

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
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17
18
19
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22
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STATE OF MICHIGAN
30th JUDICIAL CIRCUIT FOR THE COUNTY OF INGHAM
CRIMINAL DIVISION

THE PEOPLE OF THE
STATE OF MICHIGAN

v

Case No. 14-1380-FH
Hon. James S. Jamo

JOHN C. KELSEY II,

Defendant.

_____ /

JURY TRIAL - VOLUME 6

BEFORE THE HON. JAMES S. JAMO, CIRCUIT JUDGE

Ingham County, Michigan - Thursday, June 4, 2015

APPEARANCES:

For the People:

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For the Defendant:

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ALSO PRESENT:

John C. Kelsey II, Defendant
Detective Sergeant Kyle McPhee
Detective Trooper Troy Johnston

REPORTED BY:

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1	T A B L E O F C O N T E N T S		
2			PAGE
3			
4	<u>WITNESSES: PEOPLE</u>		
4	JAMES T. BUNDSHUH		
	Direct Examination by Mr. Roth		15
5	Cross-Examination by Mr. Morley		22
	Redirect Examination by Mr. Roth		33
6	JAMES MOOTS		
7	Direct Examination by Mr. Roth		37
	Cross-Examination by Mr. Morley		49
8	Redirect Examination by Mr. Roth		55
9	LUKE BEIMERS		
	Direct Examination by Mr. Roth		57
10	Cross-Examination by Mr. Morley		58
11	JAMES YOUNG		
	Direct Examination by Mr. Roth		59
12	Voir Dire Examination by Mr. Morley		61
	Direct Examination (Cont'g) by Mr. Roth		62
13	Cross-Examination by Mr. Morley		108
	Redirect Examination by Mr. Roth		119
14	DARREN GREEN		
15	Direct Examination by Mr. Roth		124
	Cross-Examination by Mr. Morley		130
16	Redirect Examination by Mr. Roth		131
17	ANDREW ADAMCZYK		
	Direct Examination by Mr. Roth		132
18	Voir Dire Examination Mr. Morley		135
	Direct Examination (Cont'g) by Mr. Roth		135
19	Cross-Examination by Mr. Morley		138
	Redirect Examination by Mr. Roth		139
20	SEAN TINKLE		
21	Direct Examination by Mr. Roth		141
	Cross-Examination by Mr. Morley		155
22	Redirect Examination by Mr. Roth		158
23	JEFFERY YONKER		
	Direct Examination by Mr. Roth		159
24	Cross-Examination by Mr. Morley		167
25			

1 TROY R. JOHNSTON
2 Direct Examination by Mr. Roth 169

	<u>EXHIBITS:</u>	<u>RECEIVED</u>
4	DXE Printout	32
	PX#119 Photograph	39
5	PX#120 Photograph	39
	PX#121 Photograph	40
6	PX#122 Photograph	40
	PX#123 Photograph	40
7	PX#124 Photograph	40
	PX#125 Photograph	40
8	PX#126 Photograph	40
	PX#127 Photograph	40
9	PX#128 Photograph	40
	PX#129 Photograph	40
10	PX#130 Photograph	40
	PX#131 Photograph	40
11	PX#132 Photograph	40
	PX#133 Photograph	40
12	PX#134 Photograph	40
	PX#135 Photograph	40
13	PX#136 Photograph	40
	PX#137 Photograph	40
14	PX#138 Photograph	40
	PX#139 Photograph	40
15	PX#140 Photograph	40
	PX#141 Video	48
16	PX#142 Video	48
	PX#143 Video	48
17	PX#144 Video	48
	PX#145 Video	48
18	PX#146 Interactive map	64
	PX#147 Photograph	67
19	PX#148 Photograph	67
	PX#149 Photograph	70
20	PX#150 Photograph	70
	PX#151 Photograph	70
21	PX#152 Photograph	70
	PX#153 Photograph	72
22	PX#154 Photograph	72
	PX#155 Photograph	72
23	PX#156 Photograph	72
	PX#157 Photograph	72
24	PX#158 Photograph	72
	PX#159 Photograph	76
25	PX#160 Photograph	76

1	PX#161	Photograph	76
	PX#162	Photograph	76
2	PX#163	Photograph	82
	PX#164	Photograph	82
3	PX#165	Comparison analysis	84
	PX#166	Overlay	103
4	PX#167	Photograph	135
	PX#168	Photograph	135
5	PX#169	Photograph	135
	PX#185	Sprint records	143
6	PX#186	Sprint record	148
	PX#187	Map	148
7	PX#188	Map	148
	PX#190	Photograph	163
8	PX#191	Photograph	163
	PX#192	Photograph	163
9	PX#193	Photograph	163
	PX#194	Photograph	166
10	PX#195	Photograph	166
	PX#196	Photograph	166
11	PX#197	Photograph	171
	PX#198	Photograph	171
12	PX#49	Insurance document	176
	PX#202	Map	178
13	PX#170	Photograph	181
	PX#171	Photograph	181
14	PX#172	Photograph	181
	PX#173	Photograph	181
15	PX#174	Photograph	182
	PX#175	Photograph	182
16	PX#176	Photograph	182
	PX#177	Photograph	182
17	PX#178	Photograph	182
	PX#179	Photograph	182
18	PX#180	Photograph	182
	PX#181	Photograph	182
19	PX#182	Photograph	182
20			
21			
22			
23			
24			
25			

1 Ingham County, Michigan
2 Thursday, June 4, 2015 - At 8:35 a.m.
3 THE COURT: Be seated, please. We're back on
4 the record in the matter of People versus John Kelsey --
5 it is File No. 14-380-FH -- for continuation of the jury
6 trial in this matter. I understand there are a couple of
7 things that you want to put on the record.
8 Mr. Roth?
9 MR. ROTH: Your Honor, it's -- in speaking to
10 Mr. Morley this morning, it is my understanding that he
11 intends to inquire of Detective Sergeant McPhee, "Was
12 there an interview scheduled with the Defendant?"
13 It is my opinion that that would be hearsay.
14 The only way a meeting could be scheduled is by way of a
15 conversation, which obviously would be hearsay;
16 conversation with the Defendant. So I would ask that to
17 be excluded.
18 MR. MORLEY: I don't think it's hearsay, Judge.
19 I think we're overreaching to say that's the only way.
20 I'm just asking whether or not Michigan State Police had
21 an interview scheduled with Mr. Kelsey at the time of his
22 arrest.
23 THE COURT: I don't understand the context,
24 Mr. Roth. What's the issue because it's not -- it's not
25 placing into evidence a statement.

5

1 MR. ROTH: The statement is that "I will come
2 meet with you."
3 THE COURT: The question is, "Was an interview
4 scheduled?"
5 MR. ROTH: "Was a meeting scheduled?"
6 THE COURT: Can I see counsel at the bench?
7 (At 8:36 a.m., an at-the-bench
8 discussion is held off the
9 record.)
10 THE COURT: All right. We had a discussion at
11 the bench about this. I will allow you each to make your
12 statement for purposes of preserving the record, but I
13 will say that the discussion essentially that we had is
14 the Prosecution's position is that even if the statement
15 -- even if -- the reference to a meeting being scheduled
16 is not really a statement. It's a reference to a meeting
17 being scheduled -- is not hearsay. Prosecutor argues
18 it's not relevant. Defense argues it is relevant.
19 You can go ahead and make whatever statement
20 you want about that, Mr. Roth, and then I'll let
21 Mr. Morley, and I'll make a ruling on it.
22 MR. ROTH: I think the Court has summed up our
23 position. First, that it is hearsay. The only way a
24 meeting gets scheduled is if somebody says, "I'll come
25 meet with you." Therefore, it is hearsay.

6

1 Secondly, in answer to the Court's question of
2 why does it matter? Well, to the extent that that's the
3 flip side of this. If you have to ask that question,
4 then it's not relevant. It becomes relevant if you ask
5 the follow-up question about the substance that prompts
6 the meeting. Obviously, those questions would be
7 hearsay. Without that follow-up, that first question is
8 misleading under 403 and irrelevant under 401 and 402.
9 THE COURT: Mr. Morley?
10 MR. MORLEY: Judge, I think we're overreaching
11 the rules of evidence. It's not hearsay. To read
12 further and say that a question of "Was a meeting
13 scheduled?" in and of itself incapsulates hearsay is an
14 over reading of the rules. That's just not there.
15 The relevance and recognizing the low standard
16 of relevance, the relevance is -- and it's all the way
17 around. The relevance is Mr. Kelsey reached out to the
18 police before he was arrested and scheduled a meeting
19 with them. That's relevant. It's relevant as well from
20 the other side that the police were looking at
21 Mr. Kelsey, and, in fact, had contact with him and
22 planned on meeting with him. So it's relevant all the
23 way around.
24 THE COURT: Mr. Morley, assuming that I would
25 let it in, how do we do that without misleading the jury

7

1 as to what actually happened because we're faced with
2 some constraints about what can be said about the
3 so-called scheduled meeting.
4 MR. MORLEY: And I think that's what I
5 addressed at the bench, Judge. It's either a limiting
6 instruction, if the Prosecution asks for it, or it's a
7 statement in closing.
8 MR. ROTH: Your Honor, I guess just to -- I
9 guess I forgot to place this on the record, but what we
10 discussed at the bench is that when he does have an
11 opportunity to speak to police, he refuses to speak. So
12 that inference is inaccurate, which I think the Court is
13 referring to, of what we can and cannot get into and why
14 it becomes misleading.
15 THE COURT: It is. That's why I'm referring to
16 it. So how do we --
17 I guess back to you, Mr. Morley. How do we
18 cure that because even if something is relevant and
19 admissible, it can't be used in such a way as to mislead
20 the jury.
21 MR. MORLEY: It's not misleading. And to say
22 after he got arrested is -- well, that's just the point,
23 Judge. A meeting was scheduled before he got arrested
24 where he was going to speak. That's a fair inference.
25 And he did get arrested and then didn't speak.

8

1 Circumstances changed.
2 That's a snapshot in time. There is a phone
3 call on Thursday, the twelfth of December. A meeting was
4 scheduled for that following Monday, which I believe
5 would be the fifteenth. At the time the meeting was
6 scheduled, there was an intent to talk to law
7 enforcement. Accordingly, that's relevant.
8 The fact that circumstances changed afterwards
9 is irrelevant. I think a follow-up question can be, "Did
10 you subsequently --" whether it's from me or from the
11 prosecutor, "Did you subsequently have that meeting?"
12 "No."
13 "Why not?"
14 Well, he was arrested and in custody, and
15 actually they never pursued the meeting.
16 MR. ROTH: I'm sorry, I missed the last
17 sentence.
18 MR. MORLEY: He was arrested and in custody,
19 and I don't think they ever pursued the meeting.
20 MR. ROTH: Didn't pursue the meeting?
21 MR. MORLEY: It was scheduled for Monday, and I
22 don't think there was a request to actually have it. I
23 don't think he was -- I take that back. He was spoken to
24 on the day that he was arrested, but the meeting didn't
25 happen.

9

1 But, step back. We're getting towards the end
2 justifying the means. A snapshot in time that I'm
3 talking about. My question is going to be "At the time
4 he was arrested, you had a meeting scheduled, right?"
5 "Right."
6 That's accurate. It's not misleading at all.
7 Circumstances changed after he was arrested, but the time
8 it happened, it's exactly what it was.
9 THE COURT: Mr. Roth?
10 MR. ROTH: Mr. Morley says then it's a question
11 to argue in closing. Well, he's going to stand up there
12 and say, "They arrested my client when he had a meeting
13 to cooperate. He was trying to cooperate."
14 Well, now, I've been undercut, and I can't put
15 in that he had the opportunity to cooperate. They gave
16 him every chance to cooperate. And he said, "No, thanks.
17 I'm not speaking." It's depriving the jury of half of a
18 picture.
19 THE COURT: Here's -- here's my perspective on
20 it. And what I'm going to rule is, first of all, it's
21 not hearsay. It's an action. It's not a statement
22 that's being offered.
23 I understand, Mr. Roth, your attempt to
24 bootstrap it to an inference as to how the meeting got
25 scheduled must have been through some discussion, but if

10

1 that were the case, a lot of actions wouldn't come in at
2 all based on the hearsay rule. So I don't think it's
3 hearsay.
4 I think the issue is whether it's relevant. I
5 think it is relevant if he were to be -- if he were to
6 have offered to be cooperative because so far the
7 Prosecution has shown, at least to some extent through
8 the evidence, the presentation that's been made through
9 testimony, that at least initially there were certainly
10 steps taken to not be found and to elude any connection
11 to any investigation of this chase and accident.
12 But I think that's not the end of the inquiry
13 because, as I stated, we can't admit something that is
14 relevant just because it's relevant and then do it in a
15 way that we mislead the jury.
16 So I think it's -- I think it's a Defense
17 decision at this point in time. Either it doesn't come
18 in because, although relevant, it is misleading the jury
19 as to what occurred if we don't put in some of the
20 subsequent events. So either it comes in with the
21 subsequent events or it doesn't come in. And the Defense
22 can make that decision as to which way it wants to go on
23 that.
24 But I don't think it's proper for us to mislead
25 the jury by just dropping the first part of it on them

11

1 and saying, he -- he offered to cooperate by having a
2 meeting and then not allow in what happens after that,
3 which is he decides not to cooperate.
4 MR. ROTH: Thank you, Your Honor.
5 THE COURT: Mr. Morley, you can decide on that.
6 MR. MORLEY: Thank you, Judge.
7 THE COURT: Okay.
8 Anything else for the record?
9 MR. ROTH: Your Honor, in speaking to
10 Mr. Morley, we have -- he's provided me with a list of
11 witnesses he'd like produced for tomorrow.
12 MR. MORLEY: Judge, can we approach? This
13 doesn't need to be on the record.
14 THE COURT: Sure.
15 (At 8:48 a.m., an at-the-bench
16 discussion is held off the
17 record.)
18 THE COURT: All right. So is there anything
19 else, then, that we need to cover before the jury comes
20 in?
21 MR. ROTH: No, Your Honor.
22 MR. MORLEY: No, sir.
23 THE COURT: All right. Let's bring them in.
24 Counsel, can I see you a second?
25 (At 8:51 a.m., an at-the-bench

12

1 discussion is held off the
2 record.)
3 (At 8:52 a.m., the jury entered
4 the courtroom.)
5 THE COURT: Please be seated. Good morning,
6 Ladies and Gentlemen of the Jury.
7 VARIOUS JURORS: Morning.
8 THE COURT: Before we get started this morning,
9 I just want to make one comment about where we think
10 we're going so that you have some idea as far as timing.
11 We'll go today as normal until, perhaps, about
12 1 o'clock or so, depending on where the witness testimony
13 lineup falls today. And then tomorrow, depending on what
14 happens today -- and maybe we'll be able to give you a
15 better idea at the end of the proceedings today -- I was
16 initially thinking we may have you here all day tomorrow.
17 Now it's looking that may not be necessary.
18 But just as a heads up, I'd like you to be
19 flexible tomorrow on any plan, as far as the afternoon,
20 until we see how things go today and whether we -- it may
21 make sense for us to go a little longer. And the whole
22 idea is that the plan at this point is, one way or
23 another, we anticipate -- whether you're here a little
24 longer tomorrow or it may not be necessary to be here a
25 little longer here tomorrow, that we will finish the

13

1 presentation of evidence by tomorrow, and that I will
2 bring you back on Monday morning for the closing
3 arguments and then deliberation.
4 And then so you should plan that on Monday
5 you'll be here, we don't know how long because it depends
6 on how long you decide you need to deliberate. And there
7 is no time set for that.
8 So that's the general idea. I will try to give
9 you a little better idea before I dismiss you today as to
10 what happened -- what might happen tomorrow. But just to
11 have that in mind so your own schedule can be
12 accommodated.
13 And then with that, Mr. Roth, you may call your
14 next witness.
15 MR. ROTH: Thank you, Your Honor. The People
16 call Detective Sergeant James Bundshuh.
17 THE COURT: Please raise your right hand.
18 Do you swear or affirm to tell the truth, the
19 whole truth, and nothing but the truth?
20 DETECTIVE SERGEANT BUNDSHUH: I do.
21 THE COURT: Please be seated. State your full
22 name, and spell the last name, please.
23 THE WITNESS: James Timothy Bundshuh. The last
24 name spelling is B-U-N-D-S-H-U-H.
25 MR. ROTH: Thank you, Your Honor.

14

1 THE COURT: Mr. Roth --
2 JAMES T. BUNDSHUH
3 called by the People at 8:55 a.m., sworn by the Court,
4 testified:
5 DIRECT EXAMINATION
6 BY MR. ROTH:
7 Q. Where do you work?
8 THE COURT: Mr. Roth, hold on one second. I
9 forgot one thing, which is probably as important as
10 anything else I told them about the schedule tomorrow and
11 it's a problem that I have. I have something I need to
12 attend first thing in the morning.
13 So tomorrow morning I'm going to have you
14 report at 9:15 instead of 8:15 so we can hope to start
15 about 9:30. So you'll come in a little later tomorrow.
16 I'll try to remind you of that again, but since I keep
17 forgetting that part of my schedule, I thought I better
18 put it in while I was thinking of it.
19 Go ahead, Mr. Roth. I'm sorry.
20 MR. ROTH: No problem.
21 BY MR. ROTH:
22 Q. Where do you work?
23 A. **I'm a detective sergeant. I work for the Michigan State
24 Police out of the Brighton Post.**
25 Q. How long have you been with the Michigan State Police?

15

1 A. **Just a little over 20 years.**
2 Q. Were you asked to assist in the investigation of the
3 police pursuit that killed Deputy Grant Whitaker?
4 A. **Yes, sir, I was.**
5 Q. Specifically were you asked to follow up with some of the
6 bars in the Livingston County area?
7 A. **Yes, sir, I was.**
8 Q. Was that focused on specific bars?
9 A. **One specific bar for sure.**
10 Q. Which one was that?
11 A. **The Dam Site bar.**
12 Q. Was that eventually brought in to include from earlier in
13 the night the Alley Bar?
14 A. **Yes, sir, it was in Dexter.**
15 Q. Did you interview people that you were able to place at
16 those bars on the evening hours of December 6th and 7th,
17 2014?
18 A. **Yes, sir, I was.**
19 Q. Did that include Brian Hildabridle?
20 A. **Yes, sir, it did.**
21 Q. When was the first time that you interviewed
22 Brian Hildabridle?
23 A. **I believe it was the eleventh.**
24 Q. Where was that?
25 A. **The first time that I interviewed him would have been --**

16

1 **if I can refresh my memory. I don't want to mix the two**
 2 **times up.**
 3 Q. Very good. You prepared a report that documented that?
 4 A. **Yes, sir, I did.**
 5 MR. ROTH: May I approach the witness,
 6 Your Honor?
 7 THE COURT: Yes.
 8 BY MR. ROTH:
 9 Q. (Approaching the witness.)
 10 If you can read that silently to yourself and
 11 look up when you're done.
 12 Did that refresh your memory?
 13 A. **Yes, sir, it did.**
 14 Q. All right. Where was the first time that you met with
 15 Brian Hildabridle?
 16 A. **The first time I met with him was in the Pinckney town**
 17 **square, and we walked from there over to the Pinckney**
 18 **Police Department where there was an extensive interview**
 19 **done there.**
 20 Q. Thank you. And was that interview recorded?
 21 A. **Yes, sir, it was.**
 22 Q. What was his demeanor during that conversation?
 23 A. **He was very apprehensive about meeting with me and**
 24 **speaking with me.**
 25 Q. After that interview concluded, did you obtain some new

17

1 information that you wanted to speak to him about the
 2 second time?
 3 A. **Yes, sir. In the interim, some phone records had been**
 4 **obtained, and there was some indications that he had**
 5 **spoke on the phone with somebody shortly after this**
 6 **incident.**
 7 Q. With whom?
 8 A. **The phone records were from John Kelsey's phone.**
 9 Q. Thank you. Why was that important to your investigation?
 10 A. **We knew that the vehicle that we were looking at belonged**
 11 **to John Kelsey, and it was suspected that he had been in**
 12 **a chase with police that night.**
 13 Q. Why did you want to follow up with Brian about that
 14 specific phone call, though?
 15 A. **Just to find out if he could tell us what it was they**
 16 **talked about on the phone.**
 17 Q. Was it shortly after the accident?
 18 A. **Yes, sir, it was.**
 19 Q. When was the second time that you spoke to
 20 Brian Hildabridle?
 21 A. **I believe it was on the sixteenth.**
 22 Q. Where?
 23 A. **That was in front of his residence in Pinckney.**
 24 Q. What was his demeanor at that time?
 25 A. **This time, again, he was apprehensive, but he was**

18

1 **actually kind of sullen.**
 2 Q. I'm sorry, what was the word?
 3 A. **Sullen.**
 4 Q. Sullen?
 5 A. **He was kind of sad, it seemed like.**
 6 Q. Very good. And, again, was that interview recorded?
 7 A. **Yes, sir, it was.**
 8 Q. Did you have a search warrant for Brian Hildabridle's
 9 cell phone at that time?
 10 A. **Yes, sir, we did.**
 11 Q. Was there any information on his cell phone?
 12 A. **I don't recall that I looked at his cell phone.**
 13 Q. Very good. Also as part of this investigation, did you
 14 do some follow-up regarding a tip that indicated there
 15 was the possibility that Davy Bettelon and/or
 16 Billy Porter might have been associated with the pursuit?
 17 A. **Yes, sir.**
 18 Q. Now, again, to start with the tip, this was just a mere
 19 possibility that they were involved, correct?
 20 A. **That's correct.**
 21 Q. And what did you do to confirm or dispel that tip?
 22 A. **Myself and Detective Sergeant Singleton, we interviewed**
 23 **Davy Crocket Bettelon. I don't know how to pronounce his**
 24 **last name. And from there we followed up on the**
 25 **information that he had provided us and went and talked**

19

1 **to one of his brothers about his knowledge of what had**
 2 **occurred and --**
 3 Q. Was the brother Billy Porter?
 4 A. **It was Billy Porter. That is correct.**
 5 Q. Very good. Go ahead.
 6 A. **While we were there interviewing him -- Detective**
 7 **Sergeant Singleton did the interview predominately with**
 8 **him. He had a vehicle in the driveway that was a white**
 9 **SUV. And in an effort to see if we could further**
 10 **determine if that had anything to do with this incident,**
 11 **Detective Sergeant Singleton and Mr. Porter drove the**
 12 **vehicle past the L & B Outlet in Stockbridge.**
 13 **And later on we went and recovered the video**
 14 **from that to compare it to the video of the suspect**
 15 **vehicle driving by the L & B. We were able to eliminate**
 16 **it as whether or not it was the vehicle. It had a**
 17 **different appearance.**
 18 Q. I'm going to show you on the screen People's Exhibit --
 19 I'm sorry, Defense Exhibit B. It's the second and third
 20 pages. Starting with the second one. You indicated that
 21 this was -- had a different appearance than the one
 22 involved in the pursuit. Could you explain what was
 23 different about it? If you touch the screen, it will
 24 make a mark.
 25 A. **Oh, this vehicle here, the area between the wheel wells**

20

1 and lower half of the space between the door -- er, the
 2 wheel wells appears to have a much darker area right
 3 below where that green dot is (illustrating), the area
 4 between the wheel well, which you'd refer to as the lower
 5 doors or the rocker panel or possibly where a running
 6 board might be appeared darker in this image -- er, this
 7 vehicle than the suspect vehicle where it appeared
 8 predominantly white or a whitish, light color.

9 Q. And you indicated that, sorry, it was between the wheels
 10 and maybe down into even the running board?

11 A. Correct.

12 Q. But it was actually on the side of the vehicle --

13 A. On the side of the vehicle, correct.

14 Q. But not on top of the running board?

15 A. Correct.

16 Q. Very good.

17 A. That's why I describe it as the lower half of the doors
 18 as well.

19 Q. Very good. In addition to the vehicle physically not
 20 matching the description, were you able to establish
 21 alibis for the other two possible people?

22 A. Mr. Porter had told --

23 MR. MORLEY: Objection, hearsay.

24 THE COURT: Mr. Roth?

25 MR. ROTH: Your Honor, the Defense had opened

21

1 the door to this issue by implicating these people. The
 2 officers are allowed to explain how they ruled them out.

3 MR. MORLEY: I didn't open the door to hearsay,
 4 Your Honor.

5 THE COURT: Sustained.

6 BY MR. ROTH:

7 Q. So without getting to the content of the statements, did
 8 you find witnesses to alibi these people, including
 9 themselves?

10 A. Yes, sir.

11 MR. ROTH: Very good.

12 I have nothing further of this witness,
 13 Your Honor.

14 THE COURT: Thank you, Mr. Roth.
 15 Mr. Morley?

16 MR. MORLEY: Thank you, Judge.

17 CROSS-EXAMINATION

18 BY MR. MORLEY:

19 Q. Detective, you interviewed Davy Bettelon, I believe, at
 20 the State Police Post, didn't you?

21 A. Yes, sir.

22 Q. And at that time or during that course of the
 23 investigation, you advised him that you believed he was
 24 lying to you, correct?

25 MR. ROTH: Your Honor, I'm going to object to

22

1 the hearsay. This is the same thing that Mr. Morley just
 2 objected to.

3 MR. MORLEY: I'm asking what he said.

4 MR. ROTH: That would be the same thing. It's
 5 an out-of-court statement.

6 BY MR. MORLEY:

7 Q. Did you believe --

8 MR. MORLEY: Go ahead. I apologize.

9 THE COURT: I'll sustain it.

10 BY MR. MORLEY:

11 Q. Did you believe that Mr. Bettelon was telling you the
 12 truth?

13 A. I didn't --

14 MR. ROTH: Your Honor, I'm going to object to
 15 speculation. We don't ask people if other witnesses are
 16 telling the truth.

17 MR. MORLEY: I can lay a foundation that he's a
 18 trained Michigan State Police detective and trained to
 19 determine and make a determination as to whether or not
 20 he believes the people are telling him the truth.

21 THE COURT: Overruled subject to the foundation
 22 being laid.

23 MR. ROTH: Your Honor, I apologize. We don't
 24 allow scientific polygraphs, but we're going to allow a
 25 witness to testify if somebody was telling the truth?

23

1 THE COURT: Overruled, subject to the
 2 foundation being laid.

3 MR. MORLEY: Thank you, Judge.

4 MR. ROTH: Thank you, Your Honor.

5 BY MR. MORLEY:

6 Q. Detective, I apologize. I didn't take a note. But
 7 you've been a trooper for 20 years?

8 A. A little over 20 years, yes, sir.

9 Q. And I'm right, you're currently a detective sergeant?

10 A. That's correct, sir.

11 Q. And how long have you been a detective sergeant?

12 A. A little over 11 years.

13 Q. And is it fair to say broadly that in your duties as a
 14 detective sergeant, you interview a number of people?

15 A. Yes, sir, that is correct.

16 Q. Is it fair to say that in that -- in those interviews,
 17 both when you were a trooper and then when you became a
 18 detective that part of what you do is try to determine
 19 whether or not people are telling you the truth?

20 A. No, sir, I would disagree.

21 Q. You don't try to determine whether people are telling you
 22 the truth?

23 A. I do not.

24 Q. In your entire career?

25 A. I don't do that, sir.

24

1 Q. You just take it at face value?
2 **A. I take the information they tell me, and I try to take it**
3 **down.**
4 Q. So the statement earlier when you said, "No, I don't
5 believe he was telling me the truth," is just not
6 accurate?
7 MR. ROTH: Your Honor, I believe that statement
8 was struck in need for a foundation.
9 MR. MORLEY: I don't believe anything was
10 struck, Your Honor.
11 THE COURT: It's not an answer in evidence
12 until a foundation is laid.
13 MR. ROTH: Thank you, Your Honor.
14 THE COURT: So I'll sustain that objection.
15 BY MR. MORLEY:
16 Q. Just so I'm clear, it's your testimony that as a Michigan
17 State Police detective, you made no determination,
18 whether in your gut, the back of your mind, anywhere,
19 whether or not somebody is telling you the truth?
20 **A. I don't, sir.**
21 Q. You previously determined that the Billy Porter vehicle
22 matched the description of the suspect vehicle. Is that
23 right?
24 **A. Can you say it again, sir?**
25 Q. You previously determined that Billy Porter's vehicle

25

1 matched the description of the SUV in this incident,
2 right?
3 **A. No, sir.**
4 MR. MORLEY: Approach the witness, Your Honor?
5 THE COURT: You may.
6 MR. MORLEY: Showing page 1 of 15 on his
7 report.
8 BY MR. MORLEY:
9 Q. (Approaching the witness.)
10 I'm going to show you -- these are my
11 highlights on it, but that is the front page of your
12 report. If you would read probably just that first line
13 there, please.
14 **A. Okay. Yes, sir, I understand.**
15 Q. Okay. You previously determined that Billy Porter owned
16 a white, full-sized Chevrolet that matches the
17 description of the SUV in this incident, right?
18 **A. At the time of writing that, yes, sir.**
19 Q. Okay. And Billy Porter, to your knowledge, had been
20 involved in this bar fight at the Back Street Bar
21 December 7th of 2014, right?
22 **A. No, sir.**
23 Q. Did you have information that he may have been involved
24 in the bar fight at the Back Street Bar in Stockbridge on
25 December 7th of 2014?

26

1 **A. No, sir.**
2 Q. Did you have information that Davy Bettelon may have been
3 involved in a fight at the Back Street Bar on
4 December 7th of 2014?
5 **A. Yes, sir.**
6 Q. And did you ask, or do you know, whether Mr. Bettelon or
7 Mr. Porter were involved in that bar fight together?
8 MR. ROTH: Your Honor, I'm going to object.
9 This is what we starting saying, "Did you ask this
10 information?" That was sustained as hearsay.
11 MR. MORLEY: No. I think my earlier question
12 was along the lines of "Did you say?" I'm asking whether
13 he asked. I think earlier I said, "Did you say that he
14 wasn't telling you the truth?" That was hearsay. I
15 think if I'm asking if he asked, that's not hearsay.
16 MR. ROTH: Without an answer, it lacks all
17 relevance.
18 MR. MORLEY: Well, which is it? Hearsay or
19 relevance?
20 THE COURT: Restate the question.
21 MR. MORLEY: I need it read back to me. I
22 apologize.
23 THE COURT REPORTER: (The following question
24 was read back verbatim:
25 Question: And did you ask, or do

27

1 you know, whether Mr. Bettelon or
2 Mr. Porter were involved in that
3 bar fight together?)
4 MR. ROTH: I'm also going to object to the
5 compound question.
6 THE COURT: That was going to be my point.
7 Mr. Morley, you need to break the question
8 down, sir.
9 BY MR. MORLEY:
10 Q. So you had information that Davy Bettelon may have been
11 involved in this bar fight at the Stockbridge -- Back
12 Street Bar in Stockbridge of December 7th of '14, right?
13 **A. Yes, sir.**
14 Q. It's your testimony as you sit here today that you had or
15 have no information that Mr. Billy Porter, who I believe
16 --
17 Well, let me step back. Billy Porter is Davy
18 Bettelon's half-brother, right?
19 **A. It's my understanding.**
20 Q. Okay. And then -- er, as you sit here today, you have no
21 knowledge as to whether or not Mr. Porter may have been
22 involved in that fight at the Back Street Bar as well?
23 **A. I don't know that he was involved in that fight at the**
24 **bar, no, sir.**
25 Q. Did you secure any photos or videos of a suspect vehicle

28

1 after the time that the Ingham County Sheriff's Office
2 started trying to catch up with this vehicle?
3 **A. Yes, sir. I believe I did one.**
4 **Q.** From after the -- and where is that?
5 **A. There was a printout from L & B that I had printed out**
6 **while we were there of a vehicle that had crossed in**
7 **front of the camera the day before the crash.**
8 **Q.** That's the day before. I'm asking after.
9 **A. Oh, I thought you meant --**
10 **Q.** No.
11 **A. -- closer. Not that I recall.**
12 **Q.** For ease of reference, after Ingham County turned on
13 their overheads.
14 **A. Not that I recall.**
15 **Q.** And now let me switch gears.
16 You were involved -- you're out of the Brighton
17 Post, but you were brought in to help on follow-up with
18 the Michigan State Police tip line, right?
19 **A. I was brought in to follow up and work on this case.**
20 **Q.** Which included following up on the Michigan State Police
21 tip line that was established or activated, right?
22 **A. Well, I didn't work on the tip line. I worked on the**
23 **tips.**
24 **Q.** Did you investigate tips that came in through the tip
25 line?

29

1 **A. Yes, sir.**
2 **Q.** Did you get information on about December 12th of '14,
3 that there was a look-alike to the suspect vehicle on
4 video from the L & B Outlet?
5 **MR. ROTH:** Your Honor, I guess I'm going to
6 object only to the form of the question. Is it that the
7 vehicle was a look-alike on the twelfth, or did he
8 receive the information on the twelfth?
9 **THE COURT:** I'll sustain the objection. I'll
10 allow Mr. Morley to clarify the question.
11 **BY MR. MORLEY:**
12 **Q.** Did you get information in Tip 99 regarding a suspect
13 vehicle on a video from the L & B Outlet on December 6th
14 of '14?
15 **A. Yes, sir.**
16 **Q.** Were you advised that it was a look-alike to the suspect
17 vehicle?
18 **A. I don't recall the words, but similar to that, correct.**
19 **MR. MORLEY:** Approach the witness, Your Honor?
20 **THE COURT:** You may.
21 **BY MR. MORLEY:**
22 **Q.** (Approaching the witness.)
23 I'm going to show you what's been marked -- er,
24 not marked. It's not going to be marked. That's Tip
25 No. 99. If you'd read the first part of that, let me

30

1 know when you read it.
2 **A. Okay.**
3 **Q.** You followed up on Tip No. 99 that we're referencing
4 right here, right?
5 **A. Yes, sir.**
6 **Q.** And you -- Tip No. 99 indicated:
7 Look-alike to suspect vehicle.
8 Right?
9 **A. Yes, sir.**
10 **Q.** And, in fact, you secured a photograph of that look-alike
11 vehicle, didn't you?
12 **A. Yes, sir.**
13 **MR. MORLEY:** Approach the witness, Your Honor?
14 **THE COURT:** You may.
15 **BY MR. MORLEY:**
16 **Q.** (Approaching the witness.)
17 I'm going to show you what's been marked as
18 Defendant's Proposed E. You'll see at the top there is
19 handwriting. It says it's Tip No. 99. That's presumably
20 Michigan State Police or prosecutor's office handwriting,
21 but is that the photograph that you secured?
22 **A. It appears to be, yes, sir. A copy of it.**
23 **Q.** I'm sorry?
24 **A. A copy of it, yes, sir. A grainy copy.**
25 **Q.** Do you believe that that fairly and accurately represents

31

1 what you secured at that time?
2 **A. Well, mine was much -- well, not much, but it was clearer**
3 **than that one.**
4 **Q.** Well, this is -- did you secure a photograph or a video?
5 **A. It was a printout from their machine there.**
6 **Q.** All right. But any reason to think that this isn't from
7 the same video or the same photograph?
8 **A. It appears to be the same photograph just poor quality.**
9 **MR. MORLEY:** Move for the admission of
10 Defendant's E, Your Honor.
11 **MR. ROTH:** Without objection, Your Honor.
12 **THE COURT:** Defendant's Exhibit E is admitted
13 and received.
14 (At 9:12 a.m., DXE is received.)
15 **BY MR. MORLEY:**
16 **Q.** And that depicts a larger white vehicle in the upper,
17 right-hand corner of it, right?
18 **A. Yes, sir.**
19 **Q.** And this is from the L & B Outlet in Stockbridge that we
20 referenced?
21 **A. Yes, sir.**
22 **MR. MORLEY:** That's all I have, Detective.
23 Thank you.
24 **THE COURT:** Thank you, Mr. Morley.
25 **Mr. Roth?**

32

1 REDIRECT EXAMINATION

2 BY MR. ROTH:

3 Q. All right. I want to start at the beginning and then go

4 forward. Mr. Morley asked you if you rely on what your

5 gut tells you about truth when you're doing your

6 investigation, and you said, "No."

7 Why is that?

8 **A. I rely on the evidence and the facts presented to me and**

9 **present those to the prosecutor's office to review.**

10 Q. Thank you. You're more concerned with the physical

11 evidence than your own guess as to truth or not?

12 **A. Yes, sir.**

13 Q. When Mr. Morley asked you if the Porter vehicle matched

14 the description, did it match the general description of

15 a large white SUV?

16 **A. Yes, sir.**

17 Q. Did the specifics match when you ran it through the

18 video?

19 **A. No, sir, they did not.**

20 Q. And that's that dark panel on the bottom of the vehicle

21 that you referred to earlier?

22 **A. Correct, sir.**

23 Q. And just to be clear, there was never any information

24 that Mr. Porter was at or related to the Back Street Bar

25 fight, correct?

33

1 **A. That's correct.**

2 Q. Just his brother was?

3 **A. That is correct.**

4 Q. And then Mr. Morley asked you about Defense Exhibit E, a

5 vehicle that was driven past the camera at 7:44 on

6 December 6, 2014. Do you recall that?

7 **A. Yes, sir.**

8 Q. Did you identify who this vehicle belonged to?

9 **A. I did, sir.**

10 Q. Who was that?

11 **A. I'd have to refresh my memory from the report of the**

12 **name.**

13 Q. Very good.

14 **A. I believe the last name was Marshall.**

15 MR. ROTH: May I approach the witness,

16 Your Honor?

17 THE COURT: You may.

18 BY MR. ROTH:

19 Q. (Approaching the witness.)

20 Turn to 99. You can take a moment and read the

21 corresponding pages.

22 Did that help?

23 **A. Yes, sir.**

24 Q. All right. Who did that vehicle belong to?

25 **A. It belonged to a Kathy Jewell Marshall, who lives north**

34

1 **of Stockbridge.**

2 Q. And how did you become alerted to this picture?

3 **A. As I recall, it was the clerk at L & B that told us about**

4 **a relative or a friend of hers that had driven by around**

5 **that time, and she provided her name and how to get ahold**

6 **of her while we were still at L & B.**

7 Q. Marshall was the last name of the owner of the vehicle?

8 **A. That's correct.**

9 Q. And some related person gave you contact information?

10 **A. That's correct.**

11 Q. Were you able to eliminate the Marshall vehicle as being

12 the suspect vehicle?

13 **A. Yes, sir, I was.**

14 Q. Please explain to the jury how.

15 **A. There was multiple ways. By looking at the photo, when**

16 **you look at the photo, this one the taillight is taller.**

17 **I don't have the photo of the suspect vehicle here, but**

18 **the Marshall taillight is a little bit taller.**

19 **The Marshall vehicle also, though not as dark**

20 **around the rocker panel area as the Porter vehicle, it**

21 **did have a little bit more shade to it than the suspect**

22 **vehicle did as well. In addition to that, I called and**

23 **talked to Ms. Marshall on the phone, and she explained --**

24 MR. MORLEY: Objection, hearsay.

25 THE COURT: Mr. Roth?

35

1 MR. ROTH: That's fine, Your Honor.

2 THE COURT: Sustained.

3 BY MR. ROTH:

4 Q. As to conversation through speaking to her and related

5 people, you're able to eliminate her as well?

6 **A. Yes, sir.**

7 Q. Very good. Showing you the picture in 41, does this

8 illustrate what you're referring to earlier about the

9 taillights in the Marshall vehicle being higher than the

10 suspect vehicle?

11 **A. Yes, sir.**

12 Q. Very good. And we actually see on the notation of

13 Exhibit E --

14 Is this your handwriting at the top?

15 **A. Yes, sir, it is.**

16 Q. What does it say?

17 **A. Not S vehicle.**

18 Q. And what does that mean?

19 **A. Not suspect vehicle.**

20 Q. Thank you. How old is Ms. Marshall?

21 **A. Oh, I don't recall. Born in 1962, so approximately three**

22 **years older than I am.**

23 MR. ROTH: All right. Very good, sir.

24 Thank you. I have nothing further.

25 THE COURT: Thank you, Mr. Roth.

36

1 You may step down, sir. Thank you.
2 THE WITNESS: Thank you, Your Honor.
3 (At 9:17 a.m., the witness
4 stepped down from the witness
5 stand.)
6 THE COURT: Mr. Roth, you may call your next
7 witness.
8 MR. ROTH: People call Trooper James Moots.
9 (At 9:17 a.m., the witness
10 stepped down from the witness
11 stand.)
12 THE COURT: Do you swear or affirm to tell the
13 truth, the whole truth, and nothing but the truth?
14 TROOPER MOOTS: I do.
15 THE COURT: Please be seated. State your full
16 name for us, and spell your last name, please.
17 THE WITNESS: James Moots, M-O-O-T-S.
18 MR. ROTH: Thank you, your Honor.
19 JAMES MOOTS
20 called by the People at 9:18 a.m., sworn by the Court,
21 testified:
22 DIRECT EXAMINATION
23 BY MR. ROTH:
24 Q. Good morning, sir.
25 A. **Morning.**

37

1 Q. Where do you work?
2 A. **Michigan Department of State Police, Lansing Post.**
3 Q. In what capacity?
4 A. **Road trooper.**
5 Q. How long have you been with the State Police?
6 A. **Approximately 11 years.**
7 Q. Were you assigned to assist in the investigation in the
8 police pursuit that killed Deputy Grant Whitaker?
9 A. **Yes, I was.**
10 Q. Specifically were you asked to document the locations
11 where some video was obtained?
12 A. **Yes, I was.**
13 MR. ROTH: May I approach the witness,
14 Your Honor?
15 THE COURT: You may.
16 BY MR. ROTH:
17 Q. (Approaching the witness.)
18 I'm going to show you Proposed Exhibits 119 and
19 120. Do these documents document the locations where you
20 took some pictures to document the cameras?
21 A. **Yes, they do.**
22 MR. ROTH: Your Honor, I'd move for the
23 admission of Proposed Exhibits 119 and 120.
24 MR. MORLEY: Without objection, Your Honor.
25 THE COURT: People's Exhibits 119 and 120 are

38

1 admitted and received.
2 (At 9:19 a.m., PX#119 and PX#120
3 are received.)
4 MR. ROTH: Thank you, Your Honor.
5 BY MR. ROTH:
6 Q. I want to start with the Gary Topping camera. Relative
7 to the Dam Site Inn, could you explain where that is?
8 A. **West of the Dam Site Inn.**
9 Q. On what road?
10 A. **I believe it's M-106.**
11 Q. What is that location?
12 A. **Gary Topping residence is his farm. It's got a barn on
13 the north side of the road, and the house is on the
14 outside of the road.**
15 Q. Thank you. Would your report refresh your memory as to
16 the address of that residence?
17 A. **Yes, it would.**
18 MR. ROTH: May I approach the witness,
19 Your Honor?
20 THE COURT: You may.
21 BY MR. ROTH:
22 Q. (Approaching the witness.)
23 A. **17157 East M-106.**
24 Q. Thank you. And I'm going to ask you some more addresses
25 too. So I'm going to leave that up there with you.

39

1 Okay?
2 A. **Okay.**
3 MR. ROTH: All right.
4 May I approach the witness, Your Honor?
5 THE COURT: You may.
6 BY MR. ROTH:
7 Q. (Approaching the witness.)
8 I'm going to show you what's been marked as
9 121 --
10 MR. ROTH: I apologize. One second.
11 When Mr. Morley is done reviewing them, I think
12 we're going to move to admit the batch. 121 through 140.
13 Is that correct?
14 MR. MORLEY: If those are the numbers. I
15 didn't look at the numbers.
16 It's without objection, Your Honor.
17 THE COURT: All right. People's Exhibits 121
18 through 140 are admitted and received.
19 (At 9:21 a.m., PX#121 through
20 PX#140 are received.)
21 MR. ROTH: Thank you.
22 BY MR. ROTH:
23 Q. So starting with the Topping residence on Eastbound M --
24 I'm sorry, tell me the road again?
25 A. **East M-106.**

40

1 Q. M-106. Thank you. What do we see in 121?

2 A. **That is going to be the west side of the barn on --**

3 **that's on the north side of the road.**

4 Q. So the Topping residence is on the north side of 106?

5 A. **Correct. The barn that has the cameras, the barn is on**

6 **the north side of the road.**

7 Q. And do we see that camera closer up in 122?

8 A. **Yes.**

9 Q. Could you circle the camera on the screen with your

10 finger?

11 A. **(Illustrating.)**

12 Q. What direction does that camera face?

13 A. **That faces towards the road south -- kind of southwest**

14 **direction.**

15 Q. Thank you. In 123, these are the angles of the camera?

16 A. **Yes.**

17 Q. The camera location angles?

18 A. **Yes.**

19 Q. Thank you. And the specific camera or view that we're

20 talking about that faces south, is that this one that's

21 labeled, I think it says, 4?

22 A. **Yes.**

23 Q. Thank you.

24 A. **Yes. That's the one.**

25 Q. Did you determine how far that camera is from the road?

41

1 A. **We -- I believe we did. I don't know the exact --**

2 **Can I refresh my memory real quick?**

3 Q. You may.

4 A. **It's not on here. It was actually photographed as part**

5 **of -- one of the photographs we took, we took the**

6 **measurement.**

7 Q. Could you give the jury an idea of how far it is off the

8 road?

9 A. **Somewhere between, I would say, 100 and 200 feet would be**

10 **an estimate of how far it was from the road.**

11 Q. Very good. So moving west along that same path, we get

12 to the Shell station. Is that correct?

13 A. **That's correct.**

14 Q. All right. And we have that zoomed in, in 120. First of

15 all, is it fair to say that the Shell, L & B, and

16 Marathon are in quick succession once you get onto --

17 excuse me, into Stockbridge?

18 A. **Yes.**

19 Q. Very good. So starting with the Shell station. What do

20 we see in 124?

21 A. **That is looking at the front of the Shell from the road,**

22 **the entrance to walk into the building.**

23 Q. What road is the Shell station on?

24 A. **The main road through -- I guess it could be M-106.**

25 Q. So same road as the Topping residence?

42

1 A. **Correct. I believe there is an in-town name for that**

2 **road. I don't know what that is for sure.**

3 Q. Would that be documented in your report?

4 A. **It's 390 West Main Street in Stockbridge.**

5 Q. Thank you. But it's on the same path as 106?

6 A. **Correct.**

7 Q. Very good. And then we see the entrance closer up in

8 125?

9 A. **Yes.**

10 Q. It's difficult to see on the screen. Are any the cameras

11 -- are any of the cameras visible there?

12 A. **Yes. There is -- I think -- is that the only one we have**

13 **of the Shell?**

14 Q. I believe so.

15 A. **There is actually two of them. And one of them is right**

16 **there (illustrating). I can't see on this screen here,**

17 **but the other one is over in this area over here**

18 **(illustrating).**

19 Q. Thank you. Thank you. All right. And then 126. Again,

20 we have the view from the various cameras there?

21 A. **That's correct.**

22 Q. And specifically looking at, let's see, 127. That's the

23 relevant camera angle towards the road?

24 A. **That is correct.**

25 Q. What side of the road is this Shell station on?

43

1 A. **It would be the north side of the road.**

2 Q. So the angle would be looking south in this picture?

3 A. **Correct.**

4 Q. Could you give us an idea of how far this camera is from

5 the road?

6 A. **I believe that might be in the report.**

7 Q. Go ahead.

8 A. **Approximately 175 feet from the roadway.**

9 Q. Thank you. Next we have going west the L & B Outlet.

10 What is the address there?

11 A. **Can I refresh my memory?**

12 Q. Go ahead.

13 A. **L & B is 420 West Main Street in Stockbridge.**

14 Q. Again, the same path that we've been talking about?

15 A. **That is correct.**

16 Q. Very good. 128, do we see a picture of the L & B?

17 A. **That is correct.**

18 Q. What side of the road is it on?

19 A. **It would be on the north side of the road.**

20 Q. And we see a camera in 129?

21 A. **That is correct.**

22 Q. Could you circle that for the jury?

23 A. **(Illustrating.)**

24 Q. Thank you. And then another one in 130?

25 A. **That is correct.**

44

1 Q. Could you circle that?
2 **A. (Illustrating.)**
3 Q. What directions do those cameras face?
4 **A. They face south. This one faces more of a southwest but**
5 **faced towards the road.**
6 Q. Thank you. 131, we have the matrix showing the different
7 angles there?
8 **A. That is correct.**
9 Q. What do we see in 132?
10 **A. That is looking at the road from the entrance of L & B**
11 **market.**
12 Q. This is parallel to one of the angles in the cameras?
13 **A. Correct.**
14 Q. And what is the road shown in front here? That would be
15 main?
16 **A. That would -- yeah, that would be Main Street there.**
17 Q. And I can't remember if you already said, but about how
18 far is the L & B camera from the road?
19 **A. I don't know if I put that on there. They were -- it was**
20 **documented, but it wasn't entered into the report on the**
21 **actual distance.**
22 Q. Could you give the jury an idea about how close or far
23 that was?
24 **A. I believe that was approximately 75 to 100 feet, in**
25 **there.**

45

1 Q. So it's much closer to the road than the Shell?
2 **A. Correct.**
3 Q. Moving along that path to the Marathon station. Do we
4 see the front of the Marathon in 133?
5 **A. Yes.**
6 Q. Could you circle the camera in that picture?
7 **A. There is a camera right here (illustrating).**
8 Q. What is the address at this Marathon station? It may be
9 in as Mugg & Bopps.
10 **A. Yes. 649 West Main Street.**
11 Q. Same road?
12 **A. Same road.**
13 Q. What side of the road is it on?
14 **A. This is on the south side of the road.**
15 Q. Very good. So the camera is facing north to the road?
16 **A. That is correct.**
17 Q. Very good. And do we see another camera angle in 134?
18 **A. Yes.**
19 Q. Could you circle the camera?
20 **A. There is a camera right there (illustrating).**
21 Q. Thank you. In 135, again, we have the matrix showing the
22 different angles of the cameras?
23 **A. That is correct.**
24 Q. What do we see in 136?
25 **A. One of the angles of the camera looking from the camera**

46

1 **to the roadway to Main Street.**
2 Q. Very good. About how far is it from this camera to Main
3 Street?
4 **A. I believe that was 75 to 100 feet as well.**
5 Q. So, again, much closer?
6 **A. Correct.**
7 Q. The final one noted is the Shannon Samulak camera. What
8 is that location?
9 **A. That is a residence.**
10 Q. What is the address there?
11 **A. That's at the corner of Dexter Trail and Cattle Drive.**
12 **The actual address is 4205 Cattle Drive in Stockbridge.**
13 Q. Showing you 137. Is that the Samulak residence?
14 **A. That is. That is the view from Cattle Drive.**
15 Q. And that's my next question. How far is the Samulak
16 residence to Dexter Trail?
17 **A. Approximately 102 feet. That's, like, from the camera to**
18 **the actual beginning of the roadway.**
19 Q. And that's to Cattle Drive or Dexter Trail?
20 **A. To Dexter Trail from the side of the house.**
21 Q. Very good.
22 **A. In this one here, you can actually -- you can barely see**
23 **the camera that is in question. Do you want me to circle**
24 **it?**
25 Q. You may. Go ahead.

47

1 **A. That's going to be this one here (illustrating).**
2 Q. Thank you. And that's going to be to the left of what we
3 see in 138?
4 **A. Correct. It's to the left of that. It's to the left of**
5 **this camera right here. It's going to be over on this**
6 **corner of the house (illustrating).**
7 Q. And in 139, we see the matrix of those different views?
8 **A. Yes.**
9 Q. And finally in 140, is this that perspective looking from
10 that camera to Dexter Trail?
11 **A. Yes.**
12 Q. Now, we see what looks like an intersection there. Could
13 you mark on the screen which road is which?
14 **A. This road right here is Cattle Drive, and this road is**
15 **Dexter Trail.**
16 MR. ROTH: Thank you.
17 Your Honor, we're going to move for the
18 admission of the respective videos, which would be 144,
19 145, 142, 143, 141. That was in no particular order. I
20 apologize.
21 MR. MORLEY: Without objection, Your Honor.
22 THE COURT: People's Exhibits 141, 142, 143,
23 144, and 145 are admitted and received.
24 (At 9:32 a.m., PX#141 through
25 PX#145 are received.)

48

1 MR. ROTH: Thank you, Your Honor.
 2 BY MR. ROTH:
 3 Q. And you've reviewed these items?
 4 A. Yes.
 5 Q. And the angles match what you saw the cameras that you
 6 were looking at that day?
 7 A. Correct.
 8 MR. ROTH: Very good.
 9 Nothing further of this witness, Your Honor.
 10 THE COURT: Thank you, Mr. Roth.
 11 Mr. Morley?
 12 MR. MORLEY: Thank you, Judge.
 13 CROSS-EXAMINATION
 14 BY MR. MORLEY:
 15 Q. Troop, by my notes, we went through five different
 16 cameras. Is that fair? I have Topping, Shell, L & B,
 17 Marathon, and Samulak?
 18 A. That's correct.
 19 Q. All right. The video footage from, excuse me, the
 20 Topping residence is not on what is alleged to have been
 21 the chase route, if you will, right? That's a sloppy
 22 question. If you don't understand, I'll say it again.
 23 A. As in?
 24 Q. Are you familiar with the route that this alleged chase
 25 took?

49

1 A. Not the whole route, no.
 2 Q. The Topping residence is not on that route, right?
 3 A. I do not know.
 4 Q. Okay. Any reason to disagree with me if I tell you it's
 5 not on that route?
 6 MR. ROTH: Your Honor, I guess I'm going to
 7 object. He's indicated he doesn't know.
 8 BY MR. MORLEY:
 9 Q. Do you know the Stockbridge area at all?
 10 MR. MORLEY: I apologize.
 11 THE COURT: I'll sustain the objection.
 12 MR. MORLEY: That's correct.
 13 THE COURT: Go ahead, Mr. Morley.
 14 BY MR. MORLEY:
 15 Q. Do you know the Stockbridge area at all?
 16 A. A little bit, yes.
 17 Q. Did you follow the alleged route?
 18 A. No, I did not.
 19 Q. The Shell gas station is not on the route of this alleged
 20 chase, is it?
 21 A. I don't recall the route of the chase.
 22 Q. The L & B Outlet is not on the route of this alleged
 23 chase, is it?
 24 A. Same. I don't recall the route of the chase.
 25 Q. And the Marathon is where the alleged chase starts,

50

1 right?
 2 A. That's what I have been informed, but --
 3 Q. And in your investigation -- I stepped on you. You said
 4 "but." Did you have more to say?
 5 A. But I don't know the route of the chase, the exact route
 6 of it, no.
 7 Q. And in your investigation of these cameras, is it fair to
 8 say that you learned that the time stamps on all of them
 9 were off?
 10 A. I believe they were off within a little bit. Some of
 11 them had been changed and reset.
 12 Q. Well, let's start with the Topping video, which I have
 13 the first one. You prepared a report in this matter,
 14 didn't you?
 15 A. Yes.
 16 Q. And did you -- do you know that that camera was believed
 17 to be about two hours off?
 18 A. Yes.
 19 Q. And, in fact, it was --
 20 A. That's what he had told us when we talked to him, yes.
 21 Q. So the Topping camera is two hours off at the time you
 22 met with him?
 23 A. That was, I believe, what he stated; it was two hours off
 24 before he had reset it to the original time. When we
 25 made contact with him, he had already reset his DVR or

51

1 his cameras. So it was -- he believes it was two hours
 2 off on the date in question.
 3 Q. Did you press him on that at all? And by that, I mean,
 4 believes it was two hours off is kind of a flippant
 5 statement, in my opinion. Did you --
 6 MR. ROTH: Your Honor, I don't know why
 7 Mr. Morley is giving his opinion at this time. He can
 8 ask questions.
 9 MR. MORLEY: If he'd let me finish the
 10 question, Judge.
 11 BY MR. MORLEY:
 12 Q. I'm asking whether or not you followed up to say, "Is it
 13 specifically two hours off," or --
 14 THE COURT: I'll overrule the objection and
 15 allow the question.
 16 BY MR. MORLEY:
 17 Q. Did you do any follow up to say, "Is it two hours for
 18 sure? Is it 2 hours, 15? Is it one hour, 50?"
 19 Do anything like that?
 20 A. No.
 21 Q. So the most you got is he believed it was about two hours
 22 off?
 23 A. That is correct.
 24 Q. Any other subsequent investigation to determine anything
 25 further as to the accuracy of the time stamp on the

52

1 Topping video?

2 **A. Just, I believe, at the time that we were there, which**

3 **was obviously after the pursuit.**

4 **Q.** I don't understand your answer, I apologize.

5 **A. He had stated it was two hours off on the night in**

6 **question. We weren't there the next day. So after he**

7 **had reset it, I believe we might have taken a photograph**

8 **of that, the new time, along with what the current time**

9 **was, obviously, days later.**

10 **Q.** Understood. The next video that I have, and I think this

11 is the order we went in, is the Shell video. That time

12 stamp was off as well, right?

13 **A. I believe so, yes.**

14 **Q.** Okay. And, in fact, you prepared a report in this

15 matter, right?

16 **A. Yes.**

17 **Q.** And you determined that that time stamp was off?

18 **A. I believe so.**

19 **Q.** The next video that I have is the L & B Outlet in

20 Stockbridge. And the time stamp was off on that video,

21 right?

22 **A. Yes.**

23 **Q.** Next video that I have is the Marathon station in

24 Stockbridge, and the time stamp is off on that one,

25 right?

53

1 **A. Yes.**

2 **Q.** Next video I have is the Samulak video where the time

3 stamp was off, again, by about two hours, right?

4 **A. Yes.**

5 MR. ROTH: I'm sorry, may I retrieve the binder

6 from the witness?

7 THE COURT: You may.

8 MR. ROTH: Thank you.

9 (Approaching the witness.)

10 BY MR. MORLEY:

11 **Q.** Switching gears a little bit, Troop, you were asked to --

12 let me make sure I say it the right way. Are you aware

13 that the Michigan State Police activated or set up a tip

14 line related to this matter?

15 **A. Yes.**

16 **Q.** And did you do any follow-up investigation relating or

17 emanating from that tip line?

18 **A. Yes.**

19 **Q.** Specifically Tip No. 90 on December 11th, did you receive

20 information that:

21 Possible suspect/Jakob Novak,

22 twenty-one years of age. Lives

23 in Pleasant Lake area. Was

24 dropped off near Stockbridge veh

25 20 minutes before crash. Drives

54

1 white SUV matching description.

2 I'll be happy to show this to you, if you'd

3 like.

4 **A. No, that's fine. I have that. The tip that I followed**

5 **up on wasn't for Jakob Novak. It was for a different**

6 **subject.**

7 **Q.** This is assigned to Trooper Moots and Moore.

8 **A. Correct.**

9 **Q.** Did you follow up on this?

10 **A. No.**

11 **Q.** You and Moore partners?

12 **A. Yes.**

13 **Q.** So you didn't follow up, to your knowledge, on Tip

14 No. 90?

15 **A. No.**

16 MR. MORLEY: All right. That's all I have.

17 Thank you.

18 THE COURT: Thank you, Mr. Morley.

19 Mr. Roth, do you have any redirect examination?

20 MR. ROTH: One moment, Your Honor.

21 REDIRECT EXAMINATION

22 BY MR. ROTH:

23 **Q.** Mr. Morley asked you about the Samulak camera being two

24 hours fast. Was it two hours or one hour? Let me ask a

25 different way. Would you have recorded it and passed it

55

1 along to Detective Sergeant Young?

2 **A. For the difference in the time?**

3 **Q.** Yes.

4 **A. Correct.**

5 MR. ROTH: Okay.

6 One moment, Your Honor.

7 Nothing further, Your Honor.

8 THE COURT: All right. Thank you, Mr. Roth.

9 You may step down, sir. Thank you.

10 THE WITNESS: Thank you, Your Honor.

11 (At 9:41 a.m., the witness

12 stepped down from the witness

13 stand.)

14 THE COURT: Mr. Roth, you may call your next

15 witness.

16 MR. ROTH: People call Detective Sergeant James

17 Young.

18 I apologize. People call Trooper Luke Beimers.

19 THE COURT: Raise your right hand. Do you

20 swear or affirm to tell the truth, the whole truth, and

21 nothing but the truth?

22 TROOPER BEIMERS: I do.

23 THE COURT: Please be seated. State your full

24 name and spell your last name for us, please.

25 THE WITNESS: Yes, sir. It's Trooper Luke

56

1 Beimers. It's B-E-I-M-E-R-S.
 2 MR. ROTH: Thank you.
 3 LUKE BEIMERS
 4 called by the People at 9:41 a.m., sworn by the Court,
 5 testified:
 6 DIRECT EXAMINATION
 7 BY MR. ROTH:
 8 Q. Trooper, where are you employed?
 9 A. **Michigan State Police, Lansing Post.**
 10 Q. In what capacity?
 11 A. **I'm a trooper.**
 12 Q. How long have you been with MSP?
 13 A. **A little over two years.**
 14 Q. Were you assigned to assist in the investigation in the
 15 pursuit that killed Sheriff's Deputy Grant Whitaker?
 16 A. **Yes, sir.**
 17 Q. And specifically did you determine if the Dam Site Inn
 18 DVR time stamp was correct?
 19 A. **Yes, sir.**
 20 Q. Was it?
 21 A. **Yes, sir.**
 22 Q. At least to the minute, maybe not the second?
 23 A. **Correct.**
 24 MR. ROTH: Very good.
 25 I have nothing further.

57

1 THE COURT: Thank you, Mr. Roth.
 2 Mr. Morley?
 3 CROSS-EXAMINATION
 4 BY MR. MORLEY:
 5 Q. How far off was it, Troop?
 6 A. **My cell phone only had the minutes. The minutes were**
 7 **exactly the same as what the DVR was.**
 8 Q. And that was when?
 9 A. **If I recall correctly December 19th.**
 10 MR. MORLEY: That's all I have.
 11 Thank you.
 12 THE COURT: Thank you, Mr. Morley.
 13 Anything further for this witness, Mr. Roth?
 14 MR. ROTH: No, your Honor.
 15 THE COURT: You may step down, sir. Thank you.
 16 THE WITNESS: Thank you, sir.
 17 (At 9:42 a.m., the witness
 18 stepped down from the witness
 19 stand.)
 20 THE COURT: Mr. Roth, you may call your next
 21 witness.
 22 MR. ROTH: People call Detective Sergeant
 23 Jim Young.
 24 THE COURT: Please raise your right hand.
 25 Do you swear or affirm to tell the truth, the

58

1 whole truth, and nothing but the truth?
 2 DETECTIVE SERGEANT YOUNG: I do.
 3 THE COURT: Please be seated.
 4 State your full name for us and spell your last
 5 name, please.
 6 THE WITNESS: My name is Detective Sergeant
 7 James Young, Y-O-U-N-G.
 8 THE COURT: Mr. Roth, when you're ready.
 9 MR. ROTH: Thank you. I apologize. Just one
 10 moment.
 11 THE COURT: It's all right.
 12 MR. MORLEY: This was at the podium, Counsel.
 13 MR. ROTH: Thank you.
 14 JAMES YOUNG
 15 called by the People at 9:43 a.m., sworn by the Court,
 16 testified:
 17 DIRECT EXAMINATION
 18 BY MR. ROTH:
 19 Q. All right. Good morning.
 20 A. **Good morning.**
 21 Q. Where do you work?
 22 A. **I work for the Michigan State Police biometrics and**
 23 **identification division, audio and video analysis unit.**
 24 Q. Thank you. How long have you been with the State Police?
 25 A. **Since July of 1995. So a little over 20 years.**

59

1 Q. How long in that position?
 2 A. **I've been doing that work since '99. I started off in**
 3 **the technical services unit doing audio and video a**
 4 **couple times a week and then created a unit out of it.**
 5 Q. What are your responsibilities in that position?
 6 A. **Basically we take any case that involves audio-video in a**
 7 **legal matter anywhere in the state and try to do**
 8 **analysis, create the best possible, most accurate piece**
 9 **of data for court purposes.**
 10 Q. And have you received training for that position?
 11 A. **Yes, I have.**
 12 Q. Could you explain that a little bit?
 13 A. **I received thousands of hours of training from different**
 14 **vendors in relation to the software that we use. Also**
 15 **the FBI, I received training in facial comparison, facial**
 16 **recognition. The Law Enforcement and Emergency Services**
 17 **Video Association, I have taken their whole certification**
 18 **track. I was a laboratory teaching assistant for LEVA,**
 19 **as well as a member of the certification program. And**
 20 **then the certification program manager from 2012 to 2015.**
 21 **I've also taught courses in forensic video**
 22 **analysis for my own company, also for Cognatec (phonetic)**
 23 **and then taught law enforcement all over the world.**
 24 Q. Thank you. Could you explain to the jury what forensic
 25 video analysis is?

60

1 **A. It's the scientific evaluation, examination, and/or**
2 **comparison of video in legal matters.**
3 Q. Have you testified as an expert in forensic video
4 analysis before?
5 **A. Yes, I have.**
6 Q. Approximately how many times?
7 **A. Over 50. Between 50 and 80.**
8 Q. Does that include within the Ingham County Circuit Court?
9 **A. Yes, it does.**
10 MR. ROTH: You Honor, at this time I'd move to
11 recognize Detective Sergeant Young as an expert in
12 forensic video analysis.
13 THE COURT: Mr. Morley, any voir dire or
14 objection?
15 MR. MORLEY: One question, Your Honor.
16 VOIR DIRE EXAMINATION
17 BY MR. MORLEY:
18 Q. Troop -- er, Detective, I apologize, have ever been
19 offered as an expert and not so qualified or accepted?
20 **A. No, sir, I have not.**
21 MR. MORLEY: I have no objection, Your Honor.
22 Thank you.
23 THE COURT: All right. The witness is
24 qualified and shall be permitted to testify as an expert
25 in this matter in the area of forensic video analysis.

61

1 Mr. Roth?
2 MR. ROTH: Thank you, Your Honor.
3 DIRECT EXAMINATION (CONT'G)
4 BY MR. ROTH:
5 Q. In this specific case, were you asked to assist in
6 processing and analyzing some of the video that was found
7 to be relevant to the police pursuit that killed
8 Sheriff's Deputy Grant Whitaker?
9 **A. Yes, I was.**
10 Q. As part of that investigation, were you provided with a
11 number of the commercial and residential DVR's along and
12 related to the route?
13 **A. Correct. DVR's, DVD's, CD's, and USB flash drives.**
14 Q. Thank you. Showing you, I apologize, 119. Did that
15 include the video from Topping and Samulak residences,
16 Shell station, and Marathon gas stations, as well as the
17 L & B Outlet?
18 **A. That's correct, yes.**
19 Q. Did you organize those videos into an interactive map?
20 **A. Yes.**
21 Q. Could you explain to the jury what that means?
22 **A. Yes. Instead of VCR recorders, now with modern times we**
23 **use DVRs or digital video recorders. Every DVR is**
24 **different. So a Samsung versus a Lorex, they're going to**
25 **have different playback methods. They have different**

62

1 **recording methods. They'll have different playback**
2 **methods.**
3 **It's really difficult to get the videos from**
4 **Dam Site Inn to play on your machines and then the videos**
5 **from Marathon. They use different playback methods.**
6 **Some machines won't play them back because there are**
7 **things that are called codec loaded on your machines**
8 **where they actually need codecs. Codec stands for**
9 **compression and decompression.**
10 **So while I may have an AVI file or audio -- I'm**
11 **sorry, audio video interleave file, it's a typical**
12 **Windows movie file. While it should play on your**
13 **computer, if you don't have the proper codec loaded, it**
14 **won't play back. If you have a conflicting codec loaded,**
15 **it won't play back.**
16 **So what I did instead of trying to play all of**
17 **those separately loading all of these codecs on different**
18 **machines, I captured the videos, converted them to WMV**
19 **file, and then linked them to this map. So with the map,**
20 **you can actually click on -- if you go to -- if you want**
21 **to look at video from the Gary Topping camera, there will**
22 **be a gray box. And all you have to do is click on it and**
23 **it's linked to the map. And then that way you can play**
24 **it back. It's just for ease of playback in the**
25 **courtroom.**

63

1 Q. Have you reviewed Item 146, Proposed Exhibit?
2 **A. Yes, I have.**
3 Q. And does that fairly accurately include all of that work
4 that you, let's say, summarized and compiled?
5 **A. Yes, it does.**
6 MR. ROTH: Your Honor, move for the admission
7 of Proposed Exhibit No. 146.
8 MR. MORLEY: Without objection.
9 THE COURT: People's Exhibit 146 is admitted
10 and received.
11 (At 9:49 a.m., PX#146 is
12 received.)
13 BY MR. ROTH:
14 Q. All right. So starting on the right here, it's not clear
15 in this screen. Do we know what the furthest east video
16 is available on the map?
17 **A. I believe it's the Dam Site Inn. If you click on the top**
18 **where it says percentage, you can increase that value,**
19 **and it should make it a little bit more clear to see.**
20 **Right on the middle. Right there.**
21 Q. Thank you.
22 **A. You're welcome.**
23 Q. All right. Dam Site Inn?
24 **A. Correct.**
25 Q. So you put two camera views here. Which camera views do

64

1 we see on this map?

2 **A. I can't read it. I believe it could be Camera 1 and 2,**

3 **but they're the two best camera views for outside.**

4 Q. And that's the point. Are they external cameras?

5 **A. Correct.**

6 Q. Very good. So what are we looking at in this video?

7 **A. This is Channel 1 from the DVR, and that's a light**

8 **colored video (verbatim) backing out and then will pull**

9 **forward.**

10 Q. Are we going to see what road it pulls on to?

11 **A. I believe it's Doyle Road. It's the main road that**

12 **connects to 106.**

13 Q. In what direction?

14 **A. It would be -- I believe at this point it's heading**

15 **northwest.**

16 Q. Very good. So that's 1. And it will loop if you don't

17 stop it?

18 **A. That's correct.**

19 Q. So let's go to the second one, Camera 2. Same thing as

20 Camera 1, just a different angle?

21 **A. Correct.**

22 Q. Very good. So let's follow that west to the Topping

23 residence. That's the next one?

24 **A. Yes.**

25 Q. What view are we looking at here?

65

1 **A. This is Camera No. 4. I believe we had a couple exterior**

2 **videos, but this is the only one that shows the road.**

3 Q. What did we see in that video?

4 **A. It's a light-colored video (verbatim) traveling from the**

5 **left side to the right side of the screen or from the**

6 **east to the west.**

7 Q. East to west?

8 **A. Correct.**

9 Q. Thank you. Now, I know you can't give us a specific

10 amount, but the white SUV's speed relative to other

11 vehicles we see traveling in that direction?

12 **A. It appears to be quicker than the vehicles before the**

13 **light-colored SUV.**

14 Q. Thank you.

15 **A. But, again, speed measurements from this wouldn't be**

16 **accurate.**

17 Q. Very good. Now, we only have a clip of about ten seconds

18 here. Were you provided with more?

19 **A. Yes. There were several hours worth of video provided by**

20 **the Topping cameras.**

21 Q. And from that camera, did you observe any other light-

22 colored SUVs traveling in that direction?

23 **A. Not in the specific time frames that were provided.**

24 MR. ROTH: Thank you. All right.

25 May I approach the witness, Your Honor?

66

1 THE COURT: You may.

2 BY MR. ROTH:

3 Q. Showing you Proposed Exhibits 147 and 148. Are these

4 still frames that you took from that Topping camera?

5 **A. Yes, they are.**

6 MR. ROTH: Move for the admission of Proposed

7 Exhibits 147 and 148.

8 THE COURT: Is there any objection, Mr. Morley,

9 or voir dire?

10 MR. MORLEY: No objection, Your Honor.

11 THE COURT: People's Exhibits 147 and 148 are

12 admitted and received.

13 (At 9:55 a.m., PX#147 and PX#148

14 are received.)

15 BY MR. ROTH:

16 Q. All right. So we're going to go away from our map for a

17 second and talk about the still frame. How is it, first

18 of all, that you obtained the still frame?

19 **A. The still frames were done two different methods using**

20 **the Topping cameras. There is a BMP export and then also**

21 **un-compressed screen capture was used. And the image**

22 **that's created is basically the best image that you're**

23 **going to be able to get from that DVR export.**

24 Q. Thank you. And in 148, you see the same thing. And then

25 we have a zoomed in angle, I apologize, at the top right?

67

1 **A. Correct. The terminology on the right is the name of the**

2 **file, and then it stands for two times by cubic squared**

3 **or by cubic smoother. Denoised stands for the DN and**

4 **then LV is levels, which means I tried to brighten it.**

5 Q. Thank you.

6 **A. You're welcome.**

7 Q. Why did you try and lighten it?

8 **A. These -- surveillance video, especially in this case,**

9 **these are all designed to monitor parking lot traffic.**

10 **They're really not designed to capture vehicles traveling**

11 **on the roadway. So it's more of an extra bonus to have**

12 **it on the roadway.**

13 **It's -- it's dark outside. DVRs use what's**

14 **called compression because they can't take in all the**

15 **video that comes in and just save it. It's too much at**

16 **one time for the hard drives to keep up, and you'd have**

17 **large files. So it -- during compression, it changes the**

18 **dynamic sometimes of the videos. So the sharpness and**

19 **contrast isn't there. So you try to process it after to**

20 **bring some of the contrast back.**

21 Q. Thank you. Switching back to our map. Continuing west,

22 we get to Shell station first?

23 **A. Correct.**

24 Q. And we see that they're combined. 9 -- I think it's 9

25 and 10. Why is that?

68

1 **A. They were saved in a SIF format, which it will play back**
2 **on a quad screen instead of capturing them separately. I**
3 **just captured all four at once. And then the two are**
4 **blank, and the top two are 9 and 10. That way you can**
5 **actually see how they -- one corresponds to the other**
6 **rather than playing them separately.**
7 Q. Do we see the large white SUV again travelling in this --
8 **A. There is a large, light-colored SUV that travels from the**
9 **left to the right, which would be from the east to the**
10 **west.**
11 Q. Thank you. On what road?
12 **A. I believe that's 106, or it may be Main there. I'm not**
13 **that familiar with Stockbridge.**
14 Q. All right. And, again, I know it's not a specific
15 estimate or a specific calculation but it's speed
16 relative to the others traveling in the same direction?
17 **A. Again, it appears to be traveling faster than the others**
18 **but speed wasn't measured.**
19 Q. Were you provided with more time from this video than
20 what we just see here?
21 **A. Yes.**
22 Q. And around the relevant period of time, did any other
23 light-colored SUVs travel in that direction?
24 **A. Within the time frame that was provided, no, I did not**
25 **notice any others.**

69

1 MR. ROTH: Thank you.
2 May I approach the witness, Your Honor?
3 THE COURT: You may.
4 BY MR. ROTH:
5 Q. (Approaching the witness.)
6 Showing you 149 through 152. Are these still
7 frames that you obtained from that video as well?
8 **A. Yes, they are.**
9 MR. ROTH: Thank you.
10 Your Honor, I would move for the admission of
11 Proposed Exhibits 149 to 152.
12 THE COURT: Mr. Morley, any question or voir
13 dire or objection to that?
14 MR. MORLEY: No objection, Your Honor.
15 THE COURT: People's Exhibits 149, 150, 151,
16 and 152 are admitted and received.
17 (At 10:00 a.m., PX#149, PX#150,
18 PX#151, and PX#152 are received.)
19 MR. ROTH: Thank you, Your Honor.
20 BY MR. ROTH:
21 Q. Continuing to move west to the L & B Outlet, we have
22 three cameras, it looks like, 3, 4, and 11. Starting
23 with 3.
24 **A. Yes.**
25 Q. So this is the same road that we looked at in previous

70

1 angle -- previous place, I apologize.
2 **A. That's correct. Just further west.**
3 Q. What direction is the large SUV traveling here?
4 **A. From left to right, which would be east to west.**
5 Q. Again, speed relative to the other vehicles shown?
6 **A. It appears slightly faster.**
7 Q. Again, you're provided with more time than just what we
8 see here?
9 **A. Yes.**
10 Q. Any other light-colored SUVs travel around the relevant
11 time?
12 **A. Not in this direction, no.**
13 Q. Thank you. This is another angle, Camera 4, from the
14 same place?
15 **A. That's correct.**
16 Q. And, finally, Camera 11.
17 MR. ROTH: May I approach the witness,
18 Your Honor?
19 THE COURT: You may.
20 BY MR. ROTH:
21 Q. (Approaching the witness.)
22 153 through 158, if you could take a moment.
23 Are these stills that you obtained from the L & B video?
24 **A. Yes, they are.**
25 MR. ROTH: Thank you.

71

1 Your Honor, I'd move for admission of Proposed
2 Exhibits 153 to 158.
3 MR. MORLEY: Without objection, Your Honor.
4 THE COURT: People's Exhibits 153 through 158
5 are admitted and received.
6 (At 10:02 a.m., PX#153 through
7 PX#158 are received.)
8 MR. ROTH: Thank you.
9 BY MR. ROTH:
10 Q. All right. Following the map just a little bit west to
11 the Mugg and Bogg's Marathon station, we have 3 and 7.
12 Starting with 3.
13 I apologize. Starting with 3.
14 So, first of all, we see on the screen there is
15 two vehicles there. What is that?
16 **A. Those two vehicles are the two patrol cars that were**
17 **involved in the pursuit in this case. So this camera**
18 **angle -- this camera is on the west side of the building**
19 **shooting north. So what you're going to see are vehicles**
20 **traveling from the left to the right and then the right**
21 **to the left. Left to the right would be west to east.**
22 **Right to the left would be east to west.**
23 This is also a three-way intersection. So
24 you'll see vehicles coming from the top of the screen to
25 the right and then to the right of the screen to the top,

72

1 **and then one vehicle goes straight across.**
 2 Q. And the large white SUV that we're going to keep an eye
 3 out for, what right to left (verbatim) is it going?
 4 A. **It's going to be going from the left to the right, and**
 5 **then it will continue straight across. And then you'll**
 6 **see the patrol cars. I believe one pulls out straight,**
 7 **and one backs out and then pulls forward.**
 8 Q. I apologize. Right to left or left to right?
 9 A. **It will go left to right, and then the patrol vehicles**
 10 **will follow. So left to right would be east to west.**
 11 Q. Was that what we just saw?
 12 A. **That's correct.**
 13 Q. So that would be right to left, though, correct?
 14 A. **No, because we're on the opposite side of the road now.**
 15 **So we're on the south side. The vehicle goes -- I'm**
 16 **sorry, from the right to the left. I'm sorry, from right**
 17 **to the left or east to west.**
 18 Q. Thank you. So right to left or east to west?
 19 A. **Correct.**
 20 Q. Thank you. And this is still on that same drag of road?
 21 A. **Yes. It's furthest to the west.**
 22 Q. And were you able to match this vehicle to the one that
 23 is shown in the in-car video in some way?
 24 A. **Yes. So the -- the in-car -- in-car video shoots**
 25 **straight across the roadway, and then this video is back**

73

1 **behind the patrol cars. So it shoots the patrol cars and**
 2 **then the roadway. I watched both videos.**
 3 **The patrol car videos is difficult to obtain**
 4 **still images from because the patrol car in-car system is**
 5 **designed to capture this movement (demonstrating). So**
 6 **movement on the same direction.**
 7 Q. So you're gesturing going forward?
 8 A. **Correct.**
 9 Q. As opposed to side to side?
 10 A. **Correct.**
 11 Q. Go ahead.
 12 A. **So you end up with what's called motion blur. But when**
 13 **the vehicles travel past the patrol cars, you can see a**
 14 **lighter-colored SUV go from the east to the west, and**
 15 **then there is a reddish colored SUV-sized vehicle that**
 16 **goes -- I'm sorry, the first vehicle goes west to east.**
 17 **The reddish vehicle goes east to west. And then the**
 18 **light colored SUV that's of interest in this case, we**
 19 **believe, travels right behind the reddish vehicle from**
 20 **east to west.**
 21 **You're able to see that in both videos, and**
 22 **they're within a second of each other. So the total time**
 23 **frame from the first vehicle to the light-colored SUV is**
 24 **21 seconds in both videos, both the patrol car videos and**
 25 **the Mugg & Bopps video.**

74

1 Q. Very good. In addition you see the deputies in the Mugg
 2 & Bopps video take off after that car, correct?
 3 A. **Correct. And that's in correlation with the patrol car**
 4 **video.**
 5 Q. Camera 7 also from the Marathon?
 6 A. **Correct. That's on the north side of the station, and**
 7 **that covers the main roadway, and that's going to be east**
 8 **to the right, west to the left.**
 9 Q. And, again, you're provided a larger set of time than
 10 what we see here?
 11 A. **With this camera angle, I was provided a very short**
 12 **period of time. So the very first vehicle that I believe**
 13 **you see is the light-colored SUV, and then you see the**
 14 **patrol cars backing out and pulling forward and leaving.**
 15 Q. Any longer than the other angle that we just saw?
 16 A. **Yes.**
 17 Q. And in that one over the relevant period of time, do any
 18 other light-colored SUVs travel in the east to west
 19 direction?
 20 A. **No, only in the opposite direction.**
 21 Q. And, again, its speed relative to the other ones shown?
 22 A. **It appears to be faster.**
 23 MR. ROTH: Thank you.
 24 May I approach the witness, Your Honor?
 25 THE COURT: You may.

75

1 BY MR. ROTH:
 2 Q. (Approaching the witness.)
 3 Proposed Exhibits 159 through 162, if you could
 4 take a look at. Are these all stills that you took from
 5 those videos?
 6 A. **Yes, they are.**
 7 MR. ROTH: Your Honor, I'd move for the
 8 admission of Proposed Exhibits 159 to 162.
 9 MR. MORLEY: Without objection, Your Honor.
 10 THE COURT: People's Exhibits 159 to 162 are
 11 admitted and received.
 12 (At 10:08 a.m., PX#159 through
 13 PX#162 are received.)
 14 MR. ROTH: Thank you, Your Honor.
 15 BY MR. ROTH:
 16 Q. Then we move forward to the Samulak residence. Were you
 17 made aware that that was, let's say, adjacent to the
 18 pursuit path?
 19 A. **Yes.**
 20 Q. We have a few different angles here starting with where
 21 it says Camera 2. What are we going to see in Camera 2?
 22 A. **Okay. Actually, they're all the same angle. This camera**
 23 **is going to be shooting -- I believe it covers the --**
 24 **it's off to the north, northwest, and it's going to be**
 25 **covering traffic -- I'm not sure what that road is, but**

76

1 **it's traffic that travels east to west.**
2 Q. See if this helps as we talk about it. This is the view
3 we've had testimony about from that camera. So this is
4 the road we're going to see in 2?
5 **A. Correct. Right in the middle vertical portion of the**
6 **screen is the roadway that we're talking about.**
7 Q. Very good. So we're going to play Camera 2, and we're
8 going to play it a couple times. What should we be
9 watching out for in this particular angle?
10 **A. It's very difficult to see. There was a question if --**
11 **it was believed that there was a light-colored object**
12 **that travels from left to right on the screen. I was**
13 **advised that it was easier to see at the residence on the**
14 **DVR, but after the file was downloaded and played on**
15 **computer it was difficult to see. And then the next**
16 **thing you see is the patrol cars come through.**
17 **So what I was asked to do is to view it and try**
18 **to brighten it, try to do anything I could to get that**
19 **more visible. So the very first view is just the**
20 **download of the DVR. So right around 3:00:38 you'll --**
21 **you possibly -- the first time you see it, you may see**
22 **something move from left to right. So under the AM**
23 **section, it says 14:12:07 a.m., there is a white light,**
24 **and then 3:00:29. Where it's first visible is right**
25 **under the AM and moves towards the right of the screen.**

77

1 Q. Could you make a mark along its path to watch out for?
2 **A. Sure. It's going to be traveling in this direction.**
3 Q. Fair to say in this angle all we're going to see is sort
4 of a dark blip?
5 **A. And some people see it right away. Other people don't**
6 **see it. So the very first time, the very first thing you**
7 **may see is the patrol car.**
8 Q. Now, let's also -- let me ask you: The DVR in this one,
9 when you accessed the DVR in this particular version, how
10 far off is it?
11 **A. When I accessed the DVR, it had been reset.**
12 Q. All right. There was a notation about -- let me see.
13 MR. ROTH: May I approach the witness,
14 Your Honor?
15 THE COURT: You may.
16 BY MR. ROTH:
17 Q. (Approaching the witness.)
18 We see at some point it was reported 52 minutes
19 fast with your name next to it.
20 **A. Right. Originally on 12-18 Trooper Baker advised that**
21 **the system had been reset since the incident and that it**
22 **was believed to be two hours fast. On January 13th,**
23 **Detective Trooper Johnston and I went to all of these**
24 **locations. And at that time the system had said 11:35,**
25 **and Verizon time was 10:43. So approximately 52 minutes.**

78

1 Q. 52 minutes. Thank you. All right. I'll clear the
2 screen, and we'll play the first angle, and we'll do it a
3 couple of times.
4 All right. So by now the first one has passed,
5 correct?
6 **A. Correct. That's actually the patrol car that just went**
7 **past, the first patrol car.**
8 Q. All right. So there is a vehicle in front of the patrol
9 car. There is some sort of moment that you can tell?
10 **A. There is some sort of movement that travels in the same**
11 **-- same plane as what a vehicle would travel.**
12 Q. Very good. How far in front of the patrol car is that
13 first movement?
14 **A. The first -- the first movement where you can first see**
15 **it, I believe, is at 3:00:38, and the first time that the**
16 **patrol car passes that same area is 3:00:51. So I**
17 **believe the difference is about 13 seconds.**
18 Q. Very good. So we're going to play that again just before
19 the 3:00:38 time.
20 All right. Now, in the next camera, did you do
21 something to help clarify that image?
22 **A. In the next camera, all it is, is the original version**
23 **zoomed two times. So you may not notice a difference**
24 **here either. With this, we actually used a forensic type**
25 **zoom algorithm rather than just dragging the corners of**

79

1 **the screen.**
2 Q. Thank you. All right. Next angle is zoom and levels.
3 What do we have there?
4 **A. Okay. With zooms and levels, it's two times zoom, and**
5 **then what was done was to change the brightness -- if you**
6 **can pause it for just a second -- to change the**
7 **brightness. So we make the brights brighter, and the**
8 **darks actually get a little bit darker, so it changes the**
9 **contrast.**
10 **What you're going to notice on the screen is**
11 **you'll see a bunch of different specks or flakes. Those**
12 **are compression artifacts. So it's going to look like**
13 **it's snowing out. That's because it's dark. And when I**
14 **mentioned that DVRs use compression, it will take things**
15 **that are different colors, such as my suit is black, and**
16 **there are lighter colored pinstripes. If it's dark out**
17 **and you're using compression, it will just show up as**
18 **black. While the stripes are still there, you can't see**
19 **them.**
20 **If there is a little bit of ambient light,**
21 **there may be a big gray splotch on the front of my**
22 **jacket. That's just because that's how the DVR encoded**
23 **it. So while you're going to see all of these things**
24 **that look like it's snowing out, there is only one**
25 **specific thing that travels in this type of movement**

80

1 or --

2 Q. Side to side?

3 A. **Side to side type of movement. And you'll see that right**

4 **around 3:00:38. And I -- I misspoke before. It's not --**

5 **this light here, I believe it's this light here. So**

6 **you'll see it travel in this direction (illustrating).**

7 Q. Thank you. Did we just see that?

8 A. **Right there is where it tails off the screen right around**

9 **39 to 40. 39.**

10 Q. All right. And we do one more -- I'm sorry, two more

11 angles. And the next one is zoom level ANN. What does

12 that mean?

13 A. **So it's the same files before. It's two times zoom, and**

14 **then the levels were changed, and then the ANN stands for**

15 **annotate. And I just drew a green ellipse around the**

16 **object and followed it from left to right.**

17 Q. So 13 seconds later we have the first patrol car,

18 correct?

19 A. **That's correct.**

20 Q. Fair to say that the overhead lights -- headlights are

21 very easily visible particularly in this format?

22 A. **Yes.**

23 Q. Are there any lights visible on the first vehicle?

24 A. **No.**

25 Q. And in the final one that you have zoom levels and slow,

81

1 what is that?

2 A. **Okay. That's the same thing as before. It's two times**

3 **zoom. It is the levels change, annotation, and I just**

4 **slowed back the playback. So it makes it a little bit**

5 **easier to view.**

6 MR. ROTH: May I approach the witness,

7 Your Honor?

8 THE COURT: You may.

9 BY MR. ROTH:

10 Q. (Approaching the witness.)

11 All right. I'm going to hand you 163 and 164.

12 163, is that a still from the initial completely

13 unfiltered view?

14 A. **That's correct. It's just an export.**

15 Q. And then 164, is that under the levels and the zoom?

16 A. **Correct. It's -- yes. It's zoomed, and then there are**

17 **level adjustments.**

18 Q. Very good. And these are both stills from those videos?

19 A. **Correct.**

20 MR. ROTH: Move for the admission of 163 and

21 164.

22 MR. MORLEY: Without objection, Your Honor.

23 THE COURT: People's Exhibits 163 and 164 are

24 admitted and received.

25 (At 10:20 a.m., PX#163 and PX#164

82

1 are received.)

2 BY MR. ROTH:

3 Q. All right. We're going to switch off the video then, and

4 I'm going to ask you to show the jury in the still that

5 we see in 164, could you circle the vehicle that goes

6 first?

7 A. **The object of interest that moves from left to right**

8 **would be in this location and in this (illustrating).**

9 Q. Thank you. Once you had and processed all of these

10 videos, did you perform a comparison analysis?

11 A. **Yes, I did.**

12 Q. (Approaching the witness.)

13 Let me give you what's been marked as Proposed

14 Exhibit 165, a binder. Does that include your relevant

15 analysis?

16 A. **May I refer to my report just to double check that all of**

17 **the pages are here?**

18 Q. Go ahead.

19 A. **Yes. The first 38 pages of this document are in**

20 **reference to the comparison.**

21 MR. ROTH: Very good.

22 Your Honor, I'd move for the admission of

23 Proposed Exhibit 165.

24 MR. MORLEY: No objection.

25 THE COURT: People's Exhibit 165 are admitted

83

1 and received.

2 (At 10:22 a.m., PX#165 is

3 received.)

4 BY MR. ROTH:

5 Q. Thank you. Could you tell the jury what your comparison

6 analysis is, what that means?

7 A. **Yes. So I was asked to do a comparison analysis between**

8 **the vehicle at the Dam Site Inn on the sixth and the**

9 **seventh, the vehicles that were involved in the other**

10 **movies that we just looked at, and then also a vehicle**

11 **that was -- we were advised was at Mugg & Bopps on the**

12 **fifth. What a comparison analysis does is you have a**

13 **questioned and then a known vehicle.**

14 In this case, the questioned is the vehicles --

15 the vehicles that are in the other videos. The known

16 would be the vehicle that is in the Dam Site Inn video.

17 Normally we have the known being a seized or photographed

18 vehicle, but in this case I don't have that.

19 Q. What is the process by which you do your comparison?

20 A. **In comparisons we look at two things. We look at class**

21 **characteristics and then unique characteristics. I can**

22 **explain these. It's better if I can stand and show the**

23 **jury.**

24 Q. Go ahead.

25 A. **So a class characteristic is something that puts someone**

84

1 or a person, a piece of clothing, a vehicle, in a group.
 2 So if I'm looking at a pickup truck, a red, Ford, Ford
 3 F-150 pickup truck. Those are all class characteristics.
 4 This binder: Black, a white sticker on the
 5 back, see-through coating, two-inch. Those are all class
 6 characteristics.
 7 Unique characteristics, what they're for are to
 8 eliminate all other people, objects from that same class.
 9 So while this is a black binder and has a sticker on the
 10 back and see-through on the front, if you look at the top
 11 of the plastic, you'll see a dot pattern. That's just
 12 where it's from heat. It's from the holding onto it.
 13 This sticker has a smudge on it, and that's from
 14 sweating, holding onto it. And every time I use this for
 15 court, it smudges in a different direction.
 16 So that would be -- that would be specific.
 17 Actually, it's unique for every time I use it. This dot
 18 pattern changes. So it makes it unique every single
 19 time. So this would eliminate all other binders. You're
 20 not going to find another one that has this exact dot and
 21 wrinkle pattern on it anywhere.
 22 With vehicles, we try to look at dents. Dent
 23 -- not only the dent. The dent pattern. How big it is.
 24 If there are multiple dents. A sticker on a vehicle does
 25 not make it unique. An ensemble of stickers may make it

85

1 unique. It really just depends on how it's done. If a
 2 vehicle has a scratch on it or the windshield is dented,
 3 if there is a rust pattern, so just because there is
 4 damage to it doesn't make it unique. It's the way it's
 5 damaged.
 6 And if there -- if you can actually see the
 7 pattern. So we look for quality as well. So you may
 8 have one unique point, as with this binder. If you can
 9 see it that well, it's only one characteristic, but it's
 10 very -- it's -- I don't want to use a term very unique,
 11 but it's very good quality.
 12 If all you can see is a dark mark on a vehicle
 13 where there is rust, it's a unique characteristic, but,
 14 unfortunately, it's not of quality to say that it's not
 15 that vehicle. So...
 16 You have to have both to make a conclusive
 17 opinion, and you have to have good enough quality to say
 18 that is the one.
 19 Q. So when you make a -- what you just referred to as a
 20 conclusive opinion, that's when you're 100 percent sure?
 21 A. 100 percent sure that it is or is not the vehicle of
 22 interest.
 23 Q. How often are you able to make a 100 percent
 24 confirmation?
 25 A. I believe I've only had two or three within a 15-year

86

1 time period.
 2 Q. So it's very uncommon?
 3 A. It's very uncommon to have the quality. It's getting
 4 more frequent now because we're obtaining better video,
 5 but it's rare.
 6 Q. So without coming to 100 percent conclusion, are you
 7 still able to present the images in such a way that
 8 they're helpful to an investigation and to a jury?
 9 A. Yes. Because of the training I've had in comparison and
 10 when I drive down the road, basically every vehicle I
 11 look at, every person I look at, that's what I see now,
 12 is I -- there is this, there is that that's unique. Once
 13 you have taken classes on it, that's pretty much how you
 14 think.
 15 The reason that I'm called, a lot of these
 16 points look obvious, but I understand how the video's
 17 made up. I know what artifacting is. I know what you
 18 can and can't say is relevant, as far as someone may see
 19 a dark mark on a vehicle, but it's only in one spot and
 20 one frame in the video, and that's actually artifacting.
 21 It's not a dark mark on the vehicle. So I just try to
 22 point out things that people can see and that are
 23 accurate throughout multiple frames.
 24 Q. So, for example, on what we have labeled page 2 at the
 25 top, it says questioned. You brief -- you talked about

87

1 this before. Could you briefly remind us what it means
 2 when the page is labeled questioned?
 3 A. Okay. When we do comparisons, we always look at class
 4 characteristics first. And we always look at the class
 5 characteristics on the questioned vehicle first. So the
 6 questioned vehicle is the vehicle in question. So it's
 7 this is -- this one, I believe, is at the Topping
 8 residence. So Topping, L & B, Shell, Mugg & Bopps, all
 9 of those have questioned vehicles because we're -- that's
 10 the one -- the ones that we're comparing to a known.
 11 Q. Then we look at page 16. I apologize. It's page 12.
 12 The Dam Site vehicle is listed as a known, and then we
 13 look at page 16. This is the Mugg & Bopps on 12-5 also
 14 listed as a known. Why are these listed as known?
 15 A. They're listed as known because those are the vehicles
 16 that were allegedly driven by Mr. Kelsey. So because I
 17 don't have an actual photograph of the vehicle or the
 18 vehicle to work with, those were listed as known. So I
 19 was asked to compare the questioned versus the known and
 20 then actually the known to the known.
 21 Q. Thank you. So going to page 23 -- and it's probably
 22 worth taking this out of the sleeve. How do the class
 23 characteristics compare between the Topping questioned
 24 and the known Dam Site?
 25 A. Okay. With this, I've got -- I have 2003 GMC Yukon

88

1 Denali. That's what is believed to be the known vehicle
 2 at the bottom. Both appear light in color. There are
 3 three side windows. So on the known if -- actually, it's
 4 difficult to see with the projection, but each of these
 5 has a specific color. So you have to look at the color
 6 versus the annotation.

7 So where it says three side windows here
 8 (illustrating) -- I'm sorry, here (illustrating), there
 9 are one, two, three, and then at the top you'll see one,
 10 two, three. So where the arrows point to. The screen --
 11 the rear window is elongated and dark at the rear. So
 12 that just means that this window here is longer than this
 13 window and this window (illustrating), and you see the
 14 same here (illustrating) versus these two windows.

15 The side rear window pitches forwards or
 16 towards the front at the top. So if you look at the
 17 middle window, this is more vertical. I'm sorry, over
 18 here by this pillar is more vertical (illustrating).
 19 This one goes up at an angle (illustrating). I have to
 20 get -- there we go. That way. The second window at the
 21 top goes straight up. The rear window pitches forwards.

22 Q. The next one is difficult to read. Would you like the
 23 actual exhibit to see that?

24 A. Yes.

25 Q. The yellow and two down are same thing are both difficult

1 to see.

2 (Approaching the witness.)

3 A. Okay.

4 Q. And on here, it's easy to read. It's just on the screen?

5 A. Yes. It's just because it's yellow.

6 Q. Go ahead. What is the class characteristics that you're
 7 drawing our attention to in yellow?

8 A. The rear window pillar is wider would be the yellow. So
 9 there is one pillar here that is narrow. This pillar is
 10 wider (illustrating). This rear pillar is the widest
 11 going this direction (illustrating). Same thing here:
 12 It's wider here than it is here (illustrating).

13 Then the next one down is the side view mirrors
 14 appear light in color. That would be this area here and
 15 this area here (illustrating).

16 Q. The side view mirrors, is that specifically what you're
 17 showing with this picture to the right as well?

18 A. Correct. The picture on the right is just another
 19 version of it. So it's this circle right here
 20 (illustrating).

21 Q. Thank you. And what's the next one down?

22 A. The next one is a dark luggage rack, and that is visible
 23 on the Dam Site Inn video.

24 Q. Are you able to determine on the Topping?

25 A. On the Topping video not so much because of how far it is

1 away and how dark it is.

2 Q. Very good. And the final one?

3 A. The final one is a dark top running board area, which on
 4 the Dam Site Inn video is this area here (illustrating).

5 Q. Are you able to determine if that's shown in the Topping
 6 or not?

7 A. It's -- it's visible, but it's difficult to see. It's
 8 this area right here.

9 Q. So the area you're drawing our attention to in the Dam
 10 Site Inn in one, that's what's on the top of the running
 11 board?

12 A. Correct.

13 Q. So it's not immediately visible from the side in the
 14 Topping video?

15 A. Correct. If you were on a straight 90-degree angle, it
 16 would be difficult to see. Some of these are higher than
 17 the roadway, so it's visible.

18 Q. What are contrasting characteristics?

19 A. Contrasting characteristics would be characteristics that
 20 would rule out something. So if the -- let's say the
 21 vehicle had a light interior and on the known image this
 22 window here was broken out or rolled down and you could
 23 see something light inside, and we were looking at that
 24 here and it was dark, that could be a contrasting
 25 characteristic.

1 If this vehicle were red in color and this were
 2 white and we were able to determine that it's -- they're
 3 different colors, those would be contrasting. If one
 4 vehicle had dark wheels versus light wheels, then it's
 5 contrasting.

6 Q. Dark door handles versus white door handles would be
 7 another example?

8 A. Correct, or a black side view mirror versus a white side
 9 view mirror.

10 Q. Between the Topping video and the Dam Site SUV, were
 11 there any contrasting characteristics; anything ruling it
 12 out?

13 A. There is nothing that I can see that rules it out. There
 14 are a lot of compression artifacting here. So you could
 15 pick spots on the vehicle that don't look like the spots
 16 on the known vehicle, but they would be ruled out as
 17 compression artifacts. There is nothing that could tell
 18 me that could not be the vehicle.

19 Q. Could you remind the jury what compression artifacting
 20 is?

21 A. If you remember the Samulak video when I discussed it
 22 looked like it was snowing out, it really wasn't snowing
 23 out. If the sun came out, the DVR video looks pretty
 24 much like the picture that was taken. Because it's
 25 nighttime, the -- you're going to get more compression

1 **artifacting because the DVR doesn't know what to do.**
2 **It's similar to using a cheap camera at night**
3 **where you take a picture and you end up with dots and it**
4 **looks like pixillation versus if you use a very good**
5 **Nikon or a Canon camera, you can actually see the**
6 **information in the picture.**
7 **Q.** Going next to page 27, how did the class characteristics
8 compare between the Mugg & Bopps Marathon and the Dam
9 Site?
10 **A.** Okay. With the Mugg & Bopps, there are a lot less
11 characteristics that are visible, and there is -- these
12 cameras are, again, designed for the parking lot and not
13 the roadway, and then we're also getting interference
14 from the patrol vehicles at the top.
15 **So, again, the known vehicle, and then the**
16 **vehicle appears light in color. Side rear window is**
17 **elongated and dark in the rear. On the known video, it's**
18 **here (illustrating). On the questioned video, it's right**
19 **-- I'm sorry, it's right in this area right here**
20 **(illustrating). The rear side window pitches towards the**
21 **front at the top. That would be this angle here**
22 **(illustrating). That is visible here. The pillar --**
23 **rear window pillar is wider if you --**
24 **Can you clear that for me?**
25 **That would be this pillar right here going up**

93

1 **that can be seen here (illustrating). And then the side**
2 **view mirrors appear light in color, and that would be**
3 **this area here (illustrating), and you can actually see**
4 **some light in there versus if it had dark side view**
5 **mirrors, it wouldn't show up.**
6 **Q.** Again, were there any contrasting characteristics between
7 these two views?
8 **A.** No. There was nothing that stuck out. It's just hard to
9 see.
10 **Q.** I want to talk about one more of the questioned ones.
11 Page 25, the L & B in comparison to the Dam Site. I
12 think a lot of these characteristics you've already
13 identified in the other angles -- er, excuse me, the
14 other cameras. How does it compare here additionally?
15 **A.** Okay. With the L & B, it's a little bit closer, the
16 cameras are. A little bit more information here. The
17 image on the bottom is from the Dam Site. The images at
18 the top are from L & B. The image on the right, you'll
19 see that there are multiple vertical marks here. That
20 means I did what's called velocity estimation where I
21 took multiple frames, matched up points in the frame that
22 combined them together.
23 **And then because there was motion from left to**
24 **right, I took the motion out of it and stacked all of the**
25 **matching points on top of each other and created one,**

94

1 **like, a super frame. So that frame, once all the motion**
2 **is taken out, you can do what's called a frame average.**
3 **So it pulls a little bit more information out. It**
4 **doesn't create information. It just makes the things**
5 **that are specific points stand out more.**
6 **So the known vehicle is a 2003 GMC Yukon**
7 **Denali. Appears light in color. These vehicles appear**
8 **light in color. Three side windows, one, two, and three.**
9 **One, two, three (illustrating).**
10 **The rear window is elongated and dark at the**
11 **rear. That would be this window here (illustrating).**
12 **This window here (illustrating). This window here**
13 **(illustrating).**
14 **The rear side window pitches forwards -- er,**
15 **I'm sorry, towards the front at the top. Down here you**
16 **can see that angle, and you can see it most clearly in**
17 **this image (illustrating).**
18 **The pillar is wider at the rear. That would be**
19 **this area right here (illustrating) going vertical. And**
20 **that is on this image here (illustrating).**
21 **The side view mirrors appear light in color on**
22 **the known. We're looking at this area here**
23 **(illustrating). And on the questioned you can see it**
24 **here as well as here (illustrating).**
25 **The dark top to the running board area, that**

95

1 **would be, I'm sorry, this spot right here (illustrating).**
2 **You can see dark area here (illustrating) on this**
3 **vehicle. And then there is a sunroof on this vehicle.**
4 **On the questioned vehicle, it's this area here**
5 **(illustrating). I can't say that it's a sunroof on the**
6 **questioned vehicle, but you can see an interruption in**
7 **the light pattern here (illustrating) and then here as**
8 **well (illustrating).**
9 **MR. ROTH: Thank you.**
10 **THE COURT: Mr. Roth, we're going to have give**
11 **the jury a break.**
12 **MR. ROTH: Thank you, Your Honor.**
13 **THE COURT: So we'll have Mr. Adkins take the**
14 **jurors back to the jury room.**
15 **(At 10:40 a.m., the jury left the**
16 **courtroom.)**
17 **THE COURT: You can step down, sir, during the**
18 **break.**
19 **THE WITNESS: Thank you.**
20 **THE COURT: We'll take about 15 minutes,**
21 **probably.**
22 **I didn't mean to interrupt you, Mr. Roth, but**
23 **we had one juror waving at me that she needed to use the**
24 **restroom.**
25 **MR. ROTH: I understand. Thank you,**

96

1 Your Honor.

2 MR. MORLEY: Thank you, Judge.

3 (At 10:41 a.m., recessed;

4 reconvened at 10:59 a.m.)

5 THE COURT: Mr. Roth, are you ready for the

6 jurors?

7 MR. ROTH: Yes, Your Honor.

8 THE COURT: Mr. Morley, are you ready?

9 MR. MORLEY: Yes. Sorry for being tardy.

10 THE COURT: No need to apologize, Mr. Morley.

11 (At 11:01 a.m., the jury entered

12 the courtroom.)

13 THE COURT: Please be seated.

14 Mr. Roth, you may continue.

15 MR. ROTH: Thank you, Your Honor.

16 BY MR. ROTH:

17 Q. Detective Sergeant, I think I was asking you in total

18 between all of the questioned in comparison to the known

19 of the Dam Site, you were able to identify a number of

20 common or shared class characteristics?

21 A. **That's correct.**

22 Q. Did you ever observe any contrasting characteristics

23 between any of them?

24 A. **I did not, no.**

25 Q. All right. Page 29, you compared two known, a known

97

1 versus known analysis on 29. Why is it that you do that?

2 A. **Again with this case I didn't have images of the physical**

3 **vehicle and/or the physical vehicle. So it was part of**

4 **the investigation. It was told to me that it was alleged**

5 **that Mr. Kelsey drove to Mugg & Bopps on the fifth in the**

6 **same vehicle that he was at Dam Site Inn with on the**

7 **seventh -- sixth and seventh. So those were both listed**

8 **as known.**

9 Q. And how do those two compare?

10 A. **Again, at the bottom we have 2003 GMC Yukon Denali SUV.**

11 **Both vehicles appear light in color. There are six holes**

12 **on the wheels of the known vehicle here (illustrating)**

13 **and six holes on the known at the top. Three side**

14 **windows, and then three side windows on both vehicles at**

15 **the top, which are the same vehicle.**

16 The side rear window is elongated and dark at

17 the rear here, here, here (illustrating). The side rear

18 window pitches forward towards the front at the top.

19 That's this angle here (illustrating). This angle here

20 (illustrating), and then you can see it in that angle

21 there (illustrating).

22 The rear window pillar is wider here

23 (illustrating). This one is wider than this one and this

24 one, and you can see it right here (illustrating). The

25 side view mirrors appear light in color. You see it's

98

1 **lighter in color here (illustrating). Lighter in color**

2 **here (illustrating). And because of the angle you can't**

3 **see it here (illustrating).**

4 The dark top to the running board area you can

5 see here (illustrating), and it's visible here

6 (illustrating). I'm sorry, it's a little bit lower.

7 It's just above that line.

8 And then the sunroof area is here

9 (illustrating), and the sunroof is up here.

10 (Illustrating). And then you can actually see dark at

11 the top on both of these vehicles where the luggage rack

12 is.

13 Q. Thank you. What are unique characteristics?

14 A. **Unique characteristics, again, are characteristics that**

15 **would separate that known person, object, vehicle, a**

16 **piece of clothing, from every other object in its class.**

17 Q. On page 31, did you identify any unique characteristics

18 in the questioned video from the Topping residence?

19 A. **With the Topping residence, it's difficult to see, but**

20 **you can see the back of the vehicle is in this area here,**

21 **and this rear window is very light in color.**

22 Q. All right. And so you labeled that "Rear window appears

23 lighter across the surface"?

24 A. **Correct.**

25 Q. Lighter than what?

99

1 A. **Lighter than the side windows. Lighter than the front**

2 **window.**

3 Q. Did you compare that to your known's, the Dam Site as

4 well as the Mugg & Bopps from the fifth?

5 A. **Yes.**

6 Q. And on page 33, did you identify anything light across

7 the surface on the known vehicle that John Kelsey was

8 driving?

9 A. **Yes. There is this area in here (illustrating) on the**

10 **back window that's light. That would be at the Dam Site.**

11 Q. Similarly looking at page 36, did you observe that again

12 from the fifth in the light SUV that the -- excuse me,

13 that John Kelsey was driving there at Mugg & Bopps?

14 A. **Yes. It would be this area here (illustrating).**

15 Q. And we see all of those compiled then on page 38?

16 A. **That's correct.**

17 Q. On page 35, you indicate "The appearance of more space

18 between the front driver's fender and bumper."

19 That would be a possible unique characteristic?

20 A. **Correct. This would be what I would constitute as**

21 **possible damage as I spoke of earlier. And when the**

22 **image is blown up a little bit or is zoomed, you can**

23 **actually see -- I have a GMC. I've also had a Trail**

24 **Blazer made by Chevy, and there is this area right here**

25 **above this green line (illustrating) where the fender**

100

1 meets the bumper, and it appears to be a little bit wider
 2 than it should be. So that's possible damage to that
 3 area or a defect in the way that that vehicle was built.
 4 Q. Were you ever able to find a questioned camera, so the
 5 Topping, Marathon, any of those that had a good enough
 6 view to confirm or corroborate that?
 7 A. Well, Topping, L & B, Shell -- and long story short, Mugg
 8 & Bopps is the only one where we actually get a picture
 9 of the driver's side because it's on the south side of
 10 the street. All the others are on the north side of the
 11 street, and we're looking at a westerly traveling
 12 vehicle.
 13 Q. So the other angles only show the passenger's side?
 14 A. That's correct.
 15 Q. So go ahead.
 16 A. So the Marathon Camera 3, I believe, is the only camera
 17 that you can see the side view or the front of the
 18 vehicle. And it's so far away and it's dark. Again, the
 19 cameras were designed to pick up the parking lot, not the
 20 roadway. So even if it were there, it's not going to be
 21 visible.
 22 Q. Did you also perform an overlay of the two Marathon Mugg
 23 & Bopps's videos?
 24 A. Yes, I did.
 25 Q. Could you explain for the jury what that means?

101

1 A. It's called reverse projection. And it's -- it's using
 2 layers. So I'll use these cups as an example. If I have
 3 an image that was taken of the vehicle that pulled in on
 4 the fifth of December and went to the gas pumps and then
 5 pulled out and then a picture of the vehicle from the
 6 seventh right before it passed, when the police pulled
 7 out, I take one image and put it over the top of the
 8 other.
 9 At 100 percent capacity, you can only see the
 10 top image. So you're actually looking down. If I change
 11 the opacity of the top image, you can start to see
 12 through this image and compare points on this image to
 13 points on this image. If that opacity is taken down to
 14 zero while this image is still here, you can't see
 15 through it.
 16 So the goal of reverse projection is to make
 17 sure, one, that the cameras haven't moved. So if I were
 18 doing reverse projection of this area here
 19 (illustrating), once the images were overlaid, I would
 20 look to try to make sure that all of these points would
 21 actually line up.
 22 If the points were skewed, either the cameras
 23 have moved or I didn't layer them correctly. So anything
 24 that is constant, we call those seen or room constant.
 25 So you try to align those, and then you compare the

102

1 things that change or are different between the two. So
 2 when you slide the opacity, you can just see different
 3 levels through.
 4 Q. Thank you. Showing you 166 Proposed Exhibit. Have you
 5 reviewed this item?
 6 A. Yes, I have.
 7 Q. Is that a fair and accurate recording of the overlay
 8 projection that you performed in this case?
 9 A. Yes. There were two that were provided. One was seven
 10 over five. The other is seven over five aligned. And I
 11 believe the one that she showed me was seven over five
 12 aligned, and it didn't work on her computer.
 13 Q. Very good.
 14 A. She said it may work on yours.
 15 MR. ROTH: Your Honor, I would move for the
 16 admission of 166.
 17 MR. MORLEY: Without objection, Your Honor.
 18 THE COURT: People's Exhibit 166 is admitted
 19 and received.
 20 (At 11:11 a.m., PX#166 is
 21 received.)
 22 BY MR. ROTH:
 23 Q. Can you explain while this loads up what aligned means,
 24 why that's significant?
 25 A. Okay. Aligned would be, as I spoke of the room or the

103

1 scene constants, when I layer these images over top of
 2 each other, the images were aligned, which means the
 3 camera hadn't moved. But with this case, I was dealing
 4 with a known vehicle that left at one time and was
 5 pulling out onto the roadway versus another vehicle that
 6 was already traveling on the roadway.
 7 It's just by chance that when I went through
 8 frame by frame, I was able to find the vehicle in both
 9 videos in approximately the same spot. It wasn't in the
 10 exact same inch. So the pixels didn't match 100 percent,
 11 as far as the very front and the rear of the vehicle, and
 12 it's difficult to see too because you have headlights and
 13 taillights.
 14 So the aligned version, I aligned the front of
 15 the vehicle in -- on the fifth. On the front of the
 16 vehicle on the seventh. So when you watch that video and
 17 it goes from 100 percent to 0 percent, you'll see that
 18 the constants will shift but the vehicle remains -- er,
 19 the vehicles remain in the same spot. So when you slide
 20 the opacity back and forth, the front of the vehicle and
 21 the rear of the vehicle align.
 22 Q. So the two images that you compare, the first one is the
 23 seventh, and that's the SUV that the deputies are about
 24 to pursue, correct?
 25 A. Correct. So at the very first part of this video, it's

104

1 the seventh. The deputies' vehicles are here. The
2 vehicle in question is here. The constant in this case
3 would be the corners of the ice machine, the top of this
4 yellow pole the gas pump area, or whatever this area is
5 over here (illustrating) and any of the corners.
6 Q. And the second frame that we're going to slide into is
7 from the fifth?
8 A. Correct.
9 Q. And that's when John Kelsey is driving the white SUV at
10 the Marathon?
11 A. Correct. That would be when he left the Marathon and
12 turned left or westbound.
13 Q. Both times that SUV goes in the same direction over on --
14 whether it's Morton or Main at that intersection?
15 A. Both vehicles travel from screen right to left or east to
16 west.
17 Q. So the things that you talked about as constants, the ice
18 box, the gas pump, the yellow pole, those should not move
19 in either frame because they remain the same?
20 A. Depending on which movie is played.
21 Q. In the aligned version.
22 A. In the aligned version, if you play it, I can tell you
23 which one is what.
24 Q. This is the aligned version.
25 A. Okay. So the aligned version is the one that I told you

105

1 about just a second ago where I aligned the vehicle
2 because it wasn't in the exact same location, and that
3 way the vehicles aligned with the room or the room or
4 scene constants have to change a little bit because it
5 wasn't in the exact same spot.
6 But if it were a much longer or a much shorter
7 vehicle, what you would see is this information changing
8 (illustrating). While the constants change, the vehicle
9 remains approximately the same size. That's two
10 different vehicles. It shifts from the seventh to the
11 fifth to the seventh to the fifth.
12 Q. So because they're constants, and I don't know why the
13 frames keep catching, but the ice box, the yellow pole,
14 the gas pump don't move?
15 A. In this one they do move under the aligned version
16 because I had to align the frame to the vehicle.
17 Q. In this version, the aligned version, they do not move?
18 A. In this one they do move. You can see the blurring on
19 the pole right there, and there is a little ghosting
20 around the edge of the ice box.
21 Q. All right.
22 A. But the vehicle remains the same in the seven over five,
23 the one that says nonaligned, that means the vehicles
24 weren't align. It's just one frame over the other one.
25 Q. Very good. So between the fifth and the seventh when you

106

1 overlay them, that vehicle at the top does not appear to
2 move or change at all?
3 A. Correct. It's not showing me that one has more windows.
4 It's not showing me one is dark, one is light. It's not
5 showing me one is grossly longer or shorter than the
6 other one.
7 Q. Very good. Were you able to make a definitive conclusion
8 about whether or not it was the same white SUV in each of
9 the questioned versus the two known's, the Marathon and
10 the Dam Site?
11 A. My conclusion in the comparison in all of these would be
12 it's called inconclusive.
13 Q. And you indicated before how rare you said two or three
14 times ever have you been conclusive?
15 A. That's correct.
16 Q. All right. So you classify it as inconclusive, but did
17 you identify numerous matching class characteristics?
18 A. Yes. There are numerous matching class characteristics.
19 There were two unique characteristics. However, one of
20 them I could only see the unique characteristics on the
21 driver's side at the Dam Site. And then the salt spray
22 on the back, I talked about quality versus quantity. The
23 quality of that is four. It's there. I can't tell you
24 the pattern, but it's a unique characteristic. It's not
25 unique for me to say it is the vehicle, but it is there.

107

1 So with all the similar class characteristics
2 and the limited or low quality unique characteristics,
3 all I can say is that you can't rule, based solely from
4 the video alone, take all of the investigation part out
5 of it, just based solely on the video alone, I can't rule
6 them out from being the same, but I can't say they are
7 the same.
8 Q. So the follow-up to that is, there were no contrasting
9 characteristics, though, correct?
10 A. That's correct.
11 Q. All right. So the white SUVs all had consistent class
12 characteristics throughout to the extent that they were
13 visible?
14 A. That's correct.
15 MR. ROTH: I have nothing further of this
16 witness, Your Honor.
17 THE COURT: Thank you, Mr. Roth.
18 Mr. Morley, you may question the witness.
19 MR. MORLEY: Thank you, Judge.
20 CROSS-EXAMINATION
21 BY MR. MORLEY:
22 Q. Sergeant, by my calculations you reviewed a video from
23 Mugg & Bopps, which I believe is the Marathon; a video
24 from the L & B Outlet; video from the Samulak residence;
25 video from the Topping residence; video from the Dam

108

1 Site; video from Shell; and an Ingham County Sheriff's
 2 cruiser in-car video. Is that about accurate?
 3 **A. That's correct.**
 4 **Q.** Were you asked to do your -- I'm not minimizing your
 5 work. It's interesting. So I just hope -- if I say it
 6 wrong, I apologize. Were you asked to do a comparison
 7 analysis, as you just testified to, from the police
 8 cruiser video?
 9 **A. No, I was not.**
 10 **Q.** Have you reviewed the police cruiser video?
 11 **A. I have.**
 12 **Q.** So nobody -- you never compared any vehicles seen in that
 13 to this December 5th or December 7th white car that we've
 14 been talking about?
 15 **A. That's correct.**
 16 **Q.** And of the videos that we've talked about -- and
 17 specifically the traffic stop or the attempted traffic
 18 stop starts at about the Mugg & Bopps or the Marathon
 19 station, right?
 20 **A. Yes.**
 21 **Q.** The L & B Outlet is before the Marathon station. So
 22 before the alleged chase route, right?
 23 **A. Correct. That would -- the L & B is just to the east of**
 24 **Mugg & Bopps.**
 25 **Q.** Same holds true with the Shell video. That's before the

109

1 Marathon station or before the alleged chase route?
 2 **A. Yes, sir.**
 3 **Q.** Same holds true for the Topping residence?
 4 **A. Correct.**
 5 **Q.** That's before?
 6 **A. Yes. Topping is a lot further east.**
 7 **Q.** Do you have any pictures of a vehicle after the alleged
 8 traffic stop began?
 9 **A. No, I do not.**
 10 **Q.** In all of the videos that we've watched or seen or
 11 pictures or snapshots or screenshots, do any of these
 12 show the driver of the vehicle?
 13 **A. No, sir, they do not.**
 14 **Q.** Do any of them show the number of occupants?
 15 **A. No, sir.**
 16 **Q.** Do any of them tell you the make or are you able to glean
 17 the make, model of the vehicle?
 18 **A. No, sir. While they have characteristics, it's too far**
 19 **away and too dark to come up with an exact make and**
 20 **model.**
 21 **Q.** Would we be able to see -- and I don't know the answer to
 22 this -- on a police cruiser -- excuse me, on a video, the
 23 Marathon video, also known as the Mugg & Bopps, should
 24 you be able to see cruiser overheads or flashing lights
 25 coming on?

110

1 **A. This is digital video. When I worked the road, it was**
 2 **all analog. I believe with the L-3, they do have a box**
 3 **that will activate when the overheads and or siren are**
 4 **on. As far as being visible, I can't tell you the answer**
 5 **to that.**
 6 MR. ROTH: I think this is nonresponsive. I
 7 think the question was about "Can you see it in the
 8 Marathon video?"
 9 MR. MORLEY: I'm fine. I don't know what the
 10 objection is.
 11 MR. ROTH: I think the witness just -- I think
 12 the witness answered "Can you tell in the police cruiser
 13 video?"
 14 MR. MORLEY: No, no. That wasn't my question.
 15 MR. ROTH: I understand that, but that's what
 16 he answered.
 17 THE WITNESS: That's what I believed he asked
 18 me.
 19 MR. ROTH: So my objection is the answer is
 20 nonresponsive to the question.
 21 THE COURT: I'll -- I'll sustain the objection.
 22 You can clean it up, Mr. Morley.
 23 BY MR. MORLEY:
 24 **Q.** In the Marathon video, is there a reason that we don't
 25 see the police cruiser overheads coming on --

111

1 **A. I don't know --**
 2 **Q.** -- at the beginning of the traffic stop?
 3 **A. I don't know what time he activated the overhead lights.**
 4 **Q.** If we review the Marathon video, if you recall, you see a
 5 cruiser pulling out but we don't see overheads. Do you
 6 know why?
 7 **A. He possibly may have them not turned on at the time.**
 8 **Q.** Okay. Samulak video.
 9 **A. Yes, sir?**
 10 **Q.** You used the phrase unidentified object. Do you recall
 11 that?
 12 **A. I don't recall.**
 13 **Q.** Okay. Something to that effect. What would you call
 14 what we see in there or don't see?
 15 **A. I said it was something that travels from the left side**
 16 **to the right side.**
 17 **Q.** Okay. And that video is time-stamped 3 o'clock and
 18 38 seconds, 3:00:38, right?
 19 **A. That's correct.**
 20 **Q.** And you were asked -- well, let me step back.
 21 Mr. Samulak advised you that he reset that after -- er,
 22 before -- reset the DVR before Michigan State Police came
 23 into possession of it, right?
 24 **A. That is correct.**
 25 **Q.** And you were asked, and you went back and did a

112

1 subsequent analysis. And after Michigan State Police
 2 took possession of this, it was about 52 minutes off, I
 3 think, right?
 4 **A. That's correct. 52 or 53 minutes.**
 5 Q. But in your investigation at the time that video was
 6 taken, you knew that to be approximately two hours off,
 7 right?
 8 **A. That was what was told to the troopers. I -- there was**
 9 **no initial time that said "It was this. It was this when**
 10 **they downloaded it."**
 11 Q. You included that in your report, didn't you?
 12 **A. Correct.**
 13 Q. And at that time, the statement was the owner believed it
 14 was two hours fast, right?
 15 **A. That's what the owner stated.**
 16 MR. ROTH: Your Honor, I guess I'll object to
 17 the hearsay. He can testify to what he discovered, which
 18 was the 52 or 53 minutes.
 19 THE COURT: I'll sustain the objection.
 20 BY MR. MORLEY:
 21 Q. Do you have -- do you know that that video was running
 22 two hours fast at the time the video we've been seeing
 23 was taken?
 24 **A. No, sir.**
 25 Q. You don't know that?

113

1 **A. I don't know that.**
 2 Q. You never learned that?
 3 **A. I learned that someone advised it was approximately two**
 4 **hours.**
 5 MR. ROTH: Your Honor, again, I'm going --
 6 THE WITNESS: It doesn't mean it was two hours.
 7 MR. ROTH: -- to object to the hearsay. His
 8 conclusion is 52, 53 minutes by personal knowledge.
 9 THE COURT: Sustained.
 10 BY MR. MORLEY:
 11 Q. If that were two hours fast, what time would that show on
 12 our 3:00:38 video?
 13 **A. If it were to two hours fast, whatever the DVR said it**
 14 **was, that is what the DVR would say it was.**
 15 Q. It would show 1:00:38, right?
 16 **A. Real-time -- if it were two hours fast, the DVR would**
 17 **show 3, but real-time would be 1.**
 18 Q. 1 in the morning, right?
 19 **A. Correct.**
 20 Q. And your alleged 52 minutes fast wasn't determined until
 21 January 13th of 2015, right?
 22 **A. All of the 52, 53 minutes is when I went to the scene on**
 23 **the thirteenth, the DVR at that time was 52 or 53 minutes**
 24 **off.**
 25 Q. After it had been reset?

114

1 **A. Correct. Yes, sir.**
 2 Q. You also know the Mugg & Bopps Marathon station video,
 3 the time stamp is not accurate, true?
 4 **A. Correct.**
 5 Q. You also know the L & B Outlet's time stamp is not
 6 accurate. Is that correct?
 7 **A. That's correct.**
 8 Q. You also know the Topping residence time stamp not to be
 9 accurate, right?
 10 **A. Yes, sir.**
 11 Q. You also went back to the Dam Site on or about
 12 January 14th and found that to be an inaccurate time
 13 stamp, right?
 14 **A. That's incorrect. I went back on the thirteenth with**
 15 **Detective Trooper Johnston, and the manager was not**
 16 **there, so we were not able to access. He went back on**
 17 **his own and spoke with the manager.**
 18 Q. Was it determined that it was off?
 19 **A. Yes.**
 20 MR. ROTH: Your Honor, I'm going to object.
 21 That would be hearsay.
 22 BY MR. MORLEY:
 23 Q. If you know.
 24 MR. ROTH: If you know by personal knowledge,
 25 not by what somebody relayed to you.

115

1 THE COURT: I think that's the question.
 2 Is that the question --
 3 MR. MORLEY: Yes.
 4 THE COURT: -- Mr. Morley?
 5 Okay. So I'll overrule it assuming that's the
 6 question.
 7 BY MR. MORLEY:
 8 Q. If you know?
 9 **A. I was advised that it was off.**
 10 MR. ROTH: Your Honor, I'm going to object to
 11 the hearsay. He's talking about what he was advised. I
 12 believe he can tell you who advised him, and we can talk
 13 to that person.
 14 MR. MORLEY: I'll do that.
 15 THE COURT: Sustained.
 16 BY MR. MORLEY:
 17 Q. You also know that the Shell video time stamp was off,
 18 right?
 19 **A. Yes, sir.**
 20 Q. So of all the videos that we've talked about, are the
 21 time stamps right on any of them?
 22 **A. The only one that has any type of calibration method**
 23 **would be the Ingham County in-car, which I spoke with L3,**
 24 **and they advised that that unit has GPS, and it gets his**
 25 **time date stamp from GPS, and it downloaded it to the**

116

1 **host computer when it arrives back.**

2 Q. But all of the rest of these that we've talked about --

3 Mugg & Bopps/Marathon, L & B, Samulak, Dam Site, Topping,

4 Shell -- none of those have accurate time stamps, right?

5 **A. They're all set by the users. So there is nothing for me**

6 **to actually compare them to.**

7 Q. None of them have accurate time stamps, right?

8 **A. The time stamps themselves operate accurately to**

9 **themselves, but they're not calibrated to anything.**

10 Q. So they don't necessarily accurately reflect the accurate

11 time, right?

12 **A. Yes, sir.**

13 Q. Is it fair to say you did everything within your

14 expertise to try to clarify the videos?

15 **A. Yes, sir.**

16 Q. And you determined -- excuse me. After reviewing all of

17 the evidence, your opinion in this matter is

18 inconclusive, right?

19 **A. Yes, sir.**

20 Q. Inconclusive either way?

21 **A. I can't rule the vehicle out from being one in the same,**

22 **and I can't say it is the vehicle.**

23 Q. And, in fact, your analysis was peer reviewed, for lack

24 of a better phrase, right?

25 **A. Yes, sir.**

117

1 Q. Is that common within the Michigan State Police?

2 **A. It's common within the expert field, yes.**

3 Q. You're right. And could you briefly explain what peer

4 review is?

5 **A. Peer review would be to go over the data, go over the**

6 **report, go over the opinion and make sure you can't come**

7 **to an opinion based off of poor work.**

8 Q. And so that was done by Detective Sergeant Tomassi, I

9 believe?

10 **A. Yes, sir, of the Livonia office.**

11 Q. Was your opinion changed or questioned as a result?

12 **A. No, sir, it was not.**

13 Q. So as we sit here today, you have done every analysis

14 that you can within your expertise on the videos. You've

15 had it peer reviewed, but your opinion as to a vehicle or

16 --

17 Well, let me step back. Your opinion is

18 inconclusive, right?

19 **A. Yes, sir.**

20 Q. And that opinion does not encapsulate anything contained

21 within the police cruiser video, right?

22 **A. No, sir, it does not.**

23 Q. So, no, I'm not right, or, no, it doesn't encapsulate? I

24 didn't hear what you said.

25 **A. No. The police cruiser video was downloaded, but it was**

118

1 **not taken as part of the opinion.**

2 Q. So your inconclusive references, except for the Samulak

3 residence, all of the videos and pictures before the

4 alleged traffic stop or attempted traffic stop, right?

5 **A. Yes, sir.**

6 Q. You concluded your testimony with the Prosecution doing

7 what I wrote down as an alignment analysis. Is that

8 accurate?

9 **A. Reverse projection, is what it was called, yes.**

10 Q. The reverse projection. Are you able to tell us the make

11 and model of the vehicle seen in that reverse projection?

12 **A. No, sir.**

13 Q. Could it be between a 2001 and 2006 GMC Yukon Denali XL?

14 **A. It could be, yes.**

15 MR. MORLEY: That's all I have, thank you.

16 THE COURT: Thank you, Mr. Morley.

17 Mr. Roth?

18 MR. ROTH: Thank you, Judge.

19 REDIRECT EXAMINATION

20 BY MR. ROTH:

21 Q. Why --

22 One second. Showing you Exhibit 18. Why was

23 the police in-car camera not used as part of your

24 analysis?

25 **A. As I stated earlier with the L3 video, the system was**

119

1 **designed to work in conjunction with the direction that**

2 **the vehicle was traveling. It's not meant to capture**

3 **vehicles at a high rate of speed that are perpendicular**

4 **to the camera. So what you see in this video is a light-**

5 **colored vehicle, but this information here, this is all**

6 **the headlight. This is all the taillight information.**

7 **This is all window information.**

8 **So what we're getting here is motion blur or**

9 **multiple images, basically, of that vehicle. It's just**

10 **blurred. So there is -- there is not a whole lot that**

11 **can be done with that.**

12 Q. Thank you.

13 **A. I tried to use what's called deblurring filters where you**

14 **take the front of the blur and the rear of the blur and**

15 **try to push them towards each other. But because of the**

16 **length of this, when you're done, it's just a blur. And**

17 **in itself it's too far blurred to actually recorrect.**

18 Q. Looking at 120, the Shell L & B and Marathon are all sort

19 of in close proximity to each other in Stockbridge,

20 correct?

21 **A. Yes, sir.**

22 Q. And each of those videos is off by several minutes?

23 **A. Yes, sir.**

24 Q. Fair to say that what we see on the Shell, despite the

25 time being off, is that at some point picked up at L & B

120

1 and picked up at Marathon?

2 **A. It appears that way, yes.**

3 Q. And in that way they fit together?

4 **A. Yes.**

5 Q. Now, Mr. Morley asked you about if there is any pictures

6 after the pursuit began. Samulak is after the pursuit

7 began, correct?

8 **A. That's correct.**

9 Q. And while you can't say it conclusively, what you see

10 here, does it appear to have the pillars and direction

11 consistent and wheel wells consistent with a white SUV?

12 **A. It appears to be a -- what I believe to be a vehicle on**

13 **the roadway. It does appear that this -- these are wheel**

14 **wells, but I can't -- there is too much artifacting on**

15 **here, and I'm only limited to a single frame to do a**

16 **comparison on the information that's there.**

17 Q. Thank you. And this frame was taken or downloaded after

18 the reset, correct?

19 **A. Yes, sir.**

20 Q. Mr. Morley asked about the Mugg & Bopps, the Marathon,

21 and whether or not the overhead lights are shown here.

22 Fair to say we don't see much of the roadway in this

23 picture?

24 **A. Yes.**

25 Q. So if they're turned on right after it goes outside of

121

1 this view, it's just not shown there?

2 **A. Correct.**

3 Q. Once we get to the Samulak, is there any doubt whatsoever

4 that there is two police cars with overhead lights going

5 past?

6 **A. That's what I observed. As a matter of fact, that's how**

7 **I located the incident on the Samulak video was to look**

8 **for the patrol car lights and work backwards from there.**

9 Q. And there is no other time where that sequence of events

10 happens in the Samulak video, correct?

11 **A. Correct.**

12 Q. Mr. Morley asked you about the time stamp on the Dam Site

13 DVR. What trooper verified its accuracy?

14 **A. I believe Trooper Beimers went there the first time, and**

15 **then Trooper -- Detective Trooper Johnston went back the**

16 **third time. He and I went back the second time. Again,**

17 **the manager wasn't there so we could not access the DVR.**

18 Q. But Detective -- er, I apologize. Trooper Beimers was

19 the first one?

20 **A. Yes.**

21 Q. Thank you. And then Mr. Morley asked you about your

22 opinion ultimately being inconclusive. Does your opinion

23 take into consideration all of the other evidence in this

24 investigation or just what we get from the videos?

25 **A. My opinion is based solely off the videos themselves.**

122

1 Q. And that is your only responsibility as it relates to

2 this case, correct?

3 **A. Yes, sir. I'm not an investigator on the case. I'm in**

4 **the lab.**

5 MR. ROTH: Nothing further.

6 THE COURT: Thank you, Mr. Roth.

7 Detective Sergeant, you may step down. Thank

8 you, very much.

9 (At 11:36 a.m., the witness

10 stepped down from the witness

11 stand.)

12 THE COURT: Go ahead.

13 MR. ROTH: People call Detective Sergeant

14 Green.

15 May we approach?

16 THE COURT: You may.

17 (At 11:36 a.m., an at-the-bench

18 discussion is held off the

19 record.)

20 THE COURT: All right. Step up here, please.

21 Do you swear or affirm to tell the truth, the

22 whole truth, and nothing but the truth?

23 DETECTIVE SERGEANT GREEN: I do.

24 THE COURT: Please have a seat.

25 Before I have you state your name, I'm going to

123

1 indicate to the media that because of his assignment, I'm

2 going to ask the media not to report his name or take any

3 photographs.

4 Will you please state your full name and spell

5 your last name.

6 THE WITNESS: Thank you, Your Honor. My name

7 is Darren Green. My last name is spelled G-R-E-E-N.

8 MR. ROTH: Thank you.

9 DARREN GREEN

10 called by the People at 11:37 a.m., sworn by the Court,

11 testified:

12 DIRECT EXAMINATION

13 BY MR. ROTH:

14 Q. Where are you employed?

15 **A. The Michigan State Police.**

16 Q. How long have you been at the Michigan State Police?

17 **A. Almost 15 years.**

18 Q. You're currently assigned in an undercover capacity?

19 **A. Yes.**

20 Q. That's why you have a Mohawk?

21 **A. Yes, sir.**

22 Q. All right. And in December of 2014, were you assigned to

23 a task force assisting in the investigation of the death

24 of Deputy Whitaker?

25 **A. Yes. I'm the detective sergeant that supervises the**

124

1 **multi-jurisdiction task force.**
 2 Q. Thank you. Specifically were you asked to conduct some
 3 surveillance?
 4 A. **Yes, sir.**
 5 Q. And was the subject of your surveillance identified to
 6 you?
 7 A. **Yes.**
 8 Q. What was his name?
 9 A. **John Kelsey.**
 10 Q. When did your team begin surveillance?
 11 A. **Early in the week. I believe it was around December 8th,**
 12 **if that was the Monday of that week.**
 13 Q. So it was Monday?
 14 A. **Yes.**
 15 Q. Very good. And where did you begin your surveillance?
 16 A. **Mainly it was concentrated in the Stockbridge, Michigan,**
 17 **area, but it also extended into some addresses in**
 18 **Livingston County.**
 19 Q. Very good. Was there a time on December 12th, 2014, when
 20 you were asked to perform a traffic stop on a vehicle
 21 containing John Kelsey?
 22 A. **We were asked to follow the vehicle and surveil the**
 23 **vehicle that we believed contained Mr. Kelsey, and I was**
 24 **on the radio with our State Police operations center**
 25 **trying to get marked units since we're undercover and we**

125

1 **drive cars that don't look like patrol vehicles or have**
 2 **any markings.**
 3 **I was on the radio with our operations trying**
 4 **to get uniform troopers in fully-marked patrol cars into**
 5 **the area that we were surveilling the vehicle to get a**
 6 **traffic stop initiated.**
 7 Q. Where did the surveillance of that vehicle begin?
 8 A. **At the Morton Road address in Stockbridge.**
 9 Q. And that's what you associated as the residence for
 10 John Kelsey?
 11 A. **We knew that that was his residence that he had listed in**
 12 **the Secretary of State. So on his driver's license, yes.**
 13 Q. And what did you observe at that residence?
 14 A. **Detective Trooper Byerly actually had the, what we call**
 15 **the eye. He had parked in that area and was actually**
 16 **watching the address on Morton Road. We surveilled that**
 17 **residence for several hours during that week, and there**
 18 **hadn't been much activity. And then all of a sudden on**
 19 **the twelfth at about 7:30, 8 o'clock, there started to be**
 20 **activity at the house with cars coming and going and**
 21 **people moving around and going in and out of the house.**
 22 **So that's what directed our attention to think that maybe**
 23 **Mr. Kelsey was now at that residence.**
 24 Q. And did you communicate that to the investigative team?
 25 A. **Yes.**

126

1 Q. And, again, you're not one of the chief investigators in
 2 this. Your role is limited to the surveillance?
 3 A. **Yes, sir.**
 4 Q. And at some point did the investigative team ask you to
 5 conduct a traffic stop on that vehicle?
 6 A. **Yes. After that vehicle left, we knew that it was**
 7 **occupied by multiple people. So we started to surveil**
 8 **the vehicle. It didn't take the most direct route. It**
 9 **kind of went down these back roads that are very rarely**
 10 **travelled. In past experience looking for fugitives, a**
 11 **lot of times they'll avoid main roads or the most direct**
 12 **path from Point A to Point B. So that kind of piqued our**
 13 **interest a little bit when he started taking back roads**
 14 **through Ingham and Livingston County. So that even**
 15 **reaffirmed our beliefs that Mr. Kelsey was in the car.**
 16 **And that's -- during that time, that's when I**
 17 **was radioing in to our communications -- er, our**
 18 **operations center to try to get uniformed marked cars to**
 19 **make a traffic stop.**
 20 Q. Looking at 119 on the screen in front of you, is there a
 21 pretty direct route, like a one-road route from that
 22 residence into the Livingston County area?
 23 A. **There is.**
 24 Q. And this route was different?
 25 A. **Yeah. It was -- I'm -- I trooped in Jackson for years.**

127

1 **I'm not real familiar with Livingston County. To be**
 2 **perfectly honest with you, when we were surveilling or**
 3 **following the car, I knew that we were probably in the**
 4 **Livingston County area, but the only way I knew where I**
 5 **was, was passing a street sign. I didn't know what road**
 6 **was upcoming, what road we just passed without looking.**
 7 **It was kind of unfamiliar territory to me.**
 8 Q. Did you identify what kind of vehicle it was?
 9 A. **We knew it was a dark-colored, two-door smaller compact**
 10 **car.**
 11 Q. So this is not an SUV, correct?
 12 A. **No.**
 13 Q. And did you eventually have uniformed troopers arrive to
 14 conduct the traffic stop?
 15 A. **What had happened is, again, since it was in such a rural**
 16 **area, when we were following the vehicle, it probably**
 17 **looked pretty strange to the people that were in that**
 18 **vehicle to look in their rear view when it was dark out**
 19 **and see six or seven sets of headlights on a road that**
 20 **there probably wasn't six or seven cars that traveled**
 21 **down throughout the whole night.**
 22 **And as our operations was trying to get**
 23 **uniformed troopers into the area to stop the vehicle, the**
 24 **vehicle we're following knew that we were there because**
 25 **during that time in the surveillance, I had had contact**

128

1 with first district investigators that said that their
 2 investigation had taken a change.
 3 MR. MORLEY: Objection. Hearsay.
 4 MR. ROTH: Yep.
 5 THE COURT: Sustained.
 6 MR. ROTH: That's no problem.
 7 BY MR. ROTH:
 8 Q. So without talking about what they said, at some point
 9 they give you the command to pull it over, correct?
 10 A. It pulled over without being stopped by a marked car.
 11 Q. Very good.
 12 A. It pulled over because it knew it was being followed.
 13 Q. And did you later learn it was a Ford Escort?
 14 A. Yes.
 15 Q. Did you identify the driver?
 16 A. Yes.
 17 Q. Who was that?
 18 A. Brenton Cunningham.
 19 Q. And who else was contained in that vehicle?
 20 A. Mr. Kelsey was the front seat passenger, and there was
 21 two children later identified to be Mr. Kelsey's children
 22 that were in the backseat of the car.
 23 Q. Thank you. And where did it ultimately pull itself over?
 24 A. I think I believe in the 5000 Block of King Road in
 25 Livingston County, Howell Township.

129

1 Q. What direction was it traveling?
 2 A. It would be traveling eastbound, I believe.
 3 Q. And after the Defendant exits the vehicle, at some point
 4 Trooper Adamczyk takes temporary custody of him?
 5 A. Trooper Hayes from the Brighton Post was the first one
 6 there. After Mr. Kelsey was handcuffed, we just sat him
 7 in Trooper Hayes' car for a little bit. And then when
 8 Trooper Adamczyk got there from the Lansing Post, they
 9 transferred custody.
 10 MR. ROTH: Thank you.
 11 THE COURT: Are you finished with your
 12 questioning, Mr. Roth?
 13 MR. ROTH: I am, Your Honor. Thank you.
 14 THE COURT: Mr. Morley?
 15 CROSS-EXAMINATION
 16 BY MR. MORLEY:
 17 Q. Detective, this may sound dumb, but Mr. Kelsey was
 18 arrested on the twelfth of December?
 19 A. Yes, sir.
 20 Q. He wasn't driving the vehicle that evening, was he?
 21 A. No, sir.
 22 Q. Had his kids in the car?
 23 A. Yes, sir.
 24 Q. Do you know where they were going?
 25 MR. ROTH: Your Honor, I'm going to object to

130

1 hearsay.
 2 BY MR. MORLEY:
 3 Q. If you know.
 4 THE COURT: Overruled.
 5 You can answer.
 6 MR. ROTH: We need some foundation of how he
 7 would have learned that.
 8 THE COURT: He asked --
 9 Maybe you can ask the first question: "Do you
 10 know?"
 11 BY MR. MORLEY:
 12 Q. Do you know?
 13 A. They were en route to his parents' house.
 14 Q. Okay.
 15 MR. MORLEY: That's all I have.
 16 Thank you.
 17 THE COURT: Thank you, Mr. Morley.
 18 Mr. Roth?
 19 MR. ROTH: Your Honor --
 20 REDIRECT EXAMINATION
 21 BY MR. ROTH:
 22 Q. I apologize. Did you only learn that by what somebody
 23 told you?
 24 A. Yes.
 25 MR. ROTH: Your Honor, I'm going to move to

131

1 strike that answer.
 2 MR. MORLEY: Your Honor, I don't think --
 3 THE COURT: Overruled.
 4 Any questions?
 5 MR. ROTH: Nothing else, Your Honor.
 6 Thank you.
 7 THE COURT: Okay.
 8 You may step down.
 9 (At 11:45 a.m., the witness
 10 stepped down from the witness
 11 stand.)
 12 MR. ROTH: People call Trooper Andrew Adamczyk.
 13 THE COURT: Please raise your right hand.
 14 Do you swear or affirm to tell the truth, the
 15 whole truth, and nothing but the truth?
 16 TROOPER ADAMCZYK: I do.
 17 THE COURT: Please be seated.
 18 State your full name for us, and please spell
 19 the last name.
 20 THE WITNESS: Trooper Andrew Adamczyk. Last
 21 name is A-D-A-M-C-Z-Y-K.
 22 ANDREW ADAMCZYK
 23 called by the People at 11:45 a.m., sworn by the People,
 24 testified:
 25 DIRECT EXAMINATION

132

1 BY MR. ROTH:
 2 Q. Trooper, where are you employed?
 3 A. **Michigan State Police, Lansing Post.**
 4 Q. In what capacity?
 5 A. **As a road trooper.**
 6 Q. How long have you been with the State Police?
 7 A. **Nine years.**
 8 Q. In December of 2014, were you asked to assist in taking
 9 custody of a person identified as John Kelsey?
 10 A. **I was.**
 11 Q. And that was after Detective Sergeant Green's team had
 12 executed a traffic stop?
 13 A. **Yes, sir.**
 14 Q. At some point did you collect the Def -- John Kelsey's
 15 personal property?
 16 A. **I did.**
 17 Q. Do you see John Kelsey in the courtroom today?
 18 A. **Yes, sir.**
 19 MR. ROTH: Your Honor --
 20 I apologize. Jumping ahead.
 21 BY MR. ROTH:
 22 Q. Could you please point him out and identify him for the
 23 record?
 24 A. **He's the gentleman right behind you in the collared**
 25 **shirt.**

133

1 MR. ROTH: Your Honor, I would ask that the
 2 record reflect that the witness has identified the
 3 Defendant.
 4 MR. MORLEY: Without objection.
 5 THE COURT: The record will reflect that the
 6 witness has identified Mr. Kelsey.
 7 BY MR. ROTH:
 8 Q. In collecting his personal property, that's something
 9 consistent with your department policies, correct?
 10 A. **Yes, sir.**
 11 MR. ROTH: May I approach the witness,
 12 Your Honor?
 13 THE COURT: Yes.
 14 BY MR. ROTH:
 15 Q. (Approaching the witness.)
 16 I'm going to show you some pictures, Trooper.
 17 167, 168, 169. Are those fair and accurate pictures of
 18 personal property that you obtained that evening?
 19 A. **Yes, sir.**
 20 MR. ROTH: Your Honor, I'm going to move for
 21 the admission of 167, 168, 169.
 22 THE COURT: Is there any objection, Mr. Morley,
 23 or any voir dire?
 24 MR. MORLEY: Voir dire, Your Honor?
 25 THE COURT: You may.

134

1 VOIR DIRE EXAMINATION
 2 MR. MORLEY:
 3 Q. Trooper, we see in 167 --
 4 MR. MORLEY: May I approach the witness,
 5 Your Honor?
 6 THE COURT: You may.
 7 BY MR. MORLEY:
 8 Q. (Approaching the witness.)
 9 Is that clothing that he was wearing at the
 10 time that he was arrested?
 11 A. **Yes, sir.**
 12 Q. 168 is a hat he was wearing?
 13 A. **Yes.**
 14 Q. 69 is a wallet, pen, toothpaste, toothbrush; that's it?
 15 A. **Yes, sir.**
 16 MR. MORLEY: I have no objection.
 17 THE COURT: People's Exhibits 167, 168, and 169
 18 are admitted and received.
 19 (At 11:48 a.m., PX#167, PX#168,
 20 and PX#169 are received.)
 21 MR. ROTH: Thank you, Your Honor.
 22 DIRECT EXAMINATION (CONT'G)
 23 BY MR. ROTH:
 24 Q. Starting with 167, this is the clothing that the
 25 Defendant was wearing at the time. Is that correct?

135

1 A. **That's correct.**
 2 Q. All right. Top left, we have jeans?
 3 A. **Yes.**
 4 Q. What is this item, top right?
 5 A. **That would be his jacket.**
 6 Q. This item?
 7 A. **His pants.**
 8 Q. Long johns?
 9 A. **Long john bottoms.**
 10 Q. Then what's here in the middle left?
 11 A. **Long-sleeve long john shirt.**
 12 Q. Bottom left?
 13 A. **His black belt.**
 14 Q. Middle bottom?
 15 A. **Black shoes.**
 16 Q. Middle?
 17 A. **And his black hat stocking cap.**
 18 Q. Is that what we see closer in 168?
 19 A. **Yes, sir.**
 20 Q. Very good. And best of your recollection, that was black
 21 in color?
 22 A. **Yes, sir.**
 23 Q. Very good. And then 169. What do we see on the top?
 24 A. **Top right, toothbrush; top left, toothpaste.**
 25 Q. Middle?

136

1 **A. Looks to be, like, a phone charger cord.**
 2 Q. Some SOS documentation on the bottom middle?
 3 **A. Yes, sir.**
 4 Q. Do we see some change?
 5 **A. Yes.**
 6 Q. Did he have cash as well?
 7 **A. He did have cash.**
 8 Q. Do you handle cash differently when you seize personal
 9 property?
 10 **A. It is. It's counted out and then given right to the jail**
 11 **staff. We write down just how much it is.**
 12 Q. It's just processed differently?
 13 **A. It's just processed differently.**
 14 Q. How much money did the Defendant have at the time?
 15 **A. \$300 cash.**
 16 Q. Thank you. We see a pen as well. Is that correct?
 17 **A. Yes.**
 18 Q. And I think you mentioned the wallet?
 19 **A. Yes.**
 20 Q. And then here in the bottom right we have -- is that some
 21 police documentation? Is it a tabulation?
 22 **A. Yes.**
 23 Q. And that is -- Detective Trooper Johnston will explain
 24 better, but he asked you to put that in there?
 25 **A. Correct.**

137

1 Q. All right. And that was for some phones that were
 2 removed?
 3 **A. Correct.**
 4 MR. ROTH: Nothing further of this witness,
 5 Your Honor.
 6 THE COURT: Thank you, Mr. Roth.
 7 Mr. Morley, do you wish to question the
 8 witness?
 9 MR. MORLEY: Yes, sir.
 10 CROSS-EXAMINATION
 11 BY MR. MORLEY:
 12 Q. Troop, at the time of the arrest, Mr. Kelsey had kids in
 13 the car with him, right, if you know?
 14 **A. I believe so just because I wasn't there.**
 15 Q. If you know. I should ask it differently.
 16 **A. Yes.**
 17 Q. You were there as a transport car? I'm not minimizing.
 18 **A. That's correct.**
 19 Q. All right. You also at some point, excuse me, were
 20 involved in investigating tips emanating from the
 21 Michigan State Police tip line. Is that accurate?
 22 **A. Yes, sir.**
 23 Q. And I'm referencing Tip 101 on December 12th of 2014. Do
 24 you recall receiving information that Luke Kenneth Royal,
 25 Luke Bramlett, and Tyler Brown left in a white SUV, and

138

1 then it says spin off from Tip 86?
 2 **A. I do remember receiving that tip.**
 3 Q. And that's left from the Back Street Bar in Stockbridge
 4 on December 7th of 2014?
 5 **A. Correct.**
 6 Q. And did you find that white SUV?
 7 **A. No, sir.**
 8 MR. MORLEY: That's all I have, Troop.
 9 Thank you.
 10 THE COURT: Thank you, Mr. Morley.
 11 Mr. Roth?
 12 REDIRECT EXAMINATION
 13 BY MR. ROTH:
 14 Q. Sir, fair to say that the tip indicated that Luke Royal
 15 may own a white SUV?
 16 **A. Correct.**
 17 Q. Did that turn out to be true?
 18 **A. No, sir.**
 19 Q. What kind of vehicle did Mr. Royal's own -- er, excuse
 20 me, Royal?
 21 **A. A green Dodge pickup truck.**
 22 Q. That is not a white SUV, correct?
 23 **A. Correct.**
 24 Q. All right. Did you receive another tip in this case?
 25 **A. I did.**

139

1 Q. And what was that tip?
 2 **A. I was monitoring the tip phone that particular time. I**
 3 **received a tip from an anonymous subject who wanted to**
 4 **pass along information that a subject named John Kelsey**
 5 **frequents a bar in the Pinckney area. He's known to have**
 6 **a white GMC Yukon late '90s, early 2000's model.**
 7 **This -- the tipster advised that John is known**
 8 **to not have a license to drive.**
 9 Q. Let me ask you further just a little bit.
 10 **A. Okay.**
 11 Q. Did they talk about an event on Sunday morning that was
 12 missed?
 13 **A. They did.**
 14 Q. Tell me about that.
 15 **A. John's family and friends were hosting a Sunday football**
 16 **party. John did not show up for it, which, according to**
 17 **the tipster, was unusual for him.**
 18 Q. And did you pass along all of that information to the
 19 investigators to work on?
 20 **A. Yes, sir.**
 21 MR. ROTH: Very good.
 22 I have nothing further, Your Honor. Thank you.
 23 THE COURT: Thank you, Mr. Roth.
 24 You may step down, sir. Thank you, very much.
 25 (At 11:54 a.m., the witness

140

1 stepped down from the witness
 2 stand.)
 3 THE COURT: You may call your next witness,
 4 Mr. Roth.
 5 MR. ROTH: People call Detective Sergeant Sean
 6 Tinkle.
 7 THE COURT: Please raise your right hand.
 8 Do you swear or affirm to tell the truth, the
 9 whole truth, and nothing but the truth?
 10 DETECTIVE SERGEANT TINKLE: Yes, sir, I do.
 11 THE COURT: Please be seated. State your full
 12 name for us, please, and spell your first and last name.
 13 THE WITNESS: Sean, S-E-A-N, Tinkle,
 14 T-I-N-K-L-E.
 15 THE COURT: Mr. Roth?
 16 MR. ROTH: Thank you, Your Honor.
 17 SEAN TINKLE
 18 called by the People at 11:55 a.m., sworn by the Court,
 19 testified:
 20 DIRECT EXAMINATION
 21 BY MR. ROTH:
 22 Q. Where are you employed?
 23 A. **I'm employed with the Michigan State Police.**
 24 Q. In what capacity?
 25 A. **Currently I'm a detective sergeant in our technical**

141

1 **services unit.**
 2 Q. How long have you been with the State Police?
 3 A. **On Saturday it will be my 25th year as an officer.**
 4 Q. And in your current assignment, do you have any special
 5 responsibilities?
 6 A. **Yeah. Primarily I assist with telecommunications data**
 7 **intercepts. As part of that, I also routinely review**
 8 **call detail records from either a landline or cellular**
 9 **phones.**
 10 Q. And you have received training in furtherance of those
 11 tasks?
 12 A. **Yes, I have.**
 13 Q. In that capacity, were you asked to assist the task force
 14 investigation of the police pursuit that killed Deputy
 15 Grant Whitaker?
 16 A. **Yes, I was.**
 17 Q. Were you asked to obtain some cell phone records from a
 18 service provider?
 19 A. **Yes, from Sprint.**
 20 Q. And was there a specific phone number provided to you
 21 associated with John Kelsey?
 22 A. **Yes, there was. I'd have to refer to my notes for that**
 23 **number.**
 24 Q. Go ahead.
 25 A. **Okay. It's 810 772-9635.**

142

1 Q. Thank you. Did you determine the service provider
 2 associated with that phone number?
 3 A. **Yes. It was Sprint Communications.**
 4 Q. Thank you. And can the service provider, Sprint in this
 5 case, provide information beyond what's found on the
 6 physical phone?
 7 A. **Yes, they did. They provided subscriber information as**
 8 **well as historical call detail records.**
 9 Q. So even if a person deletes the physical content of their
 10 phone, Sprint still has that call detail record?
 11 A. **That is correct.**
 12 Q. They do not have the content of text messages, correct?
 13 A. **That is also correct.**
 14 MR. ROTH: Your Honor, I'm going to move for
 15 admission of Proposed Exhibit 185 pursuant to the
 16 certification accompanying it.
 17 THE COURT: Mr. Morley?
 18 MR. MORLEY: Can I consult with counsel real
 19 quick?
 20 (Talking off the record to Mr. Roth.)
 21 I don't have any objection, Judge, based on the
 22 certification. Thank you.
 23 THE COURT: People's Exhibit 185 is admitted
 24 and received.
 25 (At 11:57 a.m., PX#185 is

143

1 received.)
 2 MR. ROTH: Thank you.
 3 BY MR. ROTH:
 4 Q. So looking at these on the screen, generally what are
 5 these records?
 6 A. **Those are the records that Sprint returns that outlines**
 7 **the call detail transactions for that particular device.**
 8 Q. Does that include tower information?
 9 A. **In this case, yes, it does. If you --**
 10 Q. As a result of your training and work experience, are you
 11 able to use that data to map what tower was used for
 12 specific calls?
 13 A. **Yes, I am.**
 14 Q. Could you show the jury which column on here you used for
 15 that?
 16 MR. MORLEY: Judge, could we approach?
 17 THE COURT: Sure.
 18 (At 11:57 a.m., an at-the-bench
 19 discussion is held off the
 20 record.)
 21 MR. ROTH: Thank you.
 22 BY MR. ROTH:
 23 Q. I forgot what I asked you. There is some data on here
 24 that indicates what towers are used for what specific
 25 phone calls?

144

1 **A. That is correct.**
 2 Q. All right. So you don't make that determination
 3 yourself. All you're doing is reading it from the
 4 records that Sprint provides, correct?
 5 **A. Correct.**
 6 Q. Can you map each entry on this list, or are there some
 7 limitations?
 8 **A. I can match -- er, I can locate the towers where there is**
 9 **tower information available.**
 10 Q. Some of these things, like, 11's, that's no tower
 11 information, correct? I apologize?
 12 **A. No.**
 13 Q. Zeros on first cell and last cell?
 14 **A. Right. If there is a zero for first cell, last cell,**
 15 **then there is no tower associated with that call**
 16 **transaction.**
 17 Q. All right. And if the phone was turned off or didn't
 18 have power, you can't make any determination about where
 19 it was, correct?
 20 **A. That is correct.**
 21 Q. And if the phone wasn't being used, an active phone call,
 22 you can't make any determination, correct?
 23 **A. That's correct.**
 24 Q. And for the ones that you can determine, it's not -- you
 25 can't determine where within that tower radius it was,

145

1 correct?
 2 **A. Correct.**
 3 Q. Just which tower was used for that call?
 4 **A. Both tower and sector, like, which side of the tower.**
 5 Q. And you cannot make a determination about the range of a
 6 specific tower, correct?
 7 **A. Based on these call detail records, no.**
 8 Q. All right. So just somewhere between this tower and that
 9 tower it moves, and we can't say how far, correct?
 10 **A. Correct.**
 11 Q. There are times when a phone won't necessarily use its
 12 closest tower or the closest side, correct?
 13 **A. That is also correct.**
 14 Q. Depends on a number of things like call volume; things
 15 like that?
 16 **A. Yes.**
 17 Q. All right. If a phone is relatively close to the halfway
 18 point, it's random which one it might use or can be?
 19 **A. Like I said, there is a lot of different factors**
 20 **involved, but a device can actually be in one location**
 21 **and use more than one tower for a different call**
 22 **transaction.**
 23 MR. ROTH: Thank you.
 24 May I approach the witness, Your Honor?
 25 THE COURT: You may.

146

1 BY MR. ROTH:
 2 Q. (Approaching the witness.)
 3 I'm going to show you three documents. First,
 4 186. Do you recognize this document?
 5 **A. Yes, I do.**
 6 Q. Is that the call detail record for these Sprint records
 7 that we see on the screen?
 8 **A. It's a report that I generated based off of these records**
 9 **that I obtained from Sprint, that's correct.**
 10 Q. Does it compile some of the data to make it more easily
 11 readable?
 12 **A. Yes, it does.**
 13 Q. Very good. And then 187, does that fairly and accurately
 14 map a couple specific phone calls that were on this
 15 record?
 16 **A. Yes. There is two different tower locations where phone**
 17 **calls took place.**
 18 Q. Very good. And 188, does that fairly and accurately map
 19 two towers related to a Teahen address?
 20 **A. Yes, it does.**
 21 MR. ROTH: Very good.
 22 Your Honor, I move for admission of 186, 187,
 23 188.
 24 MR. MORLEY: Without objection.
 25 THE COURT: People's Exhibits 186, 187, and 188

147

1 are admitted and received.
 2 (At 12:04 p.m., PX#186, PX#187,
 3 and PX#188 are received.)
 4 MR. ROTH: Thank you, Your Honor.
 5 BY MR. ROTH:
 6 Q. So I want to start with 186. What is the first time that
 7 we have a call recorded on here?
 8 **A. It shows 2:10 a.m.**
 9 Q. On what date?
 10 **A. On December 7th, 2014.**
 11 Q. Does this record start at that time because it's the
 12 first call after the pursuit?
 13 **A. That's correct.**
 14 Q. And who was that phone call to? What number and what
 15 name is associated with it?
 16 **A. Okay. The number is 734 680-9486, and that's a**
 17 **Tony Hildabridle.**
 18 Q. Thank you. And from this initial record, let's see, I'm
 19 going to ask you for the duration of that phone call. Do
 20 you have that data more easily accessible than digging
 21 through this?
 22 **A. I do.**
 23 Q. All right.
 24 **A. It was two minutes and 36 seconds.**
 25 Q. Thank you. So our next phone call after the one to

148

1 Tony Hildabridle's phone --

2 **A. Yes.**

3 Q. -- is to, what? What number and what name?

4 **A. Outgoing call again, number 734 205-8918. That's a**

5 **Brian Hildabridle.**

6 Q. At what time?

7 **A. At 2:18 a.m. on -- also on December 7th of 2014.**

8 Q. What was the duration of that phone call?

9 **A. The duration of that call was four minutes and**

10 **25 seconds.**

11 Q. Safe to say or fair to say that after those 2 a.m.

12 phone calls, there's quite a gap before the next one at

13 8 a.m.?

14 **A. Yes. That's the next activity on that device is 8 a.m.**

15 Q. All right. So in 187, did you map those phone calls?

16 **A. I did.**

17 Q. All right. So we have the vehicle time-stamped at 1:53

18 at the Dam Site Inn. We also see there are some towers

19 here; for example, 19 -- excuse me, 1798, 1601. These

20 were not used during this?

21 **A. Correct.**

22 Q. Now, for 1826 and 1792, we see some fans or cones coming

23 out of them. What does that represent?

24 **A. Those represent the sector -- the general area where the**

25 **device would have been located during that call**

149

1 transaction. Now, keep in mind that basically that's a

2 bearing from the tower. The shaded area that I have

3 there on the map does not indicate the range from the

4 tower. That's difficult to tell.

5 **In order to be unambiguous about it, I made it**

6 **much smaller. Right there what you see on the map is**

7 **about one mile from the tower, but the effective range of**

8 **the tower is greater than that.**

9 Q. It's just meant to show what direction it goes out?

10 **A. Correct.**

11 Q. While you were making this map and investigating this,

12 did you discover something about the 1792 Tower and

13 specifically that cone; that it shifted around that time?

14 **A. Yes, it did.**

15 Q. Could you explain that for the jury?

16 **A. Sure. When I originally prepared this report that we've**

17 **seen up on the screen already, I -- I pulled from a tower**

18 **database from Sprint. It was dated November 2014. That**

19 **was the most recent tower that they had available at that**

20 **time in December. The azimuth, which means basically the**

21 **center of that beam width, that shaded area that you see**

22 **off the tower, that's considered the azimuth, the center**

23 **of that.**

24 **At that time the azimuth was 290 -- 290 degrees**

25 **from north. So if you think of zero being north, and**

150

1 then you go from clockwise to the right, the degrees go

2 all the way around to 360. So the azimuth for the

3 transaction in December, the call detail records, the

4 tower information that I got from Sprint, would have been

5 293 degrees.

6 **Now, after that time when I actually prepared**

7 **this presentation, which would have been sometime in**

8 **April, Sprint had a new tower list that they came out**

9 **with in January where the azimuth now changed on that**

10 **particular side of the tower to 70. So the effective**

11 **range for that side of the tower shifted a little bit**

12 **further to the south.**

13 **So at some point in time, either shortly before**

14 **or after this incident, the actual area that that tower**

15 **serviced on that side shifted a little bit, and it's**

16 **really not clear exactly what that was because they did**

17 **make a change in engineering during that time frame.**

18 Q. So this gives us a rough idea of the direction?

19 **A. Right.**

20 Q. It might be ticked a little bit higher?

21 **A. It may be. So that gives you just a rough idea that's**

22 **the area that that tower services on that sector.**

23 Q. So we have an indication at the last transmission at 208.

24 The next phone call is at 2:10:44. That's the call to

25 Tony Hildabridle's phone?

151

1 **A. That's correct.**

2 Q. Where is the side of the tower used relative to that?

3 Does that make sense?

4 **A. No. I need clarification.**

5 Q. I can do that. I apologize. Where is the tower that was

6 used for that relative to the crash site?

7 **A. Oh, it's south.**

8 Q. Southeast?

9 **A. Yeah. A little southeast of the crash site.**

10 Q. And what side of that southeast tower?

11 **A. Basically, the west to northwest side of that tower.**

12 Q. Thank you. And then we see the next phone call is at

13 2:18. What tower number is used?

14 **A. 1826.**

15 Q. Where is that relative to the crash site?

16 **A. That would be little to the east and a little south.**

17 Q. Even further east than the 1792 Tower?

18 **A. Yes.**

19 Q. And this is the phone call to Brian Hildabridle's phone,

20 correct?

21 **A. That is correct.**

22 Q. And what side of that east tower was used?

23 **A. The north side.**

24 Q. Both of these towers are in the Stockbridge area?

25 **A. Yes.**

152

1 Q. So after those phone calls, there is no activity for
 2 about six hours, correct?
 3 **A. Correct.**
 4 Q. Flipping to page 2 in your line sheet report, when the
 5 phone becomes active again in the morning hours, what
 6 towers are being used?
 7 **A. You have basically two towers that are used that morning,**
 8 **1909 and 1858.**
 9 Q. And did you map those towers and the sides of the towers
 10 used in People's Exhibit 188?
 11 **A. Yes.**
 12 Q. And we also have the 804 Teahen Road address sort of in
 13 the middle. Is that fair to describe it?
 14 **A. Yes.**
 15 Q. And that was identified to you as the Defendant's
 16 parents' residence?
 17 **A. Correct.**
 18 Q. These are Brighton towers. Is that right?
 19 **A. The greater Brighton area, yes.**
 20 Q. Thank you. A number of these phone calls in the early
 21 morning hours, there is a few that are not identified.
 22 Is that correct?
 23 **A. Correct.**
 24 Q. All right. And then we see there are some that are
 25 identified as Brian Hildabridle. Could you count for us

153

1 in total how many times on December 7th did the Defendant
 2 have phone contact with Tony Hildabridle?
 3 **A. Yes. Let me take a look at the same report that you have**
 4 **up there. I have it in the hard copy here.**
 5 Q. So this is only on the seventh?
 6 **A. Yep. I count 15.**
 7 Q. Fifteen phone calls in either direction on the seventh to
 8 Tony Hildabridle?
 9 **A. Correct.**
 10 Q. What about Brian Hildabridle on the seventh?
 11 **A. I count four times.**
 12 Q. Four times for Brian Hildabridle on the seventh, correct?
 13 **A. That's correct.**
 14 Q. And on the eighth, how many times to Tony Hildabridle?
 15 **A. Eleven times.**
 16 Q. Eleven times to Tony Hildabridle on the eighth?
 17 **A. Correct.**
 18 Q. And Brian on the eighth?
 19 **A. I didn't see any.**
 20 Q. Did not speak to Brian on the eighth?
 21 **A. It doesn't appear so, at least not to that phone number.**
 22 MR. ROTH: Very good.
 23 I have nothing further of this witness,
 24 Your Honor.
 25 THE COURT: Thank you, Mr. Roth.

154

1 Mr. Morley, you may question the witness.
 2 MR. MORLEY: Thank you, Judge. Approach the
 3 witness, Your Honor?
 4 THE COURT: You may.
 5 CROSS-EXAMINATION
 6 BY MR. MORLEY:
 7 Q. (Approaching the witness.)
 8 I'll show you the map that was admitted as 187.
 9 And, to be clear, there is right -- did you draft this?
 10 **A. I did.**
 11 Q. Okay. Stockbridge is over in the upper, left-hand
 12 corner, right?
 13 **A. Yes.**
 14 Q. And there is a first cell phone tower bottom middle,
 15 right?
 16 **A. Correct.**
 17 Q. And a second cell phone tower far right, right?
 18 **A. That is correct.**
 19 Q. In fact, that bottom cell phone tower is Washtenaw
 20 County, isn't it?
 21 **A. Yes, it is.**
 22 Q. And the one on the far right is Pinckney, right? In
 23 Livingston County, right?
 24 **A. That's correct.**
 25 Q. And this is where I'm confused. You were asked "Are

155

1 these cell phone towers in the Stockbridge area," but
 2 they're not. One is in Washtenaw. One is in Livingston,
 3 right?
 4 **A. Well, the greater Stockbridge area, I mean,**
 5 **geographical --**
 6 Q. How many miles?
 7 **A. -- area. I'd have to -- I really don't know. Maybe ten**
 8 **miles from one location to the other.**
 9 Q. Okay. Well, we're talking three different counties.
 10 Stockbridge is Ingham County, Washtenaw County, and
 11 Livingston County, right?
 12 **A. I believe so. That's correct.**
 13 Q. Okay. Same general question with 188. This shows us, do
 14 you know, I mean, we have one tower on the far left side.
 15 One tower on the far right side. Do you know how far
 16 apart those are?
 17 **A. I do not.**
 18 Q. That's in Livingston County, right?
 19 **A. That is correct.**
 20 Q. Further in than Pinckney. This is in the Brighton area,
 21 allegedly, right?
 22 **A. Further in?**
 23 Q. Yeah, you're right. Deeper into Livingston County, if
 24 you will.
 25 **A. Okay. Yes. Further to the east.**

156

1 Q. But you can't on either of these see how big a geographic
2 area we're looking at, right?

3 **A. I guess if you're kind of familiar with the area, you get
4 an idea how far apart those towns are, but I didn't
5 actually measure the distances between --**

6 Q. Well, I'm familiar with the area. That's what I'm asking
7 you. Are you familiar enough with the area to give us a
8 geographical idea how big an area we're talking about?

9 **A. Not specifically. I mean, I'm very familiar with the
10 area. I lived out there, and I also lived out there for
11 quite some time.**

12 Q. So how big an area are we talking about? So not to beat
13 this to death, but you don't know on either one, right?

14 **A. Not specifically. It seems relatively close to me
15 because that's because I'm really familiar with the area,
16 but I don't know specifically how far apart --**

17 Q. But at least ten miles?

18 **A. -- those towns are. I would say Stockbridge to Pinckney
19 is eight to ten miles.**

20 Q. Are there other --

21 THE DEFENDANT: (Laughing.)

22 BY MR. MORLEY:

23 Q. -- cell phone towers in Stockbridge?

24 **A. I have -- yes. They're listed on that map as well.**

25 Q. How far from the crash is the first phone call made?

157

1 MR. ROTH: Your Honor, I don't think that is
2 within his scope.

3 MR. MORLEY: That's fair. I'll withdraw the
4 question. That's all I have.

5 THE COURT: All right.

6 MR. MORLEY: Thank you, Judge.

7 MR. ROTH: Just briefly.

8 REDIRECT EXAMINATION

9 BY MR. ROTH:

10 Q. All right. So looking at 188 again -- no. Apologize.
11 187. When we talk about these two towers, I think
12 Mr. Morley is talking about where geographically the
13 tower itself is related, but the coverage area, does it
14 cover the Stockbridge area?

15 **A. Yes, it does.**

16 Q. All right. And in the same way 188, they would cover the
17 greater Brighton area?

18 **A. That is correct.**

19 MR. ROTH: All right.

20 Nothing further. Thank you.

21 THE COURT: Thank you, Mr. Roth.

22 You may step down, sir. Thank you.

23 THE WITNESS: Thank you.

24 (At 12:21 p.m., the witness
25 stepped down from the witness

158

1 stand.)

2 THE COURT: Mr. Roth, you may call your next
3 witness.

4 MR. ROTH: People call Detective Sergeant Jeff
5 Yonker.

6 THE COURT: Right up here, sir. Please raise
7 your right hand.

8 Do you swear or affirm to tell the truth, the
9 whole truth, and nothing but the truth?

10 DETECTIVE SERGEANT YONKER: Yes, I do.

11 THE COURT: Please be seated. State your full
12 name and please spell it for us.

13 THE WITNESS: My name is Jeffery Yonker. Last
14 name is spelled Y-O-N-K-E-R.

15 THE COURT: Mr. Roth?

16 MR. ROTH: Thank you, Your Honor.

17 JEFFERY YONKER
18 called by the People at 12:22 p.m., sworn by the Court,
19 testified:

20 DIRECT EXAMINATION

21 BY MR. ROTH:

22 Q. Good afternoon.

23 **A. Good afternoon, sir.**

24 Q. Where are you employed?

25 **A. I'm employed by the State of Michigan, Department of**

159

1 **State Police at the First District Headquarters.**

2 Q. In what capacity?

3 **A. Detective sergeant.**

4 Q. Thank you. How long have you been with the State Police?

5 **A. It will be 17 years in August.**

6 Q. Were you assigned to assist in the investigation of the
7 police pursuit that resulted in the death of Deputy Grant
8 Whitaker?

9 **A. Yes, sir, I was.**

10 Q. And, specifically, on December 16th, 2014, did you search
11 a residence located at 4109 Morton Road?

12 **A. Yes, sir.**

13 Q. Showing you Exhibit 50. Is the 4109 Morton Road
14 residence shown in this picture?

15 **A. Yes, sir, it is.**

16 Q. Could you please put a mark on the screen in front of you
17 with your finger where it is.

18 **A. (Illustrating.)**

19 Q. So the northwest corner?

20 **A. Yes, sir.**

21 Q. Now, this picture was not taken on the specific day you
22 were there, correct?

23 **A. That is correct.**

24 Q. About how far -- I'll put the other map on the screen --
25 is this Morton Road address from where the pursuit began

160

1 at the Marathon station?
2 **A. It is approximately half a mile.**
3 Q. Thank you. And when you were asked to search this
4 residence, was it identified to you who lived there?
5 **A. Yes, sir.**
6 Q. Who?
7 **A. John Kelsey.**
8 Q. Thank you. And you had a search warrant to search that
9 address, correct?
10 **A. Yes, sir, we did.**
11 Q. What did it direct you to search for?
12 **A. Automotive related items, accessories, things related to**
13 **a 2003 Yukon Denali.**
14 MR. MORLEY: Judge, may we approach?
15 THE COURT: Yes.
16 MR. MORLEY: Nothing, Judge.
17 BY MR. ROTH:
18 Q. Automotive evidence, you indicated?
19 **A. Correct.**
20 Q. Very good. Was anybody home when you searched that
21 residence on December 16th?
22 **A. No, sir.**
23 Q. Could you describe the plot of land that this residence
24 is on?
25 **A. Sure. The residence is set -- as you can see in the**

161

1 **picture there, it's well off the roadway. The immediate**
2 **area surrounding the house is what I would describe as a**
3 **maintained area, lawn that's maintained. Outside of that**
4 **area there is a higher grass, what I would consider not**
5 **maintained, if you will. And to the west of that area**
6 **there is a treeline that runs to the north.**
7 Q. Thank you. Did your team look throughout that land on
8 the perimeter?
9 **A. We looked around the immediate area of the residence,**
10 **yes, sir.**
11 Q. And did your team find or observe anything relevant to
12 the investigation in any of that land?
13 **A. No, sir, we did not.**
14 Q. Now let's move to the area immediately outside of the
15 residence.
16 MR. ROTH: May I approach the witness,
17 Your Honor?
18 THE COURT: Yes.
19 BY MR. ROTH:
20 Q. (Approaching the witness.)
21 Let me show you Proposed Exhibits 190 through
22 193. If you could take a moment and look at those,
23 please.
24 Are those fair and accurate pictures on the day
25 that you searched the residence?

162

1 **A. Yes, sir, they are.**
2 MR. ROTH: Move for the admission of 190
3 through 193.
4 MR. MORLEY: No objection, Your Honor.
5 THE COURT: People's Exhibits 190, 191, 192,
6 and 193 are admitted and received.
7 (At 12:26 p.m., PX#190, PX#191,
8 PX#192, and PX#193 are received.)
9 MR. ROTH: Thank you, Your Honor.
10 BY MR. ROTH:
11 Q. First at 190, what side of the residence are we looking
12 at here?
13 **A. This would be the south side of the residence.**
14 Q. So this is what we see in the exhibit before facing the
15 roadway?
16 **A. Correct.**
17 Q. Very good. And this is the shared drive that we see
18 coming up the right side?
19 **A. I cannot see the shared drive.**
20 Q. I apologize. It would be off to the right side here?
21 **A. Correct.**
22 Q. What kind of vehicle was here in front of the residence?
23 **A. That is a Blazer.**
24 Q. What color?
25 **A. I would call it pewter.**

163

1 Q. And who is the manufacturer of the Blazer?
2 **A. Chevrolet.**
3 Q. Not GMC, correct?
4 **A. Correct.**
5 Q. And when you were on -- at the residence on
6 December 16th, that vehicle was still there, correct?
7 **A. Yes, sir.**
8 Q. Showing you 191. What was the plate number on that
9 Blazer?
10 **A. That is a Michigan registration plate of C, as in**
11 **Charles; F, as in Frank; K, as in King; 9409.**
12 Q. Who is it registered to?
13 **A. Beverly Perry.**
14 Q. Thank you. Showing you 192. What did you observe on the
15 east side of the residence?
16 **A. That is a Mustang convertible.**
17 Q. What condition was it in?
18 **A. The front bumper cover was detached from the vehicle and**
19 **laying to the -- it would have been the northeast part of**
20 **the vehicle.**
21 Q. I think you might have already mentioned it, but what
22 kind of car was it?
23 **A. Ford.**
24 Q. Specific model?
25 **A. Mustang.**

164

1 Q. What color?
 2 A. **Red.**
 3 Q. Do we see the plate number in 193?
 4 A. **Yes, sir.**
 5 Q. Who was this vehicle registered to?
 6 A. **That is registered to Frank Kelsey.**
 7 Q. Frank Kelsey?
 8 A. **Correct.**
 9 Q. Thank you. And that person was identified to you as the
 10 Defendant's father?
 11 A. **Correct.**
 12 Q. All right. We see in the top left of 193, it says SVT.
 13 What does that mean?
 14 A. **It stands for special vehicle team.**
 15 Q. Do you know what that is?
 16 A. **I do.**
 17 Q. What is it?
 18 A. **It's a racing or higher performance type model of a**
 19 **vehicle.**
 20 Q. Very good. You're aware of a 2003 white GMC Yukon Denali
 21 XL that was also registered to the Defendant's father?
 22 A. **Correct.**
 23 Q. You mentioned earlier that was specifically something you
 24 were looking specifically for evidence of, correct?
 25 A. **Correct.**

165

1 Q. Were you able to locate it anywhere on the property?
 2 A. **No, sir.**
 3 MR. ROTH: Let's move inside of the residence
 4 then.
 5 Move for the admission of 194 through 196.
 6 MR. MORLEY: Without objection, Your Honor.
 7 THE COURT: People's Exhibits 194, 195, and 196
 8 are admitted and received.
 9 (At 12:30 p.m., PX#194, PX#195,
 10 and PX#196 are received.)
 11 MR. ROTH: Thank you.
 12 BY MR. ROTH:
 13 Q. You testified earlier that your focus was primarily on
 14 vehicle or automotive evidence?
 15 A. **Correct.**
 16 Q. Was any found inside of the residence?
 17 A. **Yes.**
 18 Q. What do we see in 194?
 19 A. **This is a photograph of, obviously, a cardboard box**
 20 **containing several quarts of motor oil, some shop towers,**
 21 **a funnel, and a lightbulb box.**
 22 Q. What about other tools? Were there tools throughout the
 23 residence?
 24 A. **Yes, there was.**
 25 Q. Quite a few?

166

1 A. **A number of them.**
 2 Q. And, specifically, this item in the top left of the box
 3 in 194, do we see that box again in 195?
 4 A. **Yes, sir, we do.**
 5 Q. What is that item?
 6 A. **That is a NAPA high beam replacement lightbulb.**
 7 Q. And did you turn over that item -- first of all, did you
 8 take that item?
 9 A. **Yes, sir, I did.**
 10 Q. And did you turn it over to Detective McPhee and
 11 Detective Johnston for further follow-up?
 12 A. **Yes, sir.**
 13 MR. ROTH: Nothing further of this witness,
 14 Your Honor.
 15 THE COURT: Thank you, Mr. Roth.
 16 Mr. Morley?
 17 CROSS-EXAMINATION
 18 BY MR. MORLEY:
 19 Q. Detective, good afternoon.
 20 A. **Good afternoon, sir.**
 21 Q. That last item you just saw, the NAPA lightbulb, or
 22 whatever --
 23 A. **Yes?**
 24 Q. -- that's common to thousands of cars, right?
 25 A. **Well, I don't know about thousands of cars. I know it's**

167

1 **common to a number of cars. I don't know how many, sir.**
 2 MR. MORLEY: That's all I have. Thank you.
 3 THE COURT: Thank you, Mr. Morley.
 4 Mr. Roth?
 5 MR. ROTH: Nothing, Your Honor. Thank you.
 6 THE COURT: You may step down, sir. Thank you.
 7 (At 12:31 p.m., the witness
 8 stepped down from the witness
 9 stand.)
 10 THE COURT: Mr. Roth, you may call your next
 11 witness.
 12 MR. ROTH: My next witness is Detective Trooper
 13 Johnston.
 14 Would the Court like to begin that today?
 15 THE COURT: Can I see counsel at the bench?
 16 (At 12:31 p.m., an at-the-bench
 17 discussion is held off the
 18 record.)
 19 THE COURT: Mr. Roth, you may call your next
 20 witness.
 21 MR. ROTH: People call Detective Trooper Troy
 22 Johnston.
 23 THE COURT: Please raise your right hand.
 24 Do you swear or affirm to tell the truth, the
 25 whole truth, and nothing but the truth?

168

1 DETECTIVE TROOPER JOHNSTON: Yes, I do.
 2 THE COURT: Please be seated. State your full
 3 name, and spell your last name for us, please.
 4 THE WITNESS: Trooper Troy Robert Johnston,
 5 J-O-H-N-S-T-O-N.
 6 TROY R. JOHNSTON
 7 called by the People at 12:34 p.m., sworn by the Court,
 8 testified:
 9 DIRECT EXAMINATION
 10 BY MR. ROTH:
 11 Q. Where are you employed?
 12 A. **With the Michigan State Police.**
 13 Q. In what capacity?
 14 A. **I'm a detective trooper with the Lansing Post.**
 15 Q. How long have you been with the State Police?
 16 A. **Just over 17 years.**
 17 Q. What are -- how specifically were you assigned in this
 18 case?
 19 A. **I was assigned to assist initially in the investigation.**
 20 **And then later on as the investigation progressed, I**
 21 **became the officer in charge of the investigation.**
 22 Q. And that was in conjunction with Detective Sergeant
 23 McPhee?
 24 A. **Yes.**
 25 Q. As the officer in charge, what are your responsibilities?

169

1 A. **To oversee, you know, all parts of the investigation.**
 2 Q. Thank you. I want to start with some of the video that
 3 we looked at this morning from the L & B, the Shell, and
 4 the Marathon. Did the individual from all three of those
 5 fit together? In other words, the same white -- excuse
 6 me, it's the only white SUV that travels through each
 7 three in that period of time?
 8 A. **Yes, it did.**
 9 Q. Thank you. And that video was integral to starting the
 10 investigation, though not necessarily throughout,
 11 correct?
 12 A. **Yes.**
 13 Q. We heard some evidence this morning about a Teahen Road
 14 address. Do you know what the number is there?
 15 A. **8041.**
 16 Q. And where is that Teahen Road address, what city?
 17 A. **Brighton.**
 18 Q. We heard testimony from one of the troopers this morning
 19 about where the Defendant had police contact. Do you
 20 recall where that was; King, I believe?
 21 A. **Yes.**
 22 Q. Now, there was some indication that maybe he was headed
 23 to his parents' house. Geographically, did that make
 24 sense?
 25 A. **No. King Road is not -- if I were going to drive from**

170

1 **Morton Road to Teahen Road, that would not be the most**
 2 **direct route.**
 3 Q. In fact, is it pretty far out of the way?
 4 A. **It's a little way out of the way, yes.**
 5 Q. Thank you. All right. So that Teahen Road address, on
 6 December 16th, 2014, did you search the interior of that
 7 residence?
 8 A. **Yes.**
 9 MR. ROTH: Move for admission of 197 and 198.
 10 MR. MORLEY: Without objection, Your Honor.
 11 THE COURT: Exhibits 197 and 198 are admitted
 12 and received.
 13 (At 12:37 p.m., PX#197 and PX#198
 14 are received.)
 15 BY MR. ROTH:
 16 Q. Starting with 197, what do we see here?
 17 A. **The picture's of a white colored mailbox with the numbers**
 18 **8041 affixed.**
 19 Q. And is that associated with the Teahen Road address that
 20 we discussed?
 21 A. **Yes, it is.**
 22 Q. Is this Teahen Road the curving road that we see here?
 23 A. **Yes, it is.**
 24 Q. Where is the residence relevant to that?
 25 A. **I believe the residence is on the -- I don't recall if**

171

1 **the residence is on the opposite -- I didn't take this**
 2 **photograph. I don't remember if it was on the opposite**
 3 **side of the road. The residence itself is the south side**
 4 **of Teahen Road, but I'm not sure the mailbox, if it's on**
 5 **the north or south.**
 6 Q. Thank you. And we see that residence in 198?
 7 A. **Yes.**
 8 Q. How far off of the road is that approximately?
 9 A. **I'd say it's 100 yards off the road.**
 10 Q. And looking at 198, this was not a picture taken by your
 11 team on that day, correct?
 12 A. **No.**
 13 Q. Who lived at this residence?
 14 A. **Frank Kelsey, Defendant's father, and Marcia McGarry,**
 15 **Defendant's mother, and there was a roommate that rented**
 16 **a room in the upstairs portion of the residence.**
 17 Q. I think you mentioned this, but Marcia McGarry, what is
 18 her relationship to the John Kelsey, the Defendant?
 19 A. **His mother.**
 20 Q. Thank you. And what type of evidence were you directed
 21 to search for that day in the residence?
 22 A. **We were specifically looking for a 2003 GMC Yukon Denali**
 23 **XL or any paperwork associated with that vehicle.**
 24 Q. Thank you. Could you describe the plot of land that this
 25 residence is located on?

172

1 **A. It's -- it's a large wooded lot.**
 2 Q. And did your team look throughout that lot or that land
 3 for the vehicle?
 4 **A. Yes, we did.**
 5 Q. Could you describe where?
 6 **A. Well, specifically we looked in the garages, in the**
 7 **outbuildings, and around the exterior of the house.**
 8 Q. And in any of the areas adjacent to the house?
 9 **A. Yes.**
 10 Q. And in any of these locations was the 2003 white GMC
 11 Yukon Denali XL located?
 12 **A. No, it was not.**
 13 Q. What vehicles were on the property that day?
 14 **A. There was a vehicle in the garage, a silver-colored Honda**
 15 **Pilot, I believe. There was a black colored passenger**
 16 **car, I believe, a Saab that was parked in the driveway,**
 17 **and a red or burgundy colored Chevrolet pickup truck also**
 18 **in the driveway.**
 19 Q. Was anybody home when you were there that day?
 20 **A. Yes.**
 21 Q. Who?
 22 **A. Both Frank Kelsey and Marcia McGarry were home.**
 23 Q. Anybody else arrive while you were there?
 24 **A. Yes. Defendant's sisters, two, arrived after we had**
 25 **already begun the search.**

173

1 Q. And did any of them provide you any information about the
 2 current location of the white 2003 GMC Yukon Denali XL
 3 registered to Frank Kelsey?
 4 **A. No, they did not.**
 5 Q. And by that time, had the Defendant already been charged
 6 in this case?
 7 **A. Yes.**
 8 Q. I want to move inside the residence now. Did you find
 9 any evidence related to the vehicle inside the residence?
 10 **A. Yes, we did.**
 11 MR. ROTH: May I approach the witness,
 12 Your Honor?
 13 THE COURT: You may.
 14 BY MR. ROTH:
 15 Q. (Approaching the witness.)
 16 Showing you Proposed Exhibits 49 and then 199
 17 through 201. Are these all fair and accurate either
 18 pictures or copies of the documents found in the
 19 residence that day?
 20 **A. Yes.**
 21 MR. ROTH: Thank you.
 22 Your Honor, I'd move for the admission of
 23 Exhibits 49 and 199 through 201.
 24 MR. MORLEY: Judge, the last ones I just looked
 25 at I'm going to object on hearsay. They are photographs,

174

1 but they're being offered for the truth of the matter
 2 asserted within those photographs.
 3 THE COURT: Which is it, Mr. Morley?
 4 MR. MORLEY: The latter four, I believe. I
 5 didn't pay attention to the numbers. Well, I think all
 6 of them, actually. 49 --
 7 I'm sorry, I didn't mean to grab those out of
 8 your hand like that.
 9 MR. ROTH: That's all right.
 10 MR. MORLEY: 49, 200, and 201 are being offered
 11 for the truth of the matter asserted. 199 is just a
 12 hodgepodge. I don't necessarily have an objection.
 13 THE COURT: Mr. Roth?
 14 MR. ROTH: 49 had additionally foundation by
 15 Howard Baum from AAA; that this was a document kept in
 16 the normal course of business there. As to the other
 17 ones, they would not be hearsay under 801 because the
 18 Defendant's family and the Defendant's adoption of these
 19 -- this paperwork by keeping it in the house manifests an
 20 adoption of its content.
 21 THE COURT: Can I see what it is, please?
 22 MR. ROTH: Yes, Your Honor.
 23 MR. MORLEY: Approach, Judge.
 24 THE COURT: Yes.
 25 (At 12:42 p.m., an at-the-bench

175

1 discussion is held off the
 2 record.)
 3 THE COURT: So People's Exhibits 49 and 199 are
 4 admitted and received.
 5 MR. ROTH: I'm going to strike 199. It lacks
 6 relevance without 200 and 201, Your Honor.
 7 THE COURT: All right.
 8 (At 12:51 p.m., PX#49 is
 9 received.)
 10 BY MR. ROTH:
 11 Q. 49. Let's discuss one of the specific documents. Where
 12 was this -- first of all, what is this item?
 13 **A. It's insurance paperwork.**
 14 Q. Where was it located?
 15 **A. It was located in a file cabinet in the foyer or laundry**
 16 **room area of the main level of the residence.**
 17 Q. I'm looking at the top left at the cover page. What
 18 vehicle is covered on this policy?
 19 **A. 2004 Saab, a 2001 Volvo, a 2001 Cadillac, and a 2003 GMC.**
 20 Q. Going to what's labeled page 4 of the policy, what do we
 21 see here?
 22 **A. It looks like the changes in effective dates.**
 23 Q. And what is the change that's reflected on this
 24 particular page?
 25 **A. It shows that the 2003 GMC Yukon Denali XL was added to**

176

1 **the policy.**
 2 Q. And what date is that effective?
 3 A. **Looks like May 21st, 2013.**
 4 Q. '13?
 5 A. **Yes.**
 6 Q. Does it list the VIN number for that GMC Yukon Denali XL?
 7 A. **It does.**
 8 Q. Looking at 46, does that VIN number match the Secretary
 9 of State record that we previously discussed?
 10 A. **Yes.**
 11 Q. Thank you. And who is expressly excluded or supposed to
 12 be of being a driver of that vehicle?
 13 A. **John Kelsey.**
 14 Q. Looking at page 6, what is the policy term on that
 15 vehicle?
 16 A. **Policy term is June 1st, 2014, through June 1st, 2015.**
 17 Q. Thank you. We heard testimony that that 2003 GMC Yukon
 18 Denali XL was allegedly in storage. Did you find any
 19 receipts for a vehicle storage unit?
 20 A. **No, we did not.**
 21 Q. And, similarly, the Morton Road address, were any
 22 receipts for a vehicle storage unit found there?
 23 A. **No.**
 24 Q. Did you find any documentation, or was any documentation
 25 in either residence found corroborating a vehicle storage

177

1 unit?
 2 A. **No.**
 3 Q. In addition to searching the Teahen Road address, did you
 4 do some work as it relates to the path from the Dam Site
 5 Inn to Stockbridge?
 6 A. **Yes.**
 7 MR. ROTH: May I approach the witness,
 8 Your Honor?
 9 THE COURT: Yes.
 10 BY MR. ROTH:
 11 Q. (Approaching the witness.)
 12 Showing you what's marked as 202. Is that a
 13 fair and accurate map from Dam Site to the Morton Road
 14 address for the Defendant?
 15 A. **Yes.**
 16 Q. And does that also include the most direct path between
 17 those two?
 18 A. **Yes.**
 19 MR. ROTH: Move for the admission of 202.
 20 MR. MORLEY: Without objection, Your Honor.
 21 THE COURT: People's Exhibit No. 202 is
 22 admitted and received.
 23 (At 12:55 p.m., PX#202 is
 24 received.)
 25 BY MR. ROTH:

178

1 Q. Did you determine the most efficient or shortest route
 2 between those two addresses?
 3 A. **Yes, I did.**
 4 Q. What is the most direct route from the Dam Site Inn to
 5 the Defendant's home?
 6 A. **Patterson Lake Road is the road that you start off on
 7 from the Dam Site Inn. That will lead you to Doyle Road.
 8 You continue west on Doyle Road, and it eventually turns
 9 into M-106 or Morton Road as it goes into Stockbridge and
 10 through Stockbridge to the 4109 Morton Road.**
 11 Q. And is the Defendant's residence on that same road?
 12 A. **Yes, it is.**
 13 Q. And where is the Marathon station where the pursuit began
 14 relative to that route?
 15 A. **It's on the same road approximately a half-mile east of
 16 the Defendant's residence.**
 17 Q. And did you determine the distance from the Dam Site Inn
 18 to the Marathon station following that path?
 19 A. **Yes, we did.**
 20 Q. And what was that?
 21 A. **11.3 miles.**
 22 Q. Thank you. Sergeant Avery testified that you gave him
 23 times as well as that distance to calculate the speed.
 24 Why was that?
 25 A. **We gave him times because after looking at the route, we**

179

1 **determined that an attempt to reenact the driving, the
 2 speeds and the conditions that the Defendant was in when
 3 he drove that route, it would be much too dangerous, and
 4 it was an undertaking that was just too great. So we
 5 decided to do it mathematically.**
 6 Q. He testified that you gave him three different times. I
 7 believe it was nine and a half, ten, and ten and a half
 8 minutes. Why the different times?
 9 A. **We gave him three different times because of the time
 10 variance in the video surveillance systems that we had
 11 already received.**
 12 Q. They weren't calculated to the minute. Only to the -- I
 13 apologize. The opposite. They weren't calculated to the
 14 second. Only to the minute. The time stamps?
 15 A. **The time stamps, yes.**
 16 Q. Very good. Trooper Adamczyk testified to some of the
 17 Defendant's personal property earlier. Was some of that
 18 turned over to you as well?
 19 A. **Yes.**
 20 MR. MORLEY: (Talking to Mr. Roth off of the
 21 record.)
 22 Thank you.
 23 MR. ROTH: May I approach the witness,
 24 Your Honor?
 25 THE COURT: You may.

180

1 MR. ROTH: (Approaching the witness.)
2 BY MR. ROTH:
3 Q. Starting with 170 through 173, are these fair and
4 accurate pictures of the phones that the Defendant had on
5 him at the time he had that police contact?
6 A. Yes.
7 MR. ROTH: Your Honor, I'm going to move for
8 the admission of 170 through 173.
9 MR. MORLEY: Without objection, Your Honor.
10 THE COURT: People's Exhibits 170 through 173
11 are admitted and received.
12 (At 12:59 p.m., PX#170, PX#171,
13 PX#172, and PX#173 are received.)
14 BY MR. ROTH:
15 Q. How many cell phones did the Defendant have on him when
16 he had police contact on December 12th?
17 A. Two.
18 Q. And showing you 174 through 182. Did you have pictures
19 taken of the contents of the wallet that the Defendant
20 had on him at the time?
21 A. Yes.
22 Q. And is that what we see, fair and accurate pictures of
23 those, in those exhibits?
24 A. Yes.
25 MR. ROTH: Your Honor, I'm going to move for

181

1 the admission of 174 through 182.
2 MR. MORLEY: No objection, Your Honor.
3 THE COURT: People's Exhibit 174 through 182
4 are admitted and received.
5 (At 12:59 p.m., PX#174 through
6 PX#182 are received.)
7 MR. ROTH: Thank you.
8 BY MR. ROTH:
9 Q. Let's start with the cell phones. So he had two phones
10 on him at the time. In 170, we see the front of one.
11 What kind of phone is that?
12 A. This is the LG.
13 Q. And 171, we simply have the back of that phone?
14 A. Yes.
15 Q. What do we have in 172?
16 A. This is an iPhone.
17 Q. And the back is 173?
18 A. Yes.
19 Q. All right. Detective Trooper Hiserote testified earlier,
20 I believe it was this week, about some Celebrite reports
21 that she did. Do you recall that?
22 A. Yes.
23 Q. Did you ask that these phones be downloaded in that
24 manner?
25 A. Yes.

182

1 Q. All right. So we have 183 and 184. Which phone does 183
2 correspond to?
3 A. This is the LG.
4 Q. All right. So 183 goes with 170?
5 A. Yes.
6 Q. Very good. What is the phone number on this phone? Let
7 me ask it differently. Were you able to determine at
8 some point what the phone number was?
9 A. Yes, we were. And it was 810, but I don't remember the
10 exact number. I believe the area code was 810.
11 Q. Would that be in your police report?
12 A. Yes, it would.
13 Q. You might be able to find it faster than I can. I'll
14 give you the entire report. Let me know if you can
15 locate that.
16 A. It's also in my notes in my chair.
17 Q. Do you want me to just grab those for you?
18 A. Yes.
19 Q. All right.
20 (Approaching the witness.)
21 If you can read that silently to yourself and
22 look up when you're done.
23 MR. ROTH: We are past 1. This might be a good
24 time to stop for the day, and we can determine it and
25 come back.

183

1 THE COURT: I was going to say, whenever you're
2 ready for a good breaking point, Mr. Roth.
3 MR. ROTH: This would be fine.
4 THE COURT: Okay. Do you want to break at this
5 point in time, or do you want to finish that questioning?
6 MR. ROTH: That's all right. We'll figure it
7 out, and we'll start with it tomorrow morning.
8 THE COURT: All right. We will then recess at
9 this point.
10 Ladies and Gentlemen of the Jury, I'm going to
11 remind you because I did remember that I have the thing
12 that I have to attend first thing tomorrow morning. So
13 I'm going to remind you not to report at 8:15, but,
14 rather, at 9:15 tomorrow, and we'll shoot for a 9:30
15 start. I'm not exactly sure where this leaves us as far
16 as not completing this witness today.
17 But what I will tell you is that why don't you
18 plan on being here most of the day tomorrow. We'll see
19 how it goes, and if it turns out that we're going to go
20 too far into the afternoon, instead of just holding you
21 over into the afternoon, I'll give you a lunch break,
22 you'll have lunch on your own to be able to leave --
23 allowed to leave the building. And then we'll bring you
24 back and finish whatever we need to do in the afternoon
25 if it develops that way tomorrow. So plan on possibly

184

1 being here all day tomorrow.
2 And, once again, I need to remind you not to
3 discuss the case with anyone, including amongst
4 yourselves or anyone else. Do not read, watch, or listen
5 to any media reports of the case. Do not do any research
6 on the Internet, and we'll see you tomorrow morning at
7 about 9:15.
8 THE BAILIFF: All rise.
9 (At 1:04 p.m., the jury left the
10 courtroom.)
11 THE COURT: All right. Be seated.
12 You can step down.
13 THE WITNESS: Okay.
14 (At 1:05 p.m., the witness
15 stepped down from the witness
16 stand.)
17 THE COURT: Before we break for the day, I want
18 to put on the record the ruling from the discussion at
19 the bench regarding Exhibits 49, 200, and 201.
20 Exhibit 199 was withdrawn after my ruling on
21 200 and 201 because of, I guess, its relationship to the
22 other exhibits. I'll let you put whatever statement you
23 want to put on the record about those, but I indicated
24 that I would admit Exhibit 49, which was the -- the
25 insurance record, essentially, previously testified to by

185

1 the -- by the insurance investigator. And I sustained
2 Mr. Morley's objections as to 200 and 201. As I
3 understand it, Mr. Roth was relying upon Evidence
4 Rule 801(d)(2)(B), (C), and (D) as exceptions.
5 So whatever you want to place on the record, go
6 ahead, Mr. Roth.
7 MR. ROTH: Thank you, Your Honor. Most
8 directly it's the People's position that 801 allows for
9 hearsay statements made by an agent of the party opponent
10 made regarding the subject of that agency.
11 So when we have a receipt for the Defendant's
12 phone, that is a receipt, a statement by the agent of the
13 Defendant, his phone company, made about the course of
14 their relationship; the phone contract.
15 Similarly, the bid or the quote for the vehicle
16 transfer. Agent of the Defendant is the company. It's
17 about the course of that agency transferring the vehicle.
18 I believe it satisfies that analysis.
19 THE COURT: Mr. Morley, anything you'd like to
20 place on the record about these --
21 MR. MORLEY: Judge, I don't think --
22 THE COURT: -- objections?
23 MR. MORLEY: Excuse me, I'm sorry. I don't
24 think we established an agency relationship, and I think
25 the rules speak more towards the party itself, and I

186

1 don't think those specific documents dealt directly with
2 this party. That's all I have.
3 THE COURT: All right. Well, as I indicated, I
4 don't believe the exception has been met. I think it
5 probably would be surprising to Sprint or the Good
6 Fellows Organization to hear that they were agents of
7 Mr. Kelsey in some way. The rule actually speaks to
8 agent or servant and that it be a matter within the scope
9 of the agency or employment.
10 But, nonetheless, we have a debate about that
11 or dispute about that, and I do not think it meets the
12 requirements of an adopted statement by an agent.
13 So anything else for the record today,
14 Mr. Roth?
15 MR. ROTH: The other thing I wanted to put on
16 the record is with Detective Sergeant Green, it was my
17 intent to not talk about the arrest or the handcuffs. It
18 came out anyway.
19 I offered Mr. Morley a curative instruction.
20 He was not concerned with it and did not want one.
21 MR. MORLEY: That's fair, Judge. And I think
22 an arrest was established through -- in fact, I think I
23 established it through the same witness. So I'm fine
24 with that.
25 THE COURT: Okay. All right.

187

1 So we'll see you all tomorrow, hopefully to
2 start by 9:30, and we'll see where we go from there.
3 MR. MORLEY: Thank you, Judge.
4 THE COURT: Thank you, Both.
5 (At 1:09 p.m., the matter was
6 concluded for the day.)
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188

1 STATE OF MICHIGAN)
) SS.
2 COUNTY OF INGHAM)

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CERTIFICATE OF REPORTER

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I, Melinda I. Dexter, Certified Shorthand Reporter, do hereby certify that the foregoing **188 pages** comprise an accurate, true, and complete (Volume 6 of 9) transcript of the proceedings and testimony taken in the case of the **People of the State of Michigan** versus **John C. Kelsey II**, **Case No. 14-1380-FH**, on **Thursday, June 4, 2015**.

I further certify that this transcript of the record of the proceedings and testimony truly and correctly reflects the exhibits, if any, offered by the respective parties. WITNESS my hand this the twenty-ninth day of November 2015.



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