealth Exhibit One," Mrs. Jones was ready to continue:

How was the tape on the face of your daughter, and could you use your face to indicate?

The tape was wrapped around her head. It was covering the left eye, coming across her mouth. Just a little bit of her nose—her nose didn't seem to be completely covered, but it was around her mouth and wrapped around the head.

Was anything else around the face area other than the tape?

The wire that seemed to be wrapped around her neck.

Where were her hands?

Her hands were up near her neck. They were like up here. The wire around her neck seemed to be wrapped around her hands as well.

When you saw this, did you hear anything?

I thought I heard her. I really thought I heard her moan. And I reached down to turn her over and there was blood everywhere. And I couldn't move her and I couldn't get the tape off by pulling it. So I ran upstairs and I got a knife.

What did you do with the knife?

I gave—when I got back, my mother was at her head and she took the knife and cut the wire off. It seemed like—just seemed like she was—like she was moaning. I thought I would get the tape off she would be able to breathe.

So did you take the tape off?

Yes.

Did you cut her hands free?

Yes.

Then what did you do?

All I could think of was that she was hurt, she was hurt bad, so I went to get—to call an ambulance.

King showed her Commonwealth Exhibit One—two sketches of her daughter's naked body, drawn by the police with her assistance. The defense counsel protested when King wanted to circulate the drawings to the jury, but the judge overruled him. When the jurors had looked at the drawings, King returned to the scene in the basement:

Mrs. Jones, after you made the discovery of your daughter in the basement, could you at that time identify which one of your daughters that it was?

No.

Why couldn't you?

Her face was covered with the tape and the only thing that was showing was one eye. And it looked like the tape was holding that eye open. I really thought it was Audrey because when I touched her her skin was kind of rough and Audrey has eczema and it was all over. And I thought it was Audrey because she was supposed to had put the light out.

Upstairs, Mrs. Jones was unable to call the ambulance because she was too upset to hit the right buttons on the phone. She went to a neighbor's home to make the call. When the officers arrived, she went back to her house, where the police told her to stay in the living room. She waited, noticing more damage: