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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 7

BEFORE THE HON. JAMES S. JAMO, CIRCUIT JUDGE

Ingham County, Michigan - Friday, June 5, 2015

APPEARANCES:

For the People:

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Ingham County Prosecutor's Office
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For the Defendant:

BRIAN P. MORLEY (P58346)
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Suite 1000
Lansing, MI 48933

ALSO PRESENT:

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

REPORTED BY:

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1 Ingham County, Michigan
2 Friday, June 5, 2015 - At 9:35 a.m.
3 THE COURT: Be seated, please.
4 We are back on the record in the matter of
5 People versus Kelsey -- it is File No. 14-1380-FH -- for
6 continuation of the jury trial.
7 And do I understand correctly, Mr. Roth, you
8 have something you want to put on the record?
9 MR. ROTH: Two things, Your Honor, and I
10 haven't had a chance to speak to Mr. Morley in depth this
11 morning. The first we discussed briefly, and he had to
12 step out. Trooper Warzywak, Mr. Morley has some --
13 MR. MORLEY: May we approach, Judge?
14 THE COURT: Sure.
15 (At 9:38 a.m., an at-the-bench
16 discussion is held off the
17 record.)
18 THE COURT: All right. So getting back to the
19 question of whether there is anything to put on the
20 record this morning before we bring in the jury.
21 Mr. Roth?
22 MR. ROTH: No, Your Honor.
23 THE COURT: Mr. Morley?
24 MR. MORLEY: No, sir.
25 THE COURT: Okay. I'm going to again caution

4

1 those in the audience to have your cell phones and any
2 other electronic devices turned off with the exception of
3 attorneys or media. And if you are found to have any
4 electronic device on you, you will -- not just on silent
5 but on in any way, you will be removed from the courtroom
6 and not be allowed back in for the proceedings today.
7 And with that, let's bring the jury in.
8 MR. MORLEY: Judge, could you hold off on the
9 jury, please? Can we approach?
10 THE COURT: Yes.
11 (At 9:54 a.m., an at-the-bench
12 discussion is held off the
13 record.)
14 MR. MORLEY: Approach, Judge?
15 THE COURT: Yes.
16 (At 9:58 a.m., an at-the-bench
17 discussion is held off the
18 record.)
19 MR. MORLEY: I'm correct on those numbers,
20 Judge.
21 THE COURT: All right. Thank you.
22 Are you ready, Mr. Roth?
23 MR. ROTH: I'm ready.
24 THE COURT: Mr. Morley, are you ready?
25 MR. MORLEY: Yes.

5

1 THE COURT: Mr. Adkins, will you please bring
2 in Juror No. 9.
3 (At 10:02 a.m., Juror No. 9
4 entered the courtroom.)
5 MR. MORLEY: No, sir.
6 THE COURT: All right.
7 Change that. Sorry, Juror No. 9. We have the
8 wrong number.
9 We can send you back to the jury room. Thank
10 you.
11 JUROR NO. 9: Wrong number. Okay.
12 (At 10:03 a.m., Juror No. 9 left
13 the courtroom.)
14 MR. MORLEY: The second number I gave you,
15 Judge.
16 THE BAILIFF: Which juror's name?
17 THE COURT: Juror No. 10, please.
18 (At 10:04 a.m., Juror No. 10
19 entered the courtroom.)
20 MR. MORLEY: No, sir. Sorry.
21 THE COURT: Okay.
22 Juror No. 10, I'm sorry, you can go back to the
23 jury room. Thank you.
24 (At 10:04 a.m., Juror No. 10 left
25 the courtroom.)

6

1 MR. MORLEY: Approach, Judge?
2 THE COURT: Pardon?
3 MR. MORLEY: Approach?
4 THE COURT: Sure.
5 (At 10:04 a.m., an at-the-bench
6 discussion is held off the
7 record.)
8 THE COURT: Let's put on the record, though,
9 the reason for the bench conferences.
10 MR. ROTH: That would be fine, Your Honor.
11 THE COURT: And just -- and the reasons for
12 having called Juror No. 9 and 10 into the courtroom, I
13 think we need to make at least some record of that at
14 this point.
15 Mr. Morley?
16 MR. MORLEY: Thank you, Judge. As we were
17 about to commence, I consulted with my client who advised
18 me -- make sure I say this the right way. Mr. Kelsey was
19 transported to the court this morning in a State Police
20 marked vehicle. Per State Police policy, he was in the
21 front seat with the sergeant, I believe.
22 Mr. Kelsey believes that he made eye contact,
23 connected eyes, if you will, with one of the jurors who
24 was outside smoking. I approached the Court with that
25 and prosecutor. In our discussion, the issue was the

7

1 jury can't know in court that the Defendant may or may
2 not be in custody.

3 The question is, is this too attenuated as it
4 was outside of the court. Mr. Kelsey, in consulting with
5 me, was of the belief that it was either Juror No. 9 or
6 No. 10.

7 At our bench conference -- and tell me if I'm
8 stepping on your place, Judge. At our bench conference,
9 we brought out No. 9. Mr. Kelsey was sure that it was a
10 male. No. 9 was a female. Brought out No. 10. It was
11 the wrong person.

12 At the conclusion of the bench conference, I
13 think counsel has agreed that to the extent there is any
14 taint, it's there, so we will continue with the next --
15 er, excuse me, Trooper Johnston's testimony. During that
16 testimony, Mr. Kelsey and I will consult as to whether or
17 not he's able to identify the proposed juror at the next
18 break. If he can, in fact, identify that juror, we will
19 -- I think the proposed procedure was that we will ask
20 that alleged -- that juror whether or not they saw
21 Mr. Kelsey before court this morning.

22 If the answer is no, it's the end of the
23 inquiry. If the answer is yes, further inquiry would be
24 along the lines of "What were the circumstances
25 surrounding that contact?" I think that accurately

8

1 conveys what we discussed.

2 THE COURT: Mr. Roth, do you agree that's
3 accurate?

4 MR. ROTH: I agree at least how to go forward.
5 We'll make a decision as to -- I think the questions are
6 fine, but make a decision as to what their impact of
7 their answers may have later.

8 THE COURT: All right. Very good. Okay.
9 Well, then, let's bring the jury in.

10 (At 10:08 a.m., the jury entered
11 the courtroom.)

12 THE COURT: Please be seated.
13 Good morning, Members of the Jury.

14 VARIOUS JURORS: Good morning.

15 THE COURT: We're going to proceed now.
16 Mr. Roth?

17 MR. ROTH: Thank you, Your Honor. People would
18 continue with Detective Trooper Troy Johnston.

19 THE COURT: I'm going to administer the oath
20 again to you.

21 Do you swear or affirm to tell the truth, the
22 whole truth, and nothing but the truth?

23 TROOPER JOHNSTON: Yes, I do.

24 THE COURT: All right. Please be seated.
25 Mr. Roth?

9

1 MR. ROTH: Thank you, Your Honor.
2 TROY JOHNSTON
3 called by the People at 10:09 a.m., sworn by the Court,
4 testified:

5 DIRECT EXAMINATION (CONT'G)
6 BY MR. ROTH:

7 Q. We were talking yesterday when we left off about the LG
8 phone that was found on the Defendant's person on
9 December 12th corresponds to the Cellebrite report we
10 have from 183. So starting with this, what was the cell
11 phone number for this phone?

12 A. **Cell phone number was 810 844-6830.**

13 Q. Who was the service provider?

14 A. **I'm sorry, 6380.**

15 Q. 6380. Thank you. Who was --

16 A. **The service provider was Sprint.**

17 Q. More specifically; Boost?

18 A. **Oh, it was a Boost mobile phone, yes.**

19 Q. What does that mean?

20 A. **A Boost phone is basically a prepaid cell phone, prepaid
21 minutes.**

22 Q. Are you able to tell from the Cellebrite report when it
23 was activated?

24 A. **Yes.**

25 Q. I'm going to give you the report. If you can tell me

10

1 what page to open to for that.
2 (Approaching the witness.)

3 A. **Okay. It's Page No. 3.**

4 Q. Thank you. When was this Boost phone activated?

5 A. **On December 12th, 2014.**

6 Q. So on the day that the phone was found?

7 A. **Correct.**

8 Q. How far back does the information in the phone go?

9 A. **December 12th, 2014.**

10 Q. Did you find any information relative -- excuse me,
11 relevant for your investigation on this phone?

12 A. **We found very little.**

13 Q. And why was that?

14 A. **Because it had just been activated.**

15 Q. When you get these reports normally from phones that had
16 been in usage, are they much more voluminous?

17 A. **Yes, they are.**

18 Q. Now moving to the Cellebrite -- I apologize, the Lantern
19 report 184, did this correspond to the iPhone that the
20 Defendant had on his person?

21 A. **Yes, it did.**

22 Q. What kind of phone is this?

23 A. **This was an iPhone 5S.**

24 Q. Who was the service provider?

25 A. **Sprint again.**

11

1 Q. Were you able to tell when this physical phone was
2 activated?
3 A. **Yes.**
4 Q. When was that?
5 A. **I'd have to --**
6 Q. Would you like the report?
7 A. **Yeah.**
8 Q. (Approaching the witness.)
9 A. **Okay. There is no page number but I left it open to the**
10 **page.**
11 Q. Thank you.
12 A. **It was activated on December 12th, 2014.**
13 Q. So, again, that day?
14 A. **Yes.**
15 MR. ROTH: One moment, Your Honor.
16 THE COURT: Sure.
17 BY MR. ROTH:
18 Q. (Approaching the witness.)
19 A. **Yes. Okay. It was actually activated on December 10th.**
20 **The page I was looking at had activity from**
21 **December 12th. My mistake.**
22 Q. So looking at this page on the screen, it was actually
23 two days earlier, December 10th, 2014?
24 A. **Yes. Yes.**
25 Q. And so was any information from any prior phone

12

1 transferred onto this phone?
2 A. **I believe there were some voicemails that were**
3 **transferred, but --**
4 Q. Contacts, texts, pictures; anything like that?
5 A. **No. There were none of that.**
6 Q. Did you find anything relevant for the investigation on
7 this phone beyond that it had just been activated?
8 A. **No.**
9 Q. Did you obtain similar reports for Brian and Tony
10 Hildabridle phones?
11 A. **Yes.**
12 Q. And what did they contain?
13 A. **Very little.**
14 Q. In what way?
15 A. **Well, the phones appeared to have been wiped or**
16 **information deleted from the phones prior to us acquiring**
17 **them.**
18 Q. Subsequent to December 7th, 2014?
19 A. **Yes.**
20 Q. Very good. Do you know what Brian Hildabridle's cell
21 phone number was?
22 A. **I'd have to check my notes.**
23 Q. Go ahead.
24 A. **I believe it was 734 205-8918.**
25 Q. And what about Tony Hildabridle?

13

1 A. **734 680-9486.**
2 Q. Thank you. Looking at 186, the line sheet report that
3 Detective Sergeant Tinkle testified about yesterday, you
4 reviewed this document?
5 A. **Yes.**
6 Q. And was some follow-up done regarding some information
7 regarding this document?
8 A. **Yes.**
9 Q. Very good. So he testified about the first two phone
10 calls in the early morning hours of December 7th. There
11 is then a period of inactivity. Do you know about how
12 long that period of inactivity was?
13 A. **I believe it was about seven hours.**
14 Q. There is a call then at 8:05, and then that's an incoming
15 call that was not answered. Is that correct?
16 A. **Correct.**
17 Q. And then we have two outgoing calls. What number was the
18 Defendant calling for those two?
19 A. **734 476-2359.**
20 Q. Were you able to determine who that phone number belonged
21 to?
22 A. **I don't believe so.**
23 Q. And why not?
24 A. **Well, because it wasn't -- it wasn't a saved number in**
25 **his contacts. And further follow-up with law enforcement**

14

1 **database, I don't think we were able to match that number**
2 **to anybody.**
3 Q. All right. And then after those calls, we have another
4 number. What's that number?
5 A. **734 954-0052.**
6 Q. At what time was the first number -- excuse me, the first
7 time the Defendant called that phone number?
8 A. **At 9:20 a.m. on December 7th.**
9 Q. Did he call that number again that day?
10 A. **Yes, he did.**
11 Q. At what time?
12 A. **At 10:18 in the morning.**
13 Q. Thank you. Did you identify who that number belonged to?
14 A. **Yes.**
15 Q. Who?
16 A. **I believe this is the number that belonged to**
17 **Jerry Strunk.**
18 Q. Is that the same Jerry that Brian Hildabridle mentioned?
19 A. **Yes.**
20 Q. Did you learn Jerry Strunk's address?
21 A. **Yes.**
22 Q. What is it?
23 A. **11033, I believe, Dexter Pinckney Road in Pinckney.**
24 Q. Showing you Exhibit 188, roughly where is that relative
25 to the Defendant's parents' house?

15

1 **A. I believe that it was southwest of the Defendant's**
2 **parents' house. If I could just check my notes here.**
3 Q. Go ahead.
4 **A. Yeah. It's approximately nine miles southwest of the**
5 **8041 Teahen Road.**
6 Q. Thank you. And did you go to Jerry Strunk's residence?
7 **A. Yes, I did.**
8 Q. When?
9 **A. It was -- again, I'd have to check my notes, but it was**
10 **in May, I believe.**
11 Q. Of '15?
12 **A. Of '15, yes.**
13 Q. Thank you.
14 **A. May 14th of 2015.**
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 Showing you what's been marked as Proposed
21 Exhibits 203 through 212. Would you take a moment and
22 look through those?
23 Are each of these a fair and accurate picture
24 of what you observed at the Strunk residence?
25 **A. Yes.**

16

1 MR. ROTH: Your Honor, I'd move for admission
2 of Proposed Exhibits 203 through 212.
3 MR. MORLEY: Voir dire, Your Honor?
4 THE COURT: You may.
5 VOIR DIRE EXAMINATION
6 BY MR. MORLEY:
7 Q. Detective, these are photographs that you took at a
8 residence in Livingston County about three weeks ago,
9 right?
10 **A. They're photographs that Trooper Buege took at that same**
11 **residence while I was present.**
12 Q. You were there, right?
13 **A. Yes.**
14 Q. And at that time you also conducted an investigation, and
15 there was no evidence of any -- any vehicle related in
16 any way to what we're here on today, right?
17 **A. Correct.**
18 MR. MORLEY: Your Honor, I'm going to object on
19 401 and 403; relevancy and prejudicial to the Court.
20 THE COURT: Mr. Roth?
21 MR. ROTH: I can lay a little further
22 foundation.
23 THE COURT: All right.
24 DIRECT EXAMINATION (CONT'G)
25 BY MR. ROTH:

17

1 Q. Could you describe what you found as it relates to
2 vehicles at the Strunk residence?
3 **A. We found various or several vehicles that were in various**
4 **stages of -- it looked like he was -- some of these**
5 **vehicles were running. Some of them were not. Some of**
6 **them were disassembled. There were parts to vehicles.**
7 **Piles of parts for vehicles and other scrap piles**
8 **throughout the property.**
9 Q. And do these pictures document that?
10 **A. Yes.**
11 MR. ROTH: Your Honor, again, I would move for
12 admission. I think they are relevant; in that, we had
13 testimony that the day after this accident, the Defendant
14 went there to swap out a vehicle. And then to
15 corroborate that at this residence, there is evidence as
16 well as the ability to break down a vehicle.
17 THE COURT: Can I see --
18 MR. MORLEY: Approach, Your Honor?
19 THE COURT: Sure.
20 (At 10:22 a.m., an at-the-bench
21 discussion is held off the
22 record.)
23 THE COURT: All right. As to the 401/403
24 objection, I am going to overrule it. Although correctly
25 stated, I think the photographs do not indicate in the --

18

1 in and of themselves evidence of breaking down or ability
2 to break down vehicles.
3 They are -- the photographs are still relevant
4 and probative in corroboration with the testimony
5 regarding the multiple vehicles at this residence in
6 connection with the Defendant having gone there the day
7 after the incident.
8 (At 10:24 a.m., PX#203 through
9 PX#212 are received.)
10 MR. ROTH: Thank you, Your Honor.
11 MR. MORLEY: Thank you, Judge.
12 BY MR. ROTH:
13 Q. 189 is the Strunk residence?
14 **A. Yes.**
15 Q. Could you please describe the property?
16 **A. The property is -- it's a rental house that Jerry Strunk**
17 **has lived at for several years. There is -- what you're**
18 **looking at in the photograph here is the front of the**
19 **house between the house and the road, and then there is a**
20 **lot of property to the rear of the house that includes**
21 **the vehicles -- you know, a number of vehicles and scrap**
22 **piles.**
23 Q. Thank you. What do we see in 203?
24 **A. 203 is -- this is the driveway directly behind the house.**
25 **Pictured here is a Ford pickup that's up on jack stands.**

19

1 **It appears to be in the process of being worked on.**
 2 Q. Where on the property is this?
 3 **A. This is behind the Strunk residence.**
 4 Q. Behind the actual house?
 5 **A. Behind the house, yes.**
 6 Q. What do we see in 204?
 7 **A. Again, this is behind the house. These are two of the**
 8 **vehicles that were parked there. The first that -- the**
 9 **blue Dodge. As you can see in the windshield, there is a**
 10 **part of the dash that's been disassembled and laying up**
 11 **on the -- near the steering wheel.**
 12 Q. What do we see in 205?
 13 **A. 205 is two more vehicles behind the Strunk residence.**
 14 Q. 206?
 15 **A. There is -- you can see the vehicle parked there and also**
 16 **the scrap piles.**
 17 Q. So what do we see, for example, here in the scrap pile?
 18 **A. There is a -- what appears to be a door to a vehicle.**
 19 Q. Are there various disassembled pieces of vehicle
 20 throughout the property and in these piles?
 21 **A. There are.**
 22 Q. What do we see in 207?
 23 **A. Two more vehicles parked on the property.**
 24 Q. 208?
 25 **A. Again, this is another vehicle. And behind that is**

20

1 **another pile of scrap, includes a fender to a vehicle and**
 2 **the tire.**
 3 Q. We see that closer in 209?
 4 **A. Yes.**
 5 Q. What do we see in 210?
 6 **A. A large scrap pile.**
 7 Q. Again, there is pieces of vehicles scattered throughout
 8 there?
 9 **A. There is, yes.**
 10 Q. What do we see in 211?
 11 **A. 211 is an old building. There is a vehicle that you can**
 12 **see there, a pickup. And then in the rafter portion of**
 13 **the building there is, looks like, some fenders and other**
 14 **vehicle parts.**
 15 Q. And 212. What do we see?
 16 **A. Two more vehicles parked on the property.**
 17 Q. Thank you. Approximately how many vehicles recognizable
 18 as complete vehicles did you find on the property?
 19 **A. I would estimate maybe 12.**
 20 Q. And that does not include the parts, the disassembled
 21 parts scattered throughout?
 22 **A. No.**
 23 Q. Now, obviously this is five months after the crash on
 24 December 7th, but did you find any parts from the 2003
 25 white GMC Yukon Denali XL?

21

1 **A. No.**
 2 Q. All right. I want to ask you about a tip that Mr. Morley
 3 asked Trooper Moots about yesterday. I believe it's Tip
 4 90. Do you know the one I'm referring to?
 5 **A. Yes.**
 6 Q. And Trooper Moots indicated that he was not the one that
 7 followed up on it. Were you able to confirm or dispel --
 8 and just for the record, this is the one regarding Jakob
 9 Novak. Were you able to confirm or dispel his possible
 10 involvement?
 11 **A. Yes, I was.**
 12 Q. First, what was your conclusion based on that?
 13 **A. That the vehicle associated with this tip was not the**
 14 **suspect vehicle.**
 15 Q. How did you arrive at that conclusion?
 16 **A. We spoke to -- Detective Sergeant Gee-Cram spoke to the**
 17 **owner of the vehicle, and we learned that it was a**
 18 **different style vehicle.**
 19 MR. MORLEY: Objection. Hearsay.
 20 MR. ROTH: Your Honor, we talked about this
 21 yesterday. If we're going to open the door to allowing
 22 the tips for effect on the listener, then the officers
 23 have to be able to testify how they're able to disprove
 24 or discredit the tip.
 25 MR. MORLEY: No, Judge. The tip is the non-

22

1 hearsay part. What they learned during the subsequent --
 2 what they did during the subject investigation can be
 3 conveyed but what they heard is hearsay.
 4 THE COURT: Mr. Roth, I'm not sure I'm clear on
 5 what it is -- what you're trying to elicit. Is it what
 6 they did?
 7 MR. ROTH: What they did.
 8 THE COURT: All right. Overruled.
 9 BY MR. ROTH:
 10 Q. Go ahead.
 11 **A. So we confirmed that that was not the suspect vehicle.**
 12 Q. Based on physical appearance?
 13 **A. Based on physical appearance, the type of vehicle it is.**
 14 Q. Thank you.
 15 THE COURT: Mr. Roth, just so it's clear while
 16 you're looking for that, since I didn't say it after
 17 ruling on the objection, Exhibits 203 through 212 are
 18 admitted and received.
 19 MR. ROTH: Was it 203 through 212?
 20 THE COURT: I think that was what you said.
 21 MR. ROTH: Thank you.
 22 May I ask of the Court, I'm going to talk about
 23 167 through 182. I believe about half have already been
 24 admitted. I just want to verify with the Court. It's my
 25 understanding that 174 through 182 have not yet?

23

1 THE COURT: They were.
2 MR. ROTH: They've already been admitted?
3 THE COURT: 174 through --
4 MR. ROTH: 182?
5 THE COURT: I believe so.
6 MR. ROTH: Very good.
7 THE COURT: Yesterday. They were admitted
8 yesterday.
9 MR. ROTH: Very good. Thank you, Your Honor.
10 BY MR. ROTH:
11 Q. With that, I want to talk about the property on the
12 Defendant's person on December 12th. We've already heard
13 testimony about 167, his clothing. Is that correct?
14 A. Yes.
15 Q. And the beanie in 168?
16 A. Yes.
17 Q. Trooper Adamczyk talked about this document here on 169,
18 a tabulation. Could you explain briefly what that is?
19 A. Yes. **The two phones, the LG phone and the iPhone 5S,**
20 **were seized from the Defendant pursuant to a search**
21 **warrant, and a tabulation was made out and given to him.**
22 Q. Thank you. 168. Just to back up. The black hat, was
23 that pertinent to your investigation?
24 A. Yes, it was.
25 Q. Why was that?

24

1 A. **It's a hat that the Defendant was seen wearing on**
2 **multiple occasions, including at the Dam Site Inn that**
3 **night or the night of the sixth.**
4 Q. Did it corroborate what several other witnesses had
5 reported as well?
6 A. Yes, it did.
7 Q. Very good. What do we see in 174?
8 A. **174 is a Michigan identification card with a picture of**
9 **the Defendant and the name John Coryell Kelsey.**
10 Q. What is the listed address on this?
11 A. **The address on this is 8041 Teahen Road, Brighton.**
12 Q. Thank you. 175. What do we see?
13 A. **This is a Michigan temporary personal identification with**
14 **the name John Coryell Kelsey again on it.**
15 Q. What address is listed on this one?
16 A. **This one is 8041 Teahen Road again.**
17 Q. And when does that expire?
18 A. **November 3rd, 2013.**
19 Q. Very good. What do we see next in 176?
20 A. **Again, this is a Michigan temporary personal**
21 **identification card. It's John Coryell Kelsey. Again,**
22 **the address on this one is 4109 Morton Road, Stockbridge,**
23 **and the expiration date is February 1st, 2015.**
24 Q. So this is the most recent of what he had on him at the
25 time?

25

1 A. **Yes, it was.**
2 Q. Did you determine who owned that Morton Road residence,
3 4109 Morton Road?
4 A. **Yes, we did.**
5 Q. Who?
6 A. **John Kelsey.**
7 Q. Do you know when he purchased that residence?
8 A. **I do not -- I don't have the specific date in mind.**
9 Q. In 2014?
10 A. **I believe so.**
11 Q. Very good. And at the time in December of 2014, he owned
12 that residence?
13 A. **Yes.**
14 Q. What do we see in 177?
15 A. **This is a Visa debit card. KPF Valued Customer. Looks**
16 **like a rewards card.**
17 Q. Very good. And we just see the back on 178?
18 A. **Yes.**
19 Q. Were you able to make out what the signature is?
20 A. **It appears the signature is John Kelsey.**
21 Q. Can't be sure, though?
22 A. **No.**
23 Q. Very good. 179. What do we see?
24 A. **It's a Costco Wholesale membership card.**
25 Q. Back side of 180. What do we see?

26

1 A. **The name Frank Kelsey.**
2 Q. And a corresponding picture?
3 A. **It appears to be Frank Kelsey.**
4 Q. That's the back of the Costco card?
5 A. **Yes.**
6 Q. Thank you. 181. What do we see?
7 A. **This is a Mugg & Bopps rewards card.**
8 Q. Mugg & Bopps is the Marathon station --
9 A. **Yes, it is.**
10 Q. -- where the pursuit began at? And 182. We have the
11 back of that card?
12 A. **Yes.**
13 MR. ROTH: Very good. I have nothing further
14 of this witness, Your Honor.
15 THE COURT: Thank you, Mr. Roth.
16 Mr. Morley, you may question the witness.
17 MR. MORLEY: Thank you, Judge.
18 Judge, I'm going to need just a minute. I'm
19 going to grab just a couple of exhibits.
20 THE COURT: Sure. No problem.
21 CROSS-EXAMINATION
22 BY MR. MORLEY:
23 Q. Troop, I believe you testified that you went to the
24 Strunk residence on May 14th, I believe, of this year?
25 A. **Yes.**

27

1 Q. Your earlier testimony was that you saw that a phone call
2 was made and you identified it as Mr. Strunk's in
3 December of '14?
4 **A. Yes.**
5 Q. Was there any other contact with Mr. Strunk in that
6 intervening time period between December of '14 and mid-
7 May of '15?
8 **A. There may have been. I didn't --**
9 Q. By you?
10 **A. Sorry?**
11 Q. By you?
12 **A. I'm sorry?**
13 Q. Did you make any other contact?
14 **A. Oh, did I make any other contact? No, I did not.**
15 Q. All right. And I asked you on voir dire, but, in fact,
16 you prepared a report in this matter, right?
17 **A. Yes.**
18 Q. And you investigated thoroughly everything out there, and
19 you found nothing to indicate that there was any evidence
20 related, in any way, to this matter, true?
21 **A. Correct.**
22 Q. And we saw a bunch of photographs of junk. Did you take
23 photographs or find any, I don't know, cutting torches,
24 saws, acetylene tanks, or anything like that, that cuts
25 up cars?

28

1 **A. We did not.**
2 Q. Is that -- do you know, because I don't, is that what
3 cuts up cars?
4 **A. Well, that's one of many things that could cut up a car,**
5 **yes.**
6 Q. Like, what else?
7 **A. Plasma cutters, saws.**
8 Q. Find anything like that?
9 **A. We did not photograph anything like that.**
10 Q. Find anything like that?
11 **A. I don't remember seeing anything like that out there.**
12 Q. Probably would have been in your report if you had,
13 right?
14 **A. Well, we didn't have access to the garage and the tool**
15 **area; things like that. We're looking at the yard.**
16 Q. As you sit here today, do you know where the alleged
17 vehicle is that was involved in this chase?
18 **A. No, I do not.**
19 Q. Do you know -- you've been in the courtroom. You've
20 heard testimony that allegedly Mr. Kelsey's residence
21 was -- I believe the testimony was about a half-mile from
22 that Marathon station?
23 **A. Yes.**
24 Q. Do you know whether or not that residence was checked in
25 the early morning hours of December 7th for any vehicles?

29

1 **A. No.**
2 Q. There was testimony yesterday -- er, I'm sorry, an
3 exhibit yesterday regarding a NAPA bulb. Do you remember
4 that?
5 **A. Yes.**
6 Q. And you conducted a follow-up investigation on that NAPA
7 bulb?
8 **A. Yes.**
9 Q. You found -- and I'll find the specific part, but you
10 found that that NAPA bulb can fit an awful lot of cars.
11 Literally thousands, right?
12 **A. Yes.**
13 Q. And specifically over a pretty good time frame as well,
14 right?
15 **A. Right.**
16 Q. Let me just be a little bit more specific. It's a bulb
17 that can be used literally on thousands of both domestic
18 and foreign cars, right?
19 **A. I didn't count them all, but --**
20 Q. It --
21 **A. Safe to say it would be hundreds.**
22 Q. Well, would reviewing your report help?
23 **A. I don't think I completed a report on this. I believe**
24 **Detective Sergeant McPhee did.**
25 Q. You're right. I stand corrected, but you were with him,

30

1 right?
2 **A. I was.**
3 Q. Were you -- so you're safe to say it's at least hundreds
4 of vehicles?
5 **A. Yes.**
6 Q. Over about a 20-year model period?
7 **A. Again, I didn't look at the document in depth.**
8 Q. You previously testified that there were no other white
9 SUVs in the area at the time this traffic stop commenced,
10 right?
11 **A. Yes.**
12 Q. But you're also aware of the white SUV that was seen at
13 the Sunoco station at 2 o'clock that morning around the
14 corner from the Marathon station, right?
15 **A. Yes.**
16 Q. Would you agree with me that that's less than about a
17 half a mile away from the Marathon station?
18 **A. Yes.**
19 Q. (Approaching the witness.)
20 Let me show you what's previously been admitted
21 as Defendant's C. Ask you to take a look at those,
22 please. And we've established previously that that's the
23 Sunoco station, and it came from the -- the video at that
24 location, and although we've done it a lot because these
25 are all black and white photographs, you'd agree with me

31

1 that that appears to depict a white SUV, right?

2 **A. Yes.**

3 Q. How is it your testimony that there were no other white

4 SUVs in the area at the time?

5 **A. There were no other white SUVs like the ones we've seen**

6 **in L & B, Mugg & Bopps and Marathon. This SUV, while**

7 **being white, has some distinguishing characteristics that**

8 **were not apparent on those other videos.**

9 Q. I understand, but all of the other videos we're talking

10 about are pre-chase photos, right?

11 **A. Yes.**

12 Q. So --

13 **A. As of this one.**

14 Q. -- at the time you see this, you can't compare -- well,

15 as you sit here today, you can't compare Defendant's C to

16 any post-chase or during-chase video, right?

17 **A. Correct.**

18 Q. You set up -- well, you didn't set him up. Trail cam

19 videos were set up, right?

20 **A. Trail cam -- trail cameras were set up, not to take video**

21 **but still photos. You're right.**

22 Q. You're right. I stand corrected. And those are -- am I

23 right that's a hunter's type of tool, deer hunting type

24 thing?

25 **A. It is.**

32

1 Q. When and -- well, it's a compound question. When were

2 those set up?

3 **A. I believe they were set up that day, the day of**

4 **December 7th.**

5 Q. Why were they set up?

6 **A. They were set up as another tool in the investigation to**

7 **-- in an attempt to get a photograph of possibly the**

8 **suspect vehicle that may return to the scene of the**

9 **crash.**

10 Q. And did you review the trail cam video?

11 **A. The photos?**

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

13 the question. It's very clear that they're still photos.

14 MR. MORLEY: That's just sloppy on my part.

15 BY MR. MORLEY:

16 Q. Did you review --

17 MR. MORLEY: Did you need to rule on that?

18 THE COURT: That's okay. Go ahead and restate

19 it.

20 MR. MORLEY: I apologize.

21 BY MR. MORLEY:

22 Q. Did you review the trail cam photos?

23 **A. I did.**

24 Q. And how many white SUVs went through there?

25 **A. I didn't count the number of white SUVs, but there was --**

33

1 Q. Any reason to disagree with me if I tell you it was 271?

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

3 The witness says he doesn't know. Mr. Morley can't then

4 suggest a number. We've done this numerous times. There

5 is a lack of foundation.

6 MR. MORLEY: And the last time, Judge, I asked,

7 and you allowed it in.

8 THE COURT: What is your question again?

9 MR. MORLEY: I'm asking if he has any reason to

10 disagree with me if it has 271 white SUVs that passed by

11 the camera.

12 THE COURT: Overruled.

13 BY MR. MORLEY:

14 Q. Do you have any reason to disagree with me if I told you

15 there were 271 white SUVs that went by the cameras?

16 **A. Yes.**

17 Q. You do?

18 **A. I do.**

19 Q. What is your reason for the disagreement?

20 **A. These trail cameras, if you're familiar with trail**

21 **cameras, they take multiple pictures of a moving object.**

22 **So there are -- while there are multiple pictures of**

23 **white SUVs, many of these pictures are the same white SUV**

24 **as it travels through the path of the camera.**

25 Q. Okay. Stated differently, do you agree with me that

34

1 there are at least 271 images of white SUVs on those --

2 or within those trail pictures?

3 **A. That sounds reasonable.**

4 MR. MORLEY: Thank you.

5 Approach the witness, Your Honor?

6 THE COURT: You may.

7 BY MR. MORLEY:

8 Q. (Approaching the witness.)

9 I'd like to show you what's been marked as

10 Defendant's Proposed D and ask you to review those,

11 please.

12 **A. Okay.**

13 Q. And those are actually still photos taken from or gleaned

14 from the DVD that contained all of the trail cam

15 pictures. Do you believe that -- does that appear to be

16 the angle of the trail cam pictures?

17 **A. Yes.**

18 Q. Do you think that fairly and accurately represents

19 pictures from the trail cam --

20 **A. Yes.**

21 Q. -- photos?

22 MR. MORLEY: Move for the admission of

23 Defendant's D, Your Honor.

24 MR. ROTH: Without objection.

25 THE COURT: Defendant's Exhibit D is admitted

35

1 and received.
2 (At 10:47 a.m., DXE is received.)
3 MR. MORLEY: Approach the witness, Your Honor?
4 THE COURT: You may.
5 BY MR. MORLEY:
6 Q. (Approaching the witness.)
7 I'm going to hand you back Exhibit D, but I'd
8 also like to show you Plaintiff's 110 and ask you a
9 couple of questions. On the cover page of Defendant's D
10 is -- we'll call it white but a light white SUV, right?
11 MR. ROTH: May I approach just so I can see
12 what we're talking about?
13 MR. MORLEY: Sure.
14 THE COURT: Sure.
15 MR. MORLEY: I'm so sorry. It's not my answer.
16 MR. ROTH: Okay.
17 BY MR. MORLEY:
18 Q. So Defendant's D has a large white or light colored SUV,
19 correct?
20 A. Yes.
21 Q. And Plaintiff's 110 is a photo of the SUV from the Dam
22 Site, right?
23 A. Yes.
24 Q. If you look at the front right -- well, let me ask you
25 this: Is that the same car?

36

1 A. No.
2 Q. How do you know?
3 A. **The 110 is a longer vehicle than Defendant's D.**
4 Q. Did you investigate the cover page of Defendant's D?
5 A. Yes.
6 Q. Okay. That particular car?
7 A. **I don't know -- I don't have a registration or a VIN**
8 **number associated with that car.**
9 Q. Did you make any efforts to try and identify that car?
10 You see it's got a headlight out.
11 A. **It looks like a running light, but it does appear to have**
12 **a light out. We've -- we made several attempts to look**
13 **at a lot of vehicles --**
14 Q. But I asked --
15 A. **-- in the Stockbridge area.**
16 Q. I asked if you investigated the cover page of Defendant's
17 D. Did you?
18 A. **To the extent that I could, yes.**
19 Q. But you didn't.
20 A. **We did.**
21 Q. You just said no. You didn't have any identifying marks.
22 So you didn't investigate it, right?
23 A. **We attempted to locate vehicles like this, and this one**
24 **specifically, but because there is no registration --**
25 Q. All right.

37

1 A. **-- or VIN number, I wasn't able to associate it with a**
2 **person or residence.**
3 Q. Will you flip the page, please?
4 A. **Sure.**
5 Q. The last page, please.
6 A. **Oh.**
7 Q. The last page, although somewhat blurry, has a license
8 plate visible, right?
9 A. **Yes.**
10 Q. Make any attempts to highlight that license plate or run
11 it?
12 A. **Yes.**
13 Q. And?
14 A. **It comes back to a residence in Gregory.**
15 Q. What did you find out? Gregory is where this alleged
16 chase was headed?
17 A. **Yeah. In the general direction of Gregory.**
18 Q. No. It's due east, isn't it?
19 A. **Yeah.**
20 Q. So it was right where this alleged chase was headed; due
21 east on Dexter Trail, right?
22 A. **Right.**
23 Q. Make any follow-up investigation?
24 A. **Yes.**
25 Q. What did you do?

38

1 A. **We followed up with running the plate, finding out who**
2 **the registered owner was, and determined that this was**
3 **not the vehicle.**
4 Q. Did you run -- we took a lot of testimony on phone
5 records. Did you run phone records or anything like that
6 on the owners of that vehicle?
7 A. **No.**
8 Q. Why not?
9 A. **Because this doesn't -- this vehicle doesn't match the**
10 **vehicle depicted in the photographs at L & B, Mugg &**
11 **Bopps, and Shell.**
12 Q. Pre-chase photos, right?
13 A. **Right.**
14 Q. Does this vehicle match the vehicle involved in the
15 chase?
16 A. **Well, the vehicle involved in the chase is the same as**
17 **the pre-chase photos.**
18 Q. How do you know that?
19 A. **Because of the timeline.**
20 Q. Do you have any picture evidence, video, that can show me
21 that that's the same vehicle involved in the chase?
22 A. **All of the vehicles --**
23 Q. That's not my question.
24 A. **-- depicted --**
25 Q. My question is do you have any photograph or video that

39

1 can show me that your alleged pre-chase photos are the
2 same ones as the vehicle involved in the chase?
3 **A. Not photographs, no.**
4 Q. Videos?
5 **A. Or videos.**
6 Q. Any media? Anything in a media form?
7 **A. Explain media. Like, what do you mean?**
8 Q. Video, photographs. I don't know what else you can have.
9 Camera photos. Any -- you're saying not photographs, not
10 video, but you seem to be qualifying it. And I want to
11 make sure I'm clear there is no photograph, right?
12 Right?
13 **A. Right.**
14 Q. No video?
15 **A. Right.**
16 Q. And no other media. I'm sorry, I can't better define it.
17 **A. No. We put it there with the totality of the**
18 **investigation.**
19 Q. I understand that. That wasn't my question. When you
20 searched a residence in Brighton, did you find any title
21 or registration that shows that Mr. Kelsey possesses a
22 Yukon?
23 **A. No.**
24 Q. What route -- we heard testimony yesterday, and I got a
25 little confused, I apologize. Was more than one -- let

40

1 me step back. You were asked yesterday regarding --
2 maybe not you, but there's been testimony regarding the
3 route from the Dam Site into Stockbridge. Do you recall
4 that general testimony?
5 **A. Yes.**
6 Q. In your investigation and these times to 11.3 miles at
7 certain miles an hour, how many different potential
8 routes were used?
9 **A. I'm sorry, used?**
10 Q. I take a different way to work every now and then. There
11 is a different way to everywhere. How many different
12 routes did you examine or investigate?
13 **A. Well, I suppose there is several. There are specifically**
14 **maybe --**
15 Q. But my question is, what did you investigate?
16 **A. How many did we investigate?**
17 Q. Yes.
18 **A. Three different routes.**
19 Q. Which were?
20 **A. There is -- that's the furthest south, as I recall, but**
21 **there is a couple that are north taking you through**
22 **Gregory.**
23 Q. Did you get video cameras through there?
24 **A. We attempted to.**
25 Q. Did you get video cameras through there?

41

1 **A. I should say we viewed video in Gregory.**
2 Q. From where?
3 **A. I'd have to -- I didn't personally do it, but I think it**
4 **was maybe a store or a pharmacy in the Gregory area.**
5 Q. What's the third route?
6 **A. Again, it's up in that area. I don't recall from memory.**
7 Q. Did you get video from that area?
8 **A. I believe -- I'm not sure the route. So I can't say for**
9 **sure that we did.**
10 Q. Did you check a route from the Dam Site to Brighton?
11 **A. No, we did not.**
12 Q. Did you try to get video of a route from the Dam Site to
13 Brighton?
14 **A. No.**
15 Q. Mr. Kelsey was arrested on December 12th of 2014, right?
16 **A. Yes.**
17 Q. Fair to say he wasn't in the Stockbridge area after that
18 time?
19 **A. After the arrest?**
20 Q. Yes, sir.
21 **A. Yes.**
22 Q. So we've heard a lot of testimony that Mr. Kelsey was not
23 seen after December 7th, but after December 12th he
24 wasn't around, right?
25 **A. Right.**

42

1 Q. These phones that we reviewed earlier, are there any text
2 messages or e-mails or anything in any way relating to
3 this incident?
4 **A. From who?**
5 Q. Anybody. The Kelsey phones and the Hildabridle phones
6 that you talked about or testified to, excuse me.
7 **A. No. The phones have been deleted, wiped, the information**
8 **on them.**
9 Q. Well, that's where I got a little bit confused. You
10 testified to two phones. One a Boost and one an iPhone.
11 My notes on the Boost you said it had just been
12 activated. Is that accurate?
13 **A. Yes.**
14 Q. What's "just been"? When?
15 **A. It looked like it had been activated on the twelfth.**
16 Q. Of December?
17 **A. Yes.**
18 Q. The incident happened on the seventh of December?
19 **A. Yes.**
20 Q. And the iPhone, I believe you testified, was activated on
21 December 10th?
22 **A. Yes.**
23 Q. I'm going to switch gears on you a little bit.
24 MR. MORLEY: Judge, could I have a moment? I
25 don't need a break, just a quick minute.

43

1 THE COURT: Sure. Sure.
2 BY MR. MORLEY:
3 Q. If I'm shortcutting any of this too quickly, please let
4 me know, but you have been in the courtroom, and you've
5 heard me elicit testimony that Michigan State Police
6 established or activated a tip line, I think, on
7 December 7th, right?
8 A. Yes.
9 Q. And as part of that tip line, stated differently, part of
10 your job was to help investigate some of those tips,
11 right?
12 A. Yes.
13 Q. I'm not oversimplifying anything. They get assigned to
14 various investigators on the task force?
15 A. Right.
16 Q. And Tip No. 6 on December 8th of '14, you received
17 information that:
18 An anonymous caller on
19 December 8th at 6:15 overheard
20 conversation of two black males
21 and black female at Gun Lake
22 Casino in Battle Creek at
23 approximately 4 a.m.,
24 conversation was about getting
25 away from police. They said they

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1 were Lansing.
2 Do you recall that?
3 A. Yes.
4 Q. Did you investigate that?
5 A. The team did.
6 Q. Did you?
7 A. I don't recall if I had anything to do with that. I
8 believe I was involved in it, whether it was taking the
9 information down or assigning it to somebody else.
10 Q. Well, that's what I'm asking because it says, and tell me
11 if I'm wrong --
12 MR. MORLEY: Approach the witness, Your Honor?
13 THE COURT: Yes.
14 BY MR. MORLEY:
15 Q. (Approaching the witness.)
16 I've looked at these. You probably know them
17 better than I do, but the top part, some of that is not
18 your handwriting, right?
19 A. Correct.
20 Q. And then there is biographical information, if you will.
21 Then it is "Information reviewed by" and then there is an
22 "Assigned to" part. The assigned to is Troy Johnston.
23 That's you, right?
24 A. Yes, it is.
25 Q. So does that mean it's your investigation?

45

1 A. At that point that's what it -- whoever is doing the
2 assigning, that's not my writing either, but they're
3 assigning it to me. Now, whether or not I actually did
4 it, there is another part of that tip form, the follow-up
5 part, that may be of -- that may be able to show you who
6 did the investigation.
7 Q. Well, that's a good question.
8 MR. MORLEY: Approach again, Your Honor?
9 THE COURT: Yes.
10 BY MR. MORLEY:
11 Q. (Approaching the witness.)
12 Is that your writing on the bottom there by my
13 highlighting?
14 A. That is my writing.
15 Q. All right. And that -- well, you want to use that to
16 refresh your memory for a moment?
17 A. Yes.
18 Q. Don't read it out loud, please.
19 A. Okay.
20 Q. Did you interview these sus -- these people at the Gun
21 Lake Casino?
22 A. No, I did not.
23 MR. MORLEY: Is it all right if I consult with
24 counsel, Judge?
25 THE COURT: Sure.

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1 MR. MORLEY: (Talking to Mr. Roth off the
2 record.)
3 BY MR. MORLEY:
4 Q. Detective, and please correct me if I'm wrong because I
5 didn't take good notes on it, but you testified, I
6 believe, yesterday regarding the route from the Dam Site
7 to Mr. Kelsey's alleged residence in Stockbridge. Do you
8 recall that?
9 A. Yes.
10 Q. And I believe you said the route was Hell, Michigan -- I
11 forget some -- Patterson Lake and Doyle Road and M-106
12 and then to Morton Road. Is that about accurate?
13 A. Yes.
14 Q. This is where I'm a little bit confused. M-106 -- Morton
15 Road goes west, right?
16 A. Right.
17 Q. 106 goes south, right?
18 A. Well, there is a -- there is a point that it's east/west.
19 Q. Before you get to Morton Road, right?
20 A. Right.
21 Q. But 106 goes south, right?
22 A. Right.
23 Q. So it's not part of the chase route?
24 A. That's not, no.
25 MR. MORLEY: Okay. I think that's all I have.

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1 Thank you.
2 THE COURT: Thank you, Mr. Morley.
3 Mr. Roth, do you have any redirect examination?
4 MR. ROTH: Yes, Your Honor. Thank you.
5 REDIRECT EXAMINATION
6 BY MR. ROTH:
7 Q. Trooper, can I give you the tip book. I'm going to ask
8 some questions about it.
9 A. Yes.
10 Q. (Approaching the witness.)
11 Mr. Morley asked you or started by asking you
12 if you had any contact or the team had any contact with
13 Jerry Strunk before May of 2015, and the answer was no,
14 correct, well, at least not that you're aware of?
15 A. Right.
16 Q. Why not?
17 A. I'm sorry, what was the date again?
18 Q. Why no earlier contact with Jerry Strunk?
19 A. Well, at the time we didn't know of Jerry Strunk.
20 Q. In December, his phone number is in the phone. And at
21 some point Brian Hildabridle mentions him. Why was the
22 decision not made to follow up on it earlier, at least at
23 that particular location?
24 A. Well, the -- you know, the investigation was rapidly
25 evolving. We had attempted to contact; we, meaning the

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1 team, had attempted to contact Jerry Strunk, I believe,
2 on the eleventh or twelfth, but --
3 MR. MORLEY: Of? I'm sorry, of when?
4 THE WITNESS: The -- December 11th/
5 December 12th of 2014. And because of the way the
6 investigation was going, the interviews that had been
7 conducted, Jerry had not been contacted. And, in fact,
8 we got other information that pointed in a different
9 direction as to the whereabouts of the vehicle.
10 BY MR. ROTH:
11 Q. When we say different, it's not necessarily
12 contradictory. It's just the next step --
13 A. Right.
14 Q. -- of where it went later?
15 A. Right. It could have very well been at the Strunk
16 residence, but we had -- now we had information that it
17 may now be somewhere else.
18 Q. You testified when Mr. Morley asked that you didn't or
19 weren't allowed to go in the garage area where any tools
20 may have stored when you were there?
21 A. Right.
22 Q. Very good. So you don't know what tools were there or
23 were not?
24 A. No, we don't.
25 Q. Mr. Morley asked if on the early morning hours of

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1 December 7th, 2014, you or the team checked the
2 Defendant's Morton Road residence in Stockbridge for a
3 white SUV. Do you recall that?
4 A. Yes.
5 Q. And nobody did at that time, correct?
6 A. Right.
7 Q. At the beginning of this investigation, did anybody know
8 the Defendant as a suspect in terms of the police team?
9 A. No, we did not.
10 Q. Did you have any reason to check his address at that
11 point?
12 A. No.
13 Q. All right. So, first of all, talking about the Sunoco
14 SUV, you recall the testimony earlier, I think it was
15 last week, by Trooper Rochefort about the vehicle turning
16 in the opposite direction?
17 A. Yes.
18 Q. So in that way was it in the area at the time of the
19 pursuit?
20 A. No.
21 Q. Certainly was not on Morton Road?
22 A. Correct.
23 Q. Now, you talked about physically that it's different, and
24 there is some issue made about what we're comparing to.
25 So I want to talk generally about the media evidence that

50

1 we have in this case. Are we able to see the white SUV
2 in the Mugg & Bopps video that the deputies then pull out
3 and pursue?
4 A. Yes.
5 Q. We're going to look at 162 just as a still, but we get
6 more of it in the video. After this scene, you then see
7 the deputies pull out after the white SUV?
8 A. Yes.
9 Q. In Deputy Hoeksema's MVR, can you see from that stage
10 on --
11 A. Yes.
12 Q. -- that it's the same SUV?
13 Now, stepping backwards or working backwards,
14 from the Mugg & Bopps going backwards, we have the L & B.
15 Are those in all very quick order in Stockbridge?
16 A. Yes, they are.
17 Q. And on the video, can you essentially see where they go
18 from one to the next to the third?
19 A. Yes.
20 Q. All right. So going backwards, is that the same white
21 SUV that we see in 157?
22 A. Yes.
23 Q. And closer, I guess, in 158?
24 A. Yes.
25 Q. And then the first one, once you get into Stockbridge, do

51

1 you we see that Shell station in 150?

2 **A. Yes.**

3 Q. Same SUV that's shown in the pursuit of the deputy's

4 vehicle and then backwards to the Marathon, the L & B,

5 and the Shell?

6 **A. Yes.**

7 Q. So with that in mind, in addition to the testimony that

8 the vehicle went all the wrong way anyway, how were you

9 able to determine that the vehicle at the Sunoco was not

10 the one involved in the pursuit?

11 **A. This vehicle is a smaller vehicle. You can tell that by**

12 **the seat pillar right here, how it comes down over the**

13 **rear wheel well, as opposed to the suspect vehicle that**

14 **comes down to -- comes down front of the wheel well. You**

15 **can also tell by the black door handles on this vehicle**

16 **and the lack thereof on the suspect vehicle.**

17 **And you can also tell on the lower portion of**

18 **the vehicle that there is a -- what appears to be a**

19 **darker stripe on the bottom, and that's not present on**

20 **the suspect vehicle.**

21 Q. We have a number of different pictures from the cameras,

22 but looking at -- I apologize. Not Topping. The L & B,

23 as an example, in the white SUV that --

24 THE COURT: Mr. Roth, is that an exhibit

25 number?

52

1 MR. ROTH: It is, it's page 25 of Exhibit 165.

2 BY MR. ROTH:

3 Q. In the L & B stills that we have of the vehicle that soon

4 gets involved in the pursuit, there are no dark door

5 handles visible?

6 **A. Correct.**

7 Q. And to the extent that it's not clear from your

8 description, could you explain what you mean to the jury

9 when you talk about where the door ends in the different

10 vehicles?

11 **A. Yeah. The door ends, you know, by the C pillar -- the**

12 **rear door by the C pillar, and that -- where it ends,**

13 **where it's cut out is before the rear wheel well. So, in**

14 **other words, it comes down -- it does down like that**

15 **before the rear wheel well, as opposed to this one up**

16 **here that comes down almost in the middle of the wheel**

17 **well indicating to us that it's -- it's a shorter**

18 **vehicle, this one up here (illustrating).**

19 Q. Give me a little bit of background about pillars. We

20 talk about C pillars. How are we categorizing the

21 pillars?

22 **A. The first pillar in the vehicle, and I'll show you on the**

23 **top photo. This one here is the A pillar, behind the**

24 **front door is the B pillar, and this one back here is the**

25 **C pillar.**

53

1 Q. So this vehicle clearly didn't match because of the

2 handles, and the pillars were inconsistent?

3 **A. Right.**

4 Q. Detective Sergeant Young talked yesterday about ruling in

5 or ruling out. So you're able to effectively rule out

6 this vehicle?

7 **A. Yes.**

8 Q. I want to talk next about the trail cam pictures, Defense

9 Exhibit D. First of all, Mr. Morley talked about Gregory

10 being the direction of the pursuit. When the vehicle --

11 when the deputies try to pull over the vehicle, is it

12 heading in the direction of Gregory?

13 **A. No.**

14 Q. Is it, in fact, heading away from Gregory?

15 **A. It is.**

16 Q. Gregory is just the location it ends up on after it loops

17 around during the pursuit?

18 **A. Right.**

19 Q. And you talked about the video in Gregory. Was that what

20 Trooper Rochefort testified to earlier?

21 **A. Yes.**

22 Q. That there was no white SUV shown there?

23 **A. Yes.**

24 Q. The vehicles shown on the trail cam, first of all, did

25 you ever receive any information that any of these were

54

1 actually involved?

2 **A. No.**

3 Q. So at this point you're just investigating white SUVs

4 that exist. Not any ones that are specifically directed

5 to your case?

6 **A. Right. At this point, the investigation -- we had**

7 **determined -- by the time we got these photographs --**

8 **it's dated the ninth, but we didn't get them until after**

9 **the arrest was made. We had established a suspect, and**

10 **we were simply just looking for the suspect vehicle at**

11 **this point.**

12 Q. Looking at these pictures, were there also physical

13 things you're able to rule out some of these vehicles?

14 **A. Yes.**

15 Q. Very good. Mr. Morley asked if there were a title or

16 registration linking John Kelsey to the GMC Yukon Denali

17 found in the residence that you searched. Were there any

18 documents linking him to that vehicle?

19 **A. Yes.**

20 Q. Thank you. Mr. Morley asked if you checked for video

21 heading out of the Dam Site Inn going east towards

22 Brighton, and your indication was no, correct?

23 **A. Correct.**

24 Q. Why was that?

25 **A. The vehicle is seen leaving the Dam Site traveling west.**

55

1 Q. So in that way was there any point in checking east?
 2 A. **No.**
 3 Q. Tip No. 6, the Gun Lake Casino one. Were you able to
 4 remove that as a possibility?
 5 A. **Yes.**
 6 Q. Could you please explain how?
 7 A. **We removed it as a possibility because at the time that**
 8 **it was followed up on, we had already received numerous**
 9 **tips and information that John Kelsey was the suspect in**
 10 **this incident.**
 11 Q. Was there any indication in that tip that there was even
 12 a white SUV associated with these people?
 13 A. **No.**
 14 Q. Did it provide information such that you could contact
 15 these people?
 16 A. **No.**
 17 Q. Any identifying markers that you could follow up on this
 18 at all?
 19 A. **No.**
 20 Q. Any details that provide any further ability to
 21 investigate?
 22 A. **No.**
 23 MR. ROTH: Nothing further, Your Honor.
 24 THE COURT: Thank you, Mr. Roth.
 25 You may step down, sir. Thank you.

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1 (At 11:13 a.m., the witness
 2 stepped down from the witness
 3 stand.)
 4 THE COURT: Mr. Roth, you may call your next
 5 witness.
 6 MR. ROTH: One moment, Your Honor.
 7 People call Detective Sergeant Kyle McPhee.
 8 THE COURT: Please raise your right hand.
 9 Do you swear or affirm to tell the truth, the
 10 whole truth, and nothing but the truth?
 11 DETECTIVE SERGEANT MCPHEE: Yes, sir.
 12 THE COURT: Please be seated. State your full
 13 name for us and spell it, please.
 14 THE WITNESS: Kyle, K-Y-L-E, McPhee,
 15 M-c-P-H-E-E.
 16 MR. ROTH: Thank you, Your Honor.
 17 KYLE MCPHEE
 18 called by the People at 11:13 a.m., sworn by the Court,
 19 testified:
 20 DIRECT EXAMINATION
 21 BY MR. ROTH:
 22 Q. Where do you work?
 23 A. **Michigan State Police.**
 24 Q. In what capacity?
 25 A. **I'm a detective sergeant.**

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1 Q. How long have you been with the State Police?
 2 A. **Twenty-six years.**
 3 Q. What are your responsibilities in that position?
 4 A. **I'm assigned to the Lansing Post as the post detective**
 5 **sergeant where I handle major criminal investigations and**
 6 **supervise the criminal investigations of approximately 30**
 7 **state troopers.**
 8 Q. What was your role as it relates to the investigation of
 9 the police pursuit that resulted in the death of Ingham
 10 County Sheriff's Deputy Grant Whitaker?
 11 A. **I was named the officer in charge of that investigation.**
 12 Q. What are your responsibilities in that role?
 13 A. **In that particular role, it was more of an administrative**
 14 **organizational role. We assembled an investigative team,**
 15 **provided daily briefings, set up tip line. That kind of**
 16 **thing.**
 17 Q. How quickly did the investigation begin?
 18 A. **Immediately after the fatal crash that killed Deputy**
 19 **Whitaker.**
 20 Q. In total, approximately, how many Michigan State Police
 21 were involved in the investigation?
 22 A. **Between 50 and 60.**
 23 Q. And did you assign them to specific segments of the
 24 investigation?
 25 A. **Yes, sir.**

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1 Q. Could you please explain what that means?
 2 A. **Well, there is different specialties that are required to**
 3 **do an investigation of this nature. And so I brought in**
 4 **people that were strong in those individual segments,**
 5 **such as audio visual experts, cell phone acquisition**
 6 **individuals, people that were efficient at drafting**
 7 **search warrants.**
 8 **We had certain detectives that were very**
 9 **experienced with field interviews. We brought in**
 10 **somebody to coordinate the tips and the tip line; that**
 11 **kind of thing.**
 12 Q. Very good. How quickly after the beginning of the
 13 investigation or creation of the task force was the
 14 picture we see in Exhibit 41 obtained?
 15 A. **That photograph is, I believe, from the L & B, and that**
 16 **came pretty quick. That was actually our -- you know,**
 17 **the second photo that we came up with for the vehicle.**
 18 **That was, I believe, the eighth of December.**
 19 Q. The first one being from the MVR?
 20 A. **Yes, sir.**
 21 Q. And how did you go about beginning to identify the
 22 vehicle and its driver?
 23 A. **Well, we -- we made these press releases, and we**
 24 **disseminated them to the media. We used the photograph**
 25 **in some flyers to give to several uniformed troopers that**

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1 were deployed throughout the Stockbridge area and went
 2 door to door and handed out flyers and try to do it that
 3 way. **Set up a tip line.**
 4 Q. In total, approximately how many tips were received?
 5 A. **151.**
 6 Q. Now, again, we talked about this at the beginning of the
 7 trial. Not every one of those tips means a member of the
 8 public called up, correct?
 9 A. **That's correct.**
 10 Q. Could you explain the difference?
 11 A. **Yeah. Tips came from different -- different places.**
 12 **Tips can actually be generated within our own**
 13 **investigation. So if we interview someone and they gave**
 14 **us two names during the interview, that investigator**
 15 **would then make two new tips for those two people that**
 16 **needed to be talked to so we could generate them within**
 17 **our own investigation. They came from the tip line we**
 18 **set up. They came through e-mails to our operations**
 19 **center in Lansing.**
 20 **I think the Ingham County Sheriff's Office**
 21 **received some tips that were subsequently forwarded to**
 22 **us. So there was a lot of different areas where tips**
 23 **were generated from.**
 24 Q. Were some of them anonymous?
 25 A. **Yes, sir.**

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1 Q. And generally as law enforcement officers, do you have to
 2 -- are you stuck with that? That if somebody wants to
 3 remain anonymous, you'll respect that and carry that
 4 through?
 5 A. **We certainly attempt to do that, yes.**
 6 Q. And is it fair to say that not of all of those tips
 7 implicated the Defendant?
 8 A. **That's correct.**
 9 Q. Regardless of whether or not they implicated the
 10 Defendant or somebody else, were they followed up on?
 11 A. **Yes, sir.**
 12 Q. And just to be clear at the beginning of this
 13 investigation, the Defendant was not a known person,
 14 known suspect; anything like that?
 15 A. **No.**
 16 Q. At the beginning of this investigation, was there
 17 anything setting him apart from any of the other people
 18 that were mentioned in the tips?
 19 A. **Not until we had -- I don't understand the question. If**
 20 **you could --**
 21 Q. Sure. So there is tips that implicate the Defendant that
 22 start coming in, correct?
 23 A. **Yes.**
 24 Q. Tips that implicate other people. We heard initially
 25 that somebody involved in a Back Street bar fight might

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1 have been the driver, right?
 2 A. **Right.**
 3 Q. And there is, I'm sure, a couple of other people that
 4 we've mentioned throughout the trial.
 5 A. **Mm-hmm.**
 6 Q. Is that correct?
 7 A. **Yes.**
 8 Q. And at the beginning of the investigation, you don't know
 9 the Defendant from any of the rest of them, correct?
 10 A. **That's correct.**
 11 Q. How did you go about -- at some point your investigation
 12 focuses then on the Defendant, correct?
 13 A. **Yes.**
 14 Q. Why is it that it focused on the Defendant at some point
 15 and these other people were ruled out?
 16 A. **The main reason is we received more tips on John Kelsey**
 17 **than we received on anyone else.**
 18 Q. And were the tips regarding John Kelsey corroborated and
 19 confirmed through your investigative efforts?
 20 A. **Yes, they were.**
 21 Q. The other potential suspects, were they confirmed or
 22 discredited?
 23 A. **They were cleared, yes.**
 24 Q. We heard testimony about a 2003 GMC Yukon Denali XL
 25 registered to the Defendant's father. In addition to the

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1 VIN information that Mr. Thompson already discussed, were
 2 you able to verify the vehicle's color?
 3 A. **Yes, I was.**
 4 Q. How?
 5 A. **I queried the VIN through the factory shipping record**
 6 **which indicates a color code. And then I was able to**
 7 **take the color code and turn it into a color through some**
 8 **investigative contacts.**
 9 Q. And what color did it translate to?
 10 A. **White.**
 11 Q. Thank you. Did you determine if the vehicle had OnStar
 12 or some equivalent service?
 13 A. **Yes.**
 14 Q. What is OnStar?
 15 A. **OnStar is a fee based GPS system that is installed in**
 16 **General Motors vehicles, and it provides turn by turn in**
 17 **directions. It can be used in the case of emergencies or**
 18 **airbag deployments to get first responders to a crash**
 19 **scene, and it also can be used to locate vehicles that**
 20 **are entered as stolen.**
 21 Q. Did this vehicle, the white 2003 GMC Yukon Denali,
 22 registered to the Defendant's father have OnStar?
 23 A. **When it was built in 2003, it was equipped with that**
 24 **service.**
 25 Q. Were you able to use that to assist you in your

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1 investigation?

2 **A. No.**

3 Q. Why not?

4 **A. OnStar was contacted, and they told us that the vehicle**

5 **was too old and the system was of an analog nature and**

6 **would not be any use for us at this particular time --**

7 Q. Thank you.

8 **A. -- to find it.**

9 Q. We heard testimony about search warrants that were

10 executed at the Defendant's residence and the parents'

11 residence. Did you do some follow-up based on items and

12 information found at each?

13 **A. Yes.**

14 Q. I want to discuss the head lamp, 196, found at the Morton

15 Road address. 195, I apologize. Did you do some follow-

16 up as it relates to this item?

17 **A. Yes, sir, I did.**

18 Q. And does this fit a 2003 GMC Yukon Denali XL?

19 **A. Yes.**

20 Q. And, in fairness, as Mr. Morley said, it fits thousands

21 of other vehicles, correct?

22 **A. Thousands.**

23 Q. Different makes, models; things like that?

24 **A. Yes, sir.**

25 Q. Fair to say that this did not play -- this bulb much, if

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1 any, role in your investigation?

2 **A. None.**

3 Q. I'm sorry?

4 **A. None.**

5 Q. Very good. We also heard testimony about the proof of

6 insurance for the 2003 GMC Yukon Denali XL found at the

7 Defendant's parents' house. Did you contact AAA to find

8 out about the status of that policy?

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

10 Q. And we heard testimony from Mr. Baum from AAA that the

11 vehicle was never reported stolen to the insurance

12 company. Was it ever reported stolen to the police?

13 **A. No, sir.**

14 Q. Is it still currently registered to the Defendant's

15 father?

16 **A. Yes.**

17 Q. It hasn't been reported stolen?

18 **A. No. I queried the vehicle through what we call LEIN and**

19 **NCIC, which is a stolen vehicle database, and it's not**

20 **entered as stolen.**

21 Q. Has it ever been reported sold after Frank Kelsey

22 acquired it?

23 **A. No, sir.**

24 Q. What is the status of the registration currently?

25 **A. It's expired.**

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1 Q. When did it expire?

2 **A. January 17th, 2015, I believe.**

3 Q. So this vehicle was never found, correct?

4 **A. It was never found. That's correct.**

5 Q. The Kelsey family was not able to -- Mr. and Mrs. Kelsey,

6 Marcia and -- I apologize. She has a different last

7 name. The Defendant's parents were never able to point

8 you in the direction of the vehicle currently, correct?

9 **A. That's correct.**

10 Q. But the registration was never renewed?

11 **A. That's correct.**

12 Q. Did you do anything to notify other law enforcement

13 officers and agencies of the vehicle's relevance?

14 **A. Yes.**

15 Q. Could you explain what that was?

16 **A. In our efforts to locate it, I entered into LEIN and NCIC**

17 **as a wanted vehicle so that if anyone ran the license**

18 **plate or the VIN number, it would -- a flag would come up**

19 **that we were interested in locating that vehicle.**

20 Q. And was it ever flagged? Did anybody ever notify you

21 pursuant to that stop action --

22 **A. No.**

23 Q. -- that it had been --

24 **A. No, sir.**

25 Q. Very good. Mr. Morley asked and has asked about a number

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1 of other people that have been mentioned as part of tips.

2 Was everybody else able to produce their white SUV to

3 assist you in their investigation?

4 **A. As I recall, every white SUV that we tracked down that we**

5 **were able to find and identify, everyone that -- all of**

6 **the owners were all cooperative and let us interview them**

7 **and produced their vehicles.**

8 Q. Trooper, Detective Trooper Johnston just talked about the

9 Sunoco white SUV. So showing you E, this, I believe, was

10 the Marshall SUV at the L & B earlier in the day. Were

11 you able to rule out this potential SUV?

12 **A. Yes.**

13 Q. How so?

14 **A. It was actually ruled out, I believe, on three different**

15 **occasions. I believe Trooper Rochefort and Trooper North**

16 **during their patrols actually stopped the same vehicle on**

17 **a traffic stop during the investigation and identified it**

18 **as the Marshall vehicle. And I believe Detective**

19 **Sergeant Bundshuh cleared this vehicle as he interviewed**

20 **the Marshalls as well. I believe he was provided this**

21 **photo by a clerk at the station who advised it was a**

22 **relative of hers.**

23 Q. Similarly we see in Defense B what's identified as the

24 Porter vehicle. That was eliminated as a potential

25 vehicle as well?

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1 **A. Yes, sir.**
 2 Q. How so?
 3 **A. The Porter vehicle came up as a result of the Back Street**
 4 **bar investigation. And that vehicle was located by**
 5 **Detective Sergeant Bundshuh, who ultimately cleared the**
 6 **vehicle as being our suspect vehicle.**
 7 MR. ROTH: Thank you.
 8 I have nothing further of this witness,
 9 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. As you sit here today, Sergeant, do you know where the
 16 vehicle that was allegedly involved in this chase is?
 17 **A. I do not, sir.**
 18 Q. You heard testimony earlier -- and you have been here
 19 throughout -- Mr. Kelsey was arrested on, I believe,
 20 December 12th, 2014.
 21 **A. Yes.**
 22 Q. Subsequent to that, he was unavailable or not in the
 23 Stockbridge area, right?
 24 **A. Yes.**
 25 Q. And at the time he was arrested, do you know whether or

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1 not he had an appointment scheduled with the Michigan
 2 State Police to meet with them?
 3 **A. I do not because I was not part of the investigation for**
 4 **a period of four days. I had to leave town on a family**
 5 **emergency, and I turned the investigation over to**
 6 **Trooper Johnston.**
 7 Q. As you sit here today, are you aware that an appointment
 8 had been scheduled?
 9 **A. Just through reading -- reviewing the reports that were,**
 10 **yes.**
 11 Q. That appointment never happened, but to your knowledge
 12 there was an appointment scheduled prior to him being
 13 arrested?
 14 **A. Yes.**
 15 Q. Talked a lot about this tip line, but I need to address
 16 it a little bit with you.
 17 Could you, without belaboring the point, is it
 18 set up or activate? Which one is more right? Does the
 19 Michigan State Police just have the tip line that you
 20 guys just get started?
 21 **A. This tip line, this particular one was specific to the**
 22 **Lansing Post. It was just one that we had set up using a**
 23 **very cheap track phone cell phone number. We wanted a**
 24 **single point of contact, and that's all it was.**
 25 Q. Okay. And the reason I ask is that in the report --

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1 sorry. It may be much ado about nothing, but on
 2 December 18th, the undersigned is you, you activated the
 3 Michigan State Police Post tip line, right?
 4 **A. I don't believe that date is correct. I activated it**
 5 **prior to December 18th.**
 6 Q. If I said eighteenth, I apologize. I meant to say
 7 December 8th.
 8 **A. That's correct.**
 9 Q. Okay. And at the time -- and maybe you heard me ask this
 10 before -- was reward money offered?
 11 **A. I believe there was.**
 12 Q. There is a \$10,000 reward associated with this, right?
 13 **A. I don't know what the value -- the monetary values are,**
 14 **sir. I'm not -- the Michigan State Police is not**
 15 **involved in disseminating reward money. We're not**
 16 **involved in that process.**
 17 Q. Are you aware that a lot of the troopers throughout this
 18 investigation were telling people that there was a
 19 \$10,000 reward?
 20 **A. Yeah. That's common practice when we make a flyer and**
 21 **put it out for --**
 22 Q. I'm confused then.
 23 **A. Because the money is not paid by the Michigan State**
 24 **Police. It's paid by another organization, like Crime**
 25 **Stoppers, or something like that. We do mention there is**

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1 **a reward, but we're not the one that provide the money.**
 2 Q. Okay. I thought you said you don't know anything about
 3 the reward.
 4 **A. I don't know how much was put out.**
 5 Q. All right.
 6 **A. You just said that.**
 7 Q. All right. But there we go. It's clarified. Thank you.
 8 You had 151 tips, right?
 9 **A. Yes.**
 10 Q. Some are law enforcement. Some aren't. Some are
 11 anonymous. Some aren't. Using the general category of
 12 non-law enforcement tips, you had less than five related
 13 to John Kelsey. Is that true?
 14 **A. No. I don't believe that's true.**
 15 Q. Using the same category, you had more than five relating
 16 to the Back Street bar fight on the early morning hours
 17 of December 7th of '14, right?
 18 **A. Can you restate that?**
 19 Q. Using the same category of non-law enforcement related
 20 tips -- and by that I mean either anonymous or John Q
 21 Citizen, something like that -- you had more than five
 22 relating in some way to the Back Street bar fight of the
 23 early morning hours of December 7th, 2014, right?
 24 **A. I can't say for sure.**
 25 Q. Were you in charge of the tip line?

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1 **A. Yes.**
2 Q. Other than the phone records that we've heard regarding
3 Mr. Kelsey, Hildabridle, how many other search warrants
4 or cell phone investigations were done relating to the
5 tip line?
6 **A. I don't understand your -- relating to -- search warrants
7 relating to the tip line?**
8 Q. How many other cell phone records were searched that
9 emanated from a tip that came in through the tip line,
10 other than Kelsey or Hildabridle's?
11 **A. We did several search warrants. I can't say which
12 specific phones are associated with the tip line. We did
13 a lot of search --**
14 Q. Immediately --
15 **A. -- warrants.**
16 Q. I apologize. Immediately after the crash and, in fact,
17 on that same day, law enforcement related tip came in
18 regarding a white SUV here in Okemos, right?
19 **A. Yes.**
20 Q. And people were detained and brought to the State Police
21 Post --
22 **A. Yes, sir.**
23 Q. -- and investigated?
24 **A. Yes.**
25 Q. And that was a white SUV that had several occupants in

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1 it, right?
2 **A. I don't know how many occupants were in it, but you're
3 correct there was a white SUV involved.**
4 Q. You subsequently received information on another tip
5 about this bar fight at the Back Street bar on -- in the
6 early morning hours of December 7th, 2014, right?
7 **A. Yes.**
8 Q. And, in fact, the tips were received indicating that the
9 combatants and their associates involved in the Back
10 Street bar fight were somehow connected to the fatal ICSD
11 pursuit, right?
12 **A. If you have a specific tip you're referring to, I would
13 like to review that.**
14 Q. I'd be happy to.
15 MR. MORLEY: Approach, Your Honor?
16 THE COURT: Yes.
17 BY MR. MORLEY:
18 Q. (Approaching the witness.)
19 You can disregard my notes on this, and I'm not
20 playing hide the ball. This is page one of six. I think
21 this is one through six -- er, I'm sorry, that's six of
22 six of one of six.
23 **A. This is my report.**
24 Q. I'm referencing -- what I just read from is that last
25 line right there.

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1 **A. Subsequent...**
2 **Yes.**
3 Q. Okay. Here's what I don't understand, and maybe you can
4 help me. This is the very first police report that was
5 generated in this matter. It's your report you just
6 said.
7 **A. Mm-hmm.**
8 Q. December dated 7th, right --
9 **A. Mm-hmm.**
10 Q. -- of '14, right?
11 **A. Yeah.**
12 Q. Is that when it was drafted?
13 **A. No, no. That's not -- that's the date of the incident
14 that we're investigating.**
15 Q. That's what I figured. When was this drafted?
16 **A. The report?**
17 Q. Yes, sir.
18 **A. I don't know. It's going to be in the day or two or
19 three after that.**
20 Q. Okay. So is it fair to say no later than December 10th
21 using December 7th as a --
22 **A. Yeah. I can't say for sure the actual date that that was
23 drafted, but the -- I can't say.**
24 Q. Here's why I'm asking: You indicate -- or within that
25 day or two or three-day period, you had determined that

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1 there was no connection between the bar fight incident at
2 the Back Street bar and this underlying incident we're
3 here today on, right?
4 **A. Yes.**
5 Q. And, in fact, multiple tips were received, assigned, and
6 investigated, and this is all in December 8th, 9th, or
7 10th relating to the Back Street bar fight?
8 **A. Whatever the tips that came in, those are dated
9 individually. So it would be --**
10 Q. I understand. You received information -- let me state
11 it differently. Multiple tips were received relating to
12 the Back Street bar fight.
13 **A. Mm-hmm, yes.**
14 Q. No later than December 8th, 9th, or 10th you decided, per
15 your report:
16 No factual connection could be
17 determined that the bar fight
18 incident at the Back Street bar
19 was in any way related to the
20 fatal ICSD pursuit incident.
21 Is that accurate?
22 **A. Yes.**
23 Q. And that was with a tip line set up December 8th. So it
24 would be December 8th, 9th, or 10th, right?
25 **A. Yes.**

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1 Q. On December 8th you received information from the
2 Livingston County Sheriff's Department regarding a bar
3 fight involving a white SUV in Livingston County on
4 December 8th, 2014, right?
5 A. **Is there a tip number associated with that?**
6 Q. Yes, sir. I apologize. Tip No. 8.
7 A. **Can I refer to that here?**
8 Q. Yes, sir.
9 A. **All right. Okay. I have No. 8 pulled up here.**
10 Q. You received information from Livingston County Sheriff
11 there was a white SUV involved in a bar fight in
12 Livingston County on December 8th of '14, right?
13 A. **Yes.**
14 Q. Did you contact the owner of that white SUV?
15 A. **No.**
16 Q. In fact, one of the suspects lived on Patterson Lake
17 Drive in Pinckney that we've been referencing on these
18 various maps, right?
19 A. **Yeah. One of the individuals involved lives on Patterson
20 Lake Road.**
21 Q. Did you interview him?
22 A. **No, I didn't.**
23 Q. Tip No. 14 on December 8th of 2014, you received:
24 Text message to tip line
25 indicates a Facebook feud

76

1 references bar fight in
2 Stockbridge.
3 Do you recall that?
4 A. **I'm looking at Tip 14, yes.**
5 Q. I apologize. Let me know if I'm going too fast.
6 A. **I have Tip 14.**
7 Q. Did you receive information -- excuse me, a text message
8 to the tip line assigned to you -- check that -- reviewed
9 by you:
10 A Facebook feud references a bar
11 fight in Stockbridge.
12 Right?
13 A. **Yes.**
14 Q. Did you investigate that?
15 A. **I believe it was investigated. It might be connected to
16 another tip.**
17 Q. I'm asking if you investigated it.
18 A. **I did not investigate that.**
19 Q. Tip No. 21.
20 A. **21?**
21 Q. Just tell me when you're ready.
22 A. **Go ahead.**
23 Q. Michigan State Police sent up a plane or a helicopter to
24 take aerial photographs of the area, right?
25 A. **That's correct.**

77

1 Q. This is what would be called a law enforcement tip
2 because it comes from MSP Aviation that:
3 Multiple addresses identified by
4 MSP chopper as having white
5 colored SUV.
6 Right?
7 A. **Yes.**
8 Q. Is that in the Stockbridge area, presumably?
9 A. **Yes.**
10 Q. And, in fact, there were eight addresses that your
11 chopper reported as having white SUVs, right?
12 A. **Yes.**
13 Q. Did you investigate those?
14 A. **Personally, no.**
15 Q. Tip No. 37. Let me know when you're ready.
16 A. **Okay.**
17 Q. On December 9th of '14, you received information:
18 Fox 2 Facebook page Huey brags
19 about getting away from police.
20 Caller is e-mailing the screenshot to you. Do
21 you recall that?
22 A. **Yes. And I believe the caller never sent the information
23 that they promised that they were going to send. So
24 Tip --**
25 Q. Tip 109.

78

1 A. **109. Okay.**
2 Q. I don't know what the tip source is. What is TF? If you
3 -- do you know?
4 A. **I want to.**
5 Q. That's fine.
6 A. **I don't know. I don't know what TF is. You'd have to
7 ask the individual that took the call.**
8 Q. Is that your handwriting in the tip information part?
9 A. **Tip information? My handwriting on this is on the second
10 page of it at the bottom.**
11 Q. Okay. First part of the tip says:
12 Check scrap yards for turn-ins by
13 Kelsey, Bramlett, or Tyler Brown.
14 Right?
15 A. **Yes.**
16 Q. This is December 15th --
17 A. **Yes.**
18 Q. -- of 2014?
19 A. **Yes, sir.**
20 Q. Who is Bramlett? Let me step back. Why are we checking
21 scrap yards?
22 A. **We're trying to find the vehicle.**
23 Q. Okay. Who is Bramlett?
24 A. **I believe he was one of the individuals that was involved
25 in the fight at the -- at the Back Street bar.**

79

1 Q. Who is Tyler Brown?

2 A. **Same. I believe he was involved at the Back Street bar.**

3 **His name came up there.**

4 Q. But you testified earlier that you've already indicated

5 there was no way -- as of no later than December 10th;

6 that there was no way they were related. That the Back

7 Street bar wasn't in any way related, but on

8 December 15th you're still looking for ties to Bramlett

9 or Tyler Brown. Why is that?

10 A. **No. I think tips -- we're looking for the vehicle.**

11 **That's what the scrap yard angle is all about.**

12 Q. I understand. But you want to see if Bramlett or Tyler

13 Brown turned in a vehicle, right? The tip says:

14 Check scrap yards for turn-ins by

15 Kelsey, Bramlett, or Tyler Brown.

16 A. **Okay.**

17 Q. Clearly we know who Kelsey is.

18 A. **Right.**

19 Q. Bramlett and Tyler Brown are involved in the bar fight

20 that you determined no later than December 10th was

21 unrelated, but on December 15th you're looking to see if

22 they turned anything into a scrap yard, right?

23 A. **Yes.**

24 Q. Tip No. 15.

25 A. **Okay. Yeah. I have 15.**

80

1 Q. December 8th of December 14th, references Davy Crockett

2 Bettelon again, right?

3 A. **Yes.**

4 Q. In fact, this was an anonymous female, but it indicates

5 that Deputy Hoeksema did a welfare check at 1:32 a.m. on

6 Davy who got beat up at bar. Caller says Davy's brother

7 has white SUV, right?

8 A. **That's what the tip says, yeah.**

9 Q. Did you investigate that?

10 A. **Well, this was part of the -- I did not interview Davy**

11 **Crockett, if that's what you're asking me.**

12 Q. I asked if you investigated that.

13 A. **No. I didn't directly investigate the --**

14 Q. Okay. Tip No. 43.

15 A. **Okay.**

16 Q. It references a prior investigation by another Michigan

17 State Police personnel regarding a gray, in color, Trail

18 Blazer belonging to the ex-wife of Davy Crockett

19 Bettelon, right?

20 A. **Yes.**

21 Q. And it says:

22 Find vehicle and interview Lora

23 Bettelon.

24 Right?

25 A. **Yes.**

81

1 Q. Was that done?

2 A. **Not by me. I believe Trooper Wolf looked into that and**

3 **determined that that vehicle was not the same as the**

4 **vehicle we were looking for.**

5 Q. Well, actually as of December 15th -- and that was the

6 December 9th tip -- nobody from Michigan State Police had

7 followed up on that tip, right?

8 A. **Well, the tip was closed.**

9 Q. Well --

10 MR. MORLEY: Approach, Your Honor?

11 THE COURT: Yes.

12 THE WITNESS: Yes. I see what you're saying.

13 Yeah. I see the note there.

14 BY MR. MORLEY:

15 Q. As of December 15th, 2014, nobody had followed up on that

16 tip, right?

17 A. **That's correct.**

18 Q. Tip No. 72.

19 A. **Okay.**

20 Q. Not sure when it came in. It appears it was assigned on

21 December 10th of '14, but the caller, and in parenthesis

22 it says texter, saw white partial vehicle on trailer

23 leaving residence on Morton Road on Tuesday. Right?

24 A. **Yes.**

25 Q. And I think I -- some of those we're abbreviations. And,

82

1 in fact, the Morton Road address was 3515 Morton Road in

2 Stockbridge, right?

3 A. **I'm trying to find the address here on the tip sheet.**

4 **The writing is really small.**

5 Q. I'll be happy to help you, if you want. It's on the --

6 it's on what I have is the second page. It's still in

7 handwriting.

8 A. **Show me where what you have.**

9 Q. Sure.

10 MR. MORLEY: Approach, Your Honor?

11 THE WITNESS: This writing is very small.

12 THE COURT: Sure.

13 BY MR. MORLEY:

14 Q. (Approaching the witness.)

15 I'm cutting ahead a little bit. You see my red

16 mark in the bottom?

17 A. **Oh, this stuff here. All right. Okay.**

18 Q. So there was a white SUV, partial vehicle on a trailer,

19 leaving a residence at 3515 Morton Road in Stockbridge,

20 right?

21 A. **Yes.**

22 Q. 3515 Morton Road is Davy Bettelon's address, isn't it?

23 A. **I believe it may be a relative of his. I think that's**

24 **where he was located the night we made contact with him.**

25 Q. It's not John Kelsey's residence, right?

83

1 **A. Right.**
2 **Q.** But to be clear, somebody -- a tipster saw a partial
3 (verbatim) white SUV -- actually, a partially (verbatim)
4 damaged SUV being carried out of there on a trailer,
5 right?
6 **A. That's what the tip was, yes.**
7 MR. MORLEY: Mind if I consult with counsel,
8 Judge?
9 THE COURT: No problem.
10 MR. MORLEY: (Talking to Mr. Roth off the
11 record.) One second, Judge. I've got to try and find
12 something.
13 BY MR. MORLEY:
14 **Q.** Tip No. 100.
15 **A. Okay.**
16 **Q.** This is related to Tip 72 that we just talked about, the
17 partial white vehicle at 3515 Morton Road, right?
18 **A. Right.**
19 **Q.** In fact, Tip 100 indicates:
20 3515 Morton Road truck and
21 trailer --
22 Something.
23 -- with partial (verbatim)
24 damaged vehicle seen leaving same
25 -- er, above address on 12-9 of

84

1 '14.
2 Right?
3 **A. Right.**
4 **Q.** And, again, that's the 3515 Morton Road, right?
5 **A. Yes.**
6 **Q.** And during the investigation, people at 3515 Morton Road
7 refused to contact law enforcement, right?
8 **A. I don't have that. I didn't know that information. Are**
9 **you taking that off of the tip sheet somewhere?**
10 **Q.** Yeah. Yes. Excuse me.
11 MR. MORLEY: Approach, Your Honor?
12 THE COURT: Yes.
13 BY MR. MORLEY:
14 **Q.** (Approaching the witness.)
15 Showing you what I have is the second page.
16 And if you don't have direct knowledge, which you may
17 not --
18 **A. I don't.**
19 **Q.** That's fair. Does that refresh your memory at all? If
20 not, that's fine?
21 **A. I didn't follow up on this personally.**
22 **Q.** Okay.
23 **A. So I can't say that.**
24 **Q.** That's fair. Direct your attention to Tip No. 17,
25 please.

85

1 **A. Okay.**
2 **Q.** Information was received regarding a Kevin Ray Chase
3 living in an address in Dansville and a 2004 GMC Yukon
4 white in color, right?
5 **A. That's what's indicated on the tip sheet.**
6 **Q.** And it goes on to state:
7 Vehicle observed in above-listed
8 address driveway. Chase has an
9 extensive CCH.
10 What is an extensive CCH?
11 **A. Criminal history.**
12 **Q.** Computerized criminal history?
13 **A. Yes.**
14 **Q.** That's what CCH stands for?
15 **A. Yes.**
16 **Q.** Do you know whether this was followed up on? It appears
17 it's closed the same day.
18 **A. 17 was assigned to someone other than myself.**
19 **Q.** I understand. And I'm asking in your capacity as being
20 in charge of the tip line, which you testified to
21 earlier.
22 **A. Yes.**
23 **Q.** What I have is December 19, 8:35, it references it. It's
24 assigned to Warzywak on 12-9, and it's closed all on the
25 same page. Do you have any other information?

86

1 **A. I believe that was closed out after -- that was -- I**
2 **believe it was closed out after the arrest of John**
3 **Kelsey.**
4 **Q.** Tip No. 22.
5 **A. Okay.**
6 **Q.** Received information on December 9th that 3750 Chapman
7 Road had a white SUV behind the house, right?
8 **A. Yes.**
9 **Q.** And Chapman Road is -- the alleged route of this chase,
10 Morton Road goes west and I think dead ends into Chapman
11 Road, correct?
12 **A. Yes.**
13 **Q.** And then the alleged chase route went north on Chapman
14 Road, right?
15 **A. Yes.**
16 **Q.** Did you investigate that tip?
17 **A. I did not personally, but I can provide you information**
18 **that's on the tip sheet.**
19 **Q.** Tip No. 23.
20 **A. Guess not. Okay.**
21 **Q.** Received information that:
22 Gary Baldwin lives in
23 Stockbridge. Works at
24 Hitchcock's in Williamston.
25 Baldwin has access to multiple

87

1 vehicles.

2 **A. I --**

3 **Q. Do you recall that?**

4 **A. I recall the tip.**

5 **Q. Did you do any follow-up investigation with that?**

6 **A. Another officer did.**

7 **Q. Tip No. 30.**

8 **A. Okay.**

9 **Q. Information was received regarding a fight at the Back**

10 **Street bar. A Sandra Kay White stated that she heard**

11 **that a Tyler Brown and Luke Bramlett had beat up another**

12 **kid. She said that a white SUV was on one of the**

13 **subject's Facebook page. Later she learned meant white**

14 **pickup trucks.**

15 **A. Yes.**

16 **Q. Do you recall that?**

17 **A. Yes. That's what's indicated on the tip sheet.**

18 **Q. Do you recall the testimony of Deputy Hoeksema that the**

19 **vehicle in the alleged pursuit could have been a white**

20 **pickup with a capper on it?**

21 **A. Yes.**

22 **Q. Tip No. 40.**

23 **A. Okay.**

24 **Q. On December 8th, information was received that:**

25 **The Sanchez family works at the**

88

1 Dewey Kunkel farm on O'Brien Road

2 near Chapman Road. Family causes

3 trouble around town and drives a

4 white SUV.

5 Do you recall that?

6 **A. That's what the tip sheet indicates.**

7 **Q. Did you do any investigation into that?**

8 **A. Not personally. Someone else did.**

9 **Q. Tip No. 54, 5-4.**

10 **A. Okay.**

11 **Q. Received information on December 9th of '14, that:**

12 **Subject named Kyle Peters (a**

13 **white male, twenty-five years**

14 **old) recently purchased a white**

15 **Chevy Suburban. Kyle is always**

16 **around Munith and Stockbridge**

17 **area. Known to have warrants,**

18 **drugs, intox. Unknown address**

19 **for Kyle.**

20 **Did you do any follow-up investigation into**

21 **that?**

22 **A. Not personally.**

23 **Q. And, in fact, further information was received that those**

24 **associated with Mr. Peters believed he may have been**

25 **involved in the chase, right?**

89

1 **A. Are you gleaning that off of the tip sheet?**

2 **Q. Yes.**

3 **A. You want to show me where you find that at?**

4 **Q. Sure. Sure.**

5 **MR. MORLEY: Approach, Judge?**

6 **THE COURT: Yes.**

7 **BY MR. MORLEY:**

8 **Q. (Approaching the witness.)**

9 **See the top right. It says Tip 54.**

10 **A. What was your question again?**

11 **Q. You received information that people associated with**

12 **Kyle Peters wouldn't be surprised to learn that he was**

13 **involved in this?**

14 **A. That's what tipsters provided, yes.**

15 **Q. Is that what happened in this tip?**

16 **A. That's what the tip indicates, yeah.**

17 **Q. In fact, his sister was the one that says she would not**

18 **be surprised if Kyle was the suspect, right?**

19 **A. That's what the tip indicates.**

20 **Q. Sister -- er, a half sister said she believes his mom is**

21 **covering for him, and he's hiding out at his mom's**

22 **residence, right?**

23 **A. That's what the tip indicates, yes.**

24 **Q. Did you interview Mr. Peters?**

25 **A. I did not.**

90

1 **Q. With all of the tips that we've just referenced -- and I**

2 **didn't keep a tab. I could put one together if you**

3 **wanted it, but how many of these were nearby videos**

4 **attempted to be obtained? In other words, the tip on**

5 **Chapman Road, did you try to obtain any videos from**

6 **around there?**

7 **A. Initially when we started our canvass, that was one of**

8 **the tasks that was put on the uniform troopers is to**

9 **canvass the area. And that's ultimately how we found the**

10 **business videos in Stockbridge. Uniform troopers went to**

11 **canvass the area and found those.**

12 **Q. I understand that. I'm talking more specifically --**

13 **we'll use that Chapman Road as an example where it says**

14 **"A white SUV behind there." Did you check with any of**

15 **the neighbors next to that Chapman Road address, whether**

16 **they had a camera?**

17 **A. Personally, no.**

18 **Q. Do you know whether that was done?**

19 **A. I do not.**

20 **Q. Same series of questions on all of these other tips.**

21 **Were phone records run, for example, on Davy Bettelon?**

22 **A. We -- yes. Davy Bettelon's phone was seized, and we did**

23 **a download on his phone.**

24 **Q. Luke Bramlett?**

25 **A. I believe his phone was seized.**

91

1 Q. Kyle Peters?
 2 A. **I'm not sure on his phone. I'd have to refer to our**
 3 **evidence log of whose phone we took.**
 4 Q. Gary Baldwin that we just referenced?
 5 A. **No.**
 6 Q. I want to take you back to Tip 72. This is the one with
 7 3515 Morton Road, the address associated with Bettelon
 8 where a flatbed is seen driving a damaged white vehicle
 9 out on December 9th.
 10 A. **Okay.**
 11 Q. In fact, Michigan State Police received information from
 12 an individual that a Denali -- he has observed a Denali
 13 in Stockbridge multiple times, but since December 6th,
 14 sometime around midday, was the last time he saw it.
 15 Right?
 16 A. **Yes, sir. Yes.**
 17 Q. So information was received a white SUV seen around town
 18 but not seen after December 6th, that information goes on
 19 and was determined that this came or was pointed out --
 20 Michigan State Police found out that it was at 3515
 21 Morton Road, right?
 22 A. **Yes. But this tip doesn't indicate it was white.**
 23 Q. Well, at the very top, if you look --
 24 A. **It's a Denali in Stockbridge multiple times, but I don't**
 25 **see where it says white.**

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1 Q. Go to the top of the page. It continues from --
 2 On 12-9-2014 at approximately
 3 16:00 hours he observed a dark
 4 Ford F-250 or 350 pull out of a
 5 driveway hauling a trailer. On
 6 the trailer was a front end of a
 7 white vehicle described as being
 8 the whole front hood and side
 9 panel portion of a white vehicle.
 10 The headlights were missing but
 11 no damage was observed on the
 12 vehicle.
 13 Do you see that?
 14 A. **Yes.**
 15 Q. So it is a white vehicle, right?
 16 A. **Yes.**
 17 Q. It's not seen after December 6, '14, right?
 18 A. **By who?**
 19 Q. By your tipster. The middle of the page.
 20 Michael advised he has observed a
 21 Denali in Stockbridge multiple
 22 times but since December 6, '14,
 23 sometime around midday was the
 24 last time he seen it.
 25 Right?

93

1 A. **I'm reading it as this is two different vehicles we're**
 2 **talking about.**
 3 Q. How do you read that?
 4 A. **Well, it looks to me like he's referring to something**
 5 **that was on the trailer that was white, and he's**
 6 **nonspecific of what it was.**
 7 Q. It's not a new paragraph or anything. It's all within
 8 the same paragraph.
 9 A. **He mentions a white -- er, he mentions a Denali in**
 10 **Stockbridge multiple times --**
 11 Q. And then takes --
 12 A. **-- since the sixth.**
 13 Q. -- the police to 3515 Morton Road, right?
 14 A. **Right.**
 15 MR. MORLEY: That's all I have. Thank you.
 16 THE COURT: Thank you, Mr. Morley.
 17 Mr. Roth, redirect examination?
 18 MR. ROTH: Thank you, Your Honor.
 19 REDIRECT EXAMINATION
 20 BY MR. ROTH:
 21 Q. Mr. Morley asked you about a lot of tips where the answer
 22 was that you did not personally follow up on them. Is
 23 that correct?
 24 A. **Yes.**
 25 Q. Did you ensure that one of the many members of your team

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1 followed up on each of them?
 2 A. **Yes.**
 3 Q. And, for example, many of them implicated people related
 4 to the Back Street bar?
 5 A. **Yes.**
 6 Q. Right. Were those closed out in group once the relevant
 7 vehicle was able to be disproven?
 8 A. **Yes.**
 9 Q. Was each of them closed out in some -- in your opinion as
 10 the leader of the task force responsible in an
 11 appropriate manner --
 12 A. **Yes.**
 13 Q. -- after sufficient investigation?
 14 A. **Yes.**
 15 Q. Mr. Morley asked about somebody who said, "I wouldn't be
 16 surprised to learn that Peters was the suspect." That
 17 wasn't somebody who said they had any personal knowledge
 18 he was involved, correct?
 19 A. **That's correct.**
 20 Q. So, in contrast, we heard testimony from Brian
 21 Hildabridle, Tony Hildabridle, Sandie Hale who received
 22 inculpatory statements from the Defendant in this case.
 23 Did anybody else say that -- any of your tipsters say
 24 that somebody else told them they did this?
 25 A. **No.**

95

1 Q. Was anybody else not able to produce their white SUV?
 2 A. **No.**
 3 Q. Did everybody else cooperate with the investigation?
 4 A. **Yes.**
 5 Q. Did anybody else's white SUV fit the description of what
 6 we see in the videos of the vehicle that becomes involved
 7 in the pursuit?
 8 A. **No.**
 9 Q. Mr. Morley asked specifically about the first vehicle
 10 that was put out there as a possibility being identified
 11 in Meridian Township. Do you remember that?
 12 A. **Yes.**
 13 Q. First of all, geographically, did it fit at all with the
 14 pursuit?
 15 A. **No.**
 16 Q. Meridian is quite a ways from Stockbridge?
 17 A. **Yes, sir.**
 18 Q. And did you interview the people involved?
 19 A. **I did.**
 20 Q. If we were looking to take the easy way out, this is the
 21 first suspect. It would be easiest to just say they did
 22 it, correct?
 23 A. **Sure.**
 24 Q. You had no other suspects at the time, correct?
 25 A. **That's correct.**

96

1 Q. Did you rule them out?
 2 A. **Yes, I did.**
 3 Q. Based on what?
 4 A. **Based on the interview of the individuals that were
 5 presented to me.**
 6 Q. Were they cooperative?
 7 A. **Very.**
 8 Q. Let you look at their vehicle?
 9 A. **Yes, sir.**
 10 Q. And did their vehicle fit the possibility of one that was
 11 involved in the pursuit?
 12 A. **No, it did not.**
 13 Q. In what way?
 14 A. **The vehicle that they were driving was, I believe, a 2015
 15 GMC Yukon, and it was a shorter version. I believe it
 16 was an non-XL version. Nearly brand new vehicle. Very
 17 clean.**
 18 Q. What about the tires?
 19 A. **Well, like I said, it was so new that the tires still had
 20 the small stems sticking off of them.**
 21 Q. A vehicle involved in a more than 100-mile-per-hour
 22 chase, you wouldn't expect to see those still on there?
 23 A. **I wouldn't expect they would survive that.**
 24 Q. Was the vehicle clean?
 25 A. **Very clean.**

97

1 Q. Given the sort of back country roads where this pursuit
 2 went, would you expect it to be that clean?
 3 A. **No, sir.**
 4 Q. Mr. Morley asked about the fact that Deputy Hoeksema
 5 initially said that it could have been a pickup with a
 6 topper on it. Did the video support that from the gas
 7 stations and L & B leading up to the pursuit?
 8 A. **No, it did not.**
 9 MR. ROTH: Nothing further, Your Honor.
 10 THE COURT: Thank you, Mr. Roth.
 11 You may step down, sir. Thank you, very much.
 12 (At 12:05 p.m., the witness
 13 stepped down from the witness
 14 stand.)
 15 THE COURT: Mr. Roth, further proofs?
 16 MR. ROTH: Your Honor, I'm going to recall
 17 Detective Trooper Johnston for two very narrow issues.
 18 THE COURT: All right. Please raise your right
 19 hand again.
 20 Do you swear or affirm to tell the truth, the
 21 whole truth, and nothing but the truth?
 22 DETECTIVE TROOPER JOHNSTON: Yes, I do.
 23 THE COURT: Mr. Roth?
 24 MR. ROTH: Thank you, Your Honor.
 25 TROY JOHNSTON

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1 called by the People at 12:05 p.m., sworn by the Court,
 2 testified:
 3 DIRECT EXAMINATION
 4 BY MR. ROTH:
 5 Q. Mr. Morley asked Detective Sergeant McPhee about a tip
 6 involving a front end of a white -- he alleged it might
 7 be a Denali, the front end of a vehicle. Did you receive
 8 further information about that in the trail cams?
 9 A. **Yes, I did.**
 10 Q. And did it show that it was not, in fact, a Denali?
 11 A. **It did.**
 12 Q. And physically were you then able to remove that as being
 13 involved in the pursuit?
 14 A. **Yes, we were.**
 15 Q. Mr. Morley also asked about the Defendant setting up an
 16 interview with you -- excuse me, with the police, in
 17 general, about this case. Was that set up on Thursday of
 18 that week?
 19 A. **Yes, it was.**
 20 Q. And Detective Sergeant McPhee testified that he wasn't in
 21 town, or he was off during that time is that right?
 22 A. **Right.**
 23 Q. At what point did you take over being the head when he
 24 took off for a few days?
 25 A. **I believe it was either on Wednesday or Thursday.**

99

1 Q. All right. And without getting into details, he had some
 2 sort of family emergency?
 3 A. Yes.
 4 Q. And so on Thursday, the interview was set up for Monday
 5 of the following week?
 6 A. Correct.
 7 Q. Did any of the other people implicated in the tips try
 8 and put this off for that many days?
 9 A. No.
 10 Q. And was it ultimately your decision to arrest the
 11 Defendant before that interview?
 12 A. Yes.
 13 Q. Why?
 14 A. Well, there was a lot of things going on at that time.
 15 Interviews specifically, we had Detective Sergeant
 16 Singleton and Detective Sergeant Bundshuh, and they were
 17 conducting interviews of witnesses, specifically Brian
 18 Hildabridle, Sandie Hale, and Tony Hildabridle.
 19 Those are very important interviews, one of
 20 which, that being Tony Hildabridle, wasn't done until
 21 Friday. And at that time on Friday, the fugitive team we
 22 had already asked to locate Mr. Kelsey and, you know,
 23 find his location and follow him. And based on the --
 24 based on following Mr. Kelsey around, it was determined
 25 that he was a possible flight risk with his -- with the

100

1 type of traveling that he was doing that day, and that's
 2 why he was arrested.
 3 Q. Did the very nature of this offense being that he was
 4 fleeing and eluding from the police increase that risk of
 5 him being a flight risk?
 6 A. Absolutely.
 7 Q. And in retrospect with the things that were found on his
 8 person, were you pleased that you did ask for his arrest
 9 early?
 10 A. Absolutely.
 11 Q. In what way?
 12 A. This is a person that was traveling around in a vehicle
 13 with a toothbrush and toothpaste and \$300 cash. It's
 14 been my experience that, you know, typically people don't
 15 have those items, at least the toothbrush and toothpaste
 16 when they're casually traveling around.
 17 MR. ROTH: Nothing further, Your Honor.
 18 THE COURT: Thank you, Mr. Roth.
 19 Mr. Morley?
 20 CROSS-EXAMINATION
 21 BY MR. MORLEY:
 22 Q. When you're trailing Mr. Kelsey the week of December 9th,
 23 10th, 11th, 12th, does he go anywhere besides Ingham or
 24 Livingston County?
 25 A. I did not trail him, but to my knowledge, no.

101

1 Q. And, in fact, when he was stopped, he wasn't driving, and
 2 he had his two kids in the car, right?
 3 A. Correct.
 4 Q. Passport with him or anything like that?
 5 A. No.
 6 Q. A map or a GPS or travel plans?
 7 A. I don't know if the vehicle was searched to be able to
 8 say that.
 9 Q. It was middle of December. He had clothes commensurate
 10 with the weather, right?
 11 A. Right.
 12 Q. So because he's got toothpaste and 300 bucks, you felt he
 13 was a flight risk?
 14 A. No.
 15 MR. ROTH: Your Honor, I'm going to object to
 16 the mischaracterization. Considering him a flight risk
 17 was a prospective belief. What he had on him was
 18 retrospective.
 19 THE COURT: I'll overrule the objection.
 20 You opened the door on it.
 21 THE WITNESS: Can you restate it?
 22 BY MR. MORLEY:
 23 Q. Because he had toothpaste and 300 bucks, he was a flight
 24 risk?
 25 A. Not for just those reasons, no.

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1 Q. What else?
 2 A. We had surveillance both on Teahen Road and Morton Road.
 3 It's been my experience that --
 4 Q. One in Ingham County and one in Livingston?
 5 A. -- people who live at those residences and they're
 6 associated with the other residence will typically go
 7 back to those residences. The type of movement that he
 8 was conducting was not --
 9 Q. But you weren't following him.
 10 A. I wasn't.
 11 Q. Then you don't know, right?
 12 A. We were getting feedback from the fugitive team.
 13 Q. I don't want we. I want you.
 14 MR. ROTH: Your Honor, I'm going to object.
 15 Mr. Morley asked about the observations on the
 16 surveillance.
 17 MR. MORLEY: No, I didn't. I said, "You
 18 considered him a flight risk based on what?"
 19 THE COURT: I'll overrule the objection and
 20 allow that question to be answered.
 21 BY MR. MORLEY:
 22 Q. You. Not your team.
 23 A. Based on the information that we were receiving from the
 24 fugitive team and other investigators involved at that
 25 point.

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1 MR. MORLEY: That's all I have.
 2 THE COURT: Mr. Roth, redirect?
 3 MR. ROTH: Nothing, Your Honor. Thank you.
 4 THE COURT: Okay. Thank you. You may step
 5 down, sir.
 6 (At 12:10 p.m., the witness
 7 stepped down from the witness
 8 stand.)
 9 THE COURT: Mr. Roth, further proofs?
 10 MR. ROTH: Your Honor, at this time, I'm going
 11 to verify that the Court has received all of the People's
 12 exhibits.
 13 MR. MORLEY: I didn't hear what you said.
 14 MR. ROTH: Verify that the Court has received
 15 all of the exhibits: 1 through 117, not 118, 119 through
 16 199 -- I'm sorry, through 198, and then 202 through 212.
 17 THE COURT: That's exactly what I show,
 18 Mr. Roth.
 19 MR. ROTH: With that, the People would rest.
 20 THE COURT: All right. Thank you, Mr. Roth.
 21 And with that, Ladies and Gentlemen, we are
 22 going to take a break. And what we're going to do,
 23 consistent with what I warned you about yesterday that
 24 might happen, is we will actually take a lunch break
 25 today. So we will send you to lunch on your own or

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1 whatever you want to do until 1:30, and then we'll come
 2 back and we'll reconvene at that time. We'll need to
 3 take a couple of breaks in the afternoon because I have
 4 some -- a couple matters scheduled, but we'll just go on
 5 that schedule at this point.
 6 Again, please do not discuss the case with
 7 anyone, including amongst yourselves. You're not to the
 8 point of deliberating yet. We have more proofs or part
 9 of this trial to be heard, and so do not discuss it
 10 amongst yourselves or with anyone else. If you happen to
 11 see anyone affiliated with this case, as I said at the
 12 beginning, whether it be the lawyers, the parties, or
 13 even anybody in the audience, just walk by them as if
 14 they're not even there, and they're to do the same thing
 15 to you. And if that does not happen, something different
 16 happens, you should report that to me or to Mr. Adkins.
 17 All right.
 18 THE BAILIFF: All rise.
 19 (At 12:13 p.m., the jury left the
 20 courtroom.)
 21 THE COURT: All right. And before we go off of
 22 the record, Mr. Morley, do you want to address the matter
 23 we started the day, which is the issue regarding the
 24 juror, particular juror?
 25 MR. MORLEY: Mr. Kelsey has identified it as

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1 Juror No. 11. I would ask that when we come back in
 2 after our break, we proceed with the framework that we
 3 addressed earlier.
 4 THE COURT: All right.
 5 MR. ROTH: Without objection.
 6 THE COURT: Okay. We'll do that.
 7 MR. MORLEY: If I may, Your Honor, directed
 8 verdict?
 9 THE COURT: Go ahead, Mr. Morley.
 10 MR. MORLEY: Your Honor, pursuant to MCR 6.419
 11 the Court shall issue a directed verdict of acquittal on
 12 any charge of the Defense in which the evidence is
 13 insufficient to sustain a conviction.
 14 It's the Defendant's position that the
 15 prosecutor has not met its burden and satisfied the
 16 elements in either the fleeing and eluding resulting in
 17 death charge or the driving while license suspended or
 18 revoked causing death charge. And I would ask the Court
 19 to direct a verdict of acquittal on both counts.
 20 THE COURT: Mr. Roth?
 21 MR. ROTH: Your Honor, taking the evidence in
 22 the light most favorable to the People, there is more
 23 than sufficient evidence as to each count. If the Court
 24 has any questions, I'd be happy to answer them.
 25 Otherwise, I'd ask the Court to deny the motion.

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1 THE COURT: Mr. Morley, anything further --
 2 MR. MORLEY: Nothing further.
 3 THE COURT: -- in response to that?
 4 I will deny the motion. I think there is
 5 clearly a fact question on the elements of the two counts
 6 that are alleged. There is -- since neither of you have
 7 gone through and identified specifically testimony one
 8 way or another, I'm not going to take the time to do that
 9 either, but suffice it to say that there is sufficient
 10 testimony to create a fact question on the elements. So
 11 I will deny the motion.
 12 MR. ROTH: Thank you, Your Honor.
 13 MR. MORLEY: Thank you, Judge.
 14 THE COURT: Thank you. See you back here about
 15 1:30.
 16 MR. MORLEY: Thank you, Judge.
 17 (At 12:15 p.m., recessed;
 18 reconvened at 1:37 p.m.)
 19 THE COURT: We need --
 20 It's Juror No. 11, you said, Mr. Morley,
 21 correct?
 22 MR. MORLEY: Yes, sir.
 23 THE COURT: Okay. Let's bring the juror in.
 24 (At 1:40 p.m., Juror No. 11
 25 entered the courtroom.)

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1 THE COURT: Please be seated.
2 Juror No. 11, I have called you in because I
3 have a question I want to ask of you about arrival to
4 court this morning. At any time before we started the
5 proceedings this morning, did you observe or see the
6 Defendant?
7 JUROR NO. 11: Yes.
8 THE COURT: Okay. What were the circumstances
9 of that?
10 JUROR NO. 11: He was in a State patrol car.
11 THE COURT: All right. Where?
12 JUROR NO. 11: In front of the building.
13 THE COURT: Okay.
14 JUROR NO. 11: I was walking up. They drove
15 by.
16 THE COURT: All right. Is there anything else
17 that happened in that --
18 JUROR NO. 11: No.
19 THE COURT: -- period of time?
20 JUROR NO. 11: Okay. Mr. Roth, any questions?
21 MR. ROTH: No, Your Honor.
22 THE COURT: Mr. Morley, any questions?
23 MR. MORLEY: No, sir.
24 THE COURT: All right. Thank you.
25 JUROR NO. 11: You're welcome.

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1 (At 1:41 p.m., Juror No. 11 left
2 the courtroom.)
3 THE COURT: You can be seated.
4 Mr. Roth?
5 MR. ROTH: Your Honor, at this time I'm going
6 to move to excuse --
7 I'm waiting for the door.
8 THE COURT: You can close the door.
9 Go ahead.
10 MR. ROTH: Move to excuse Jurors 8 and 11.
11 This is why we have alternates. I don't think either one
12 is a significant issue, but if we could go in knowing
13 that we have 12 jurors without an issue, I'd rather that
14 than have 14 jurors and risk getting two that we maybe
15 have issues on. So I'm going to move to excuse both.
16 THE COURT: Mr. Morley?
17 MR. MORLEY: I won't object on 11, Judge. I'd
18 object on 8. There is no basis for it. We've already
19 established it. The parties already agreed, and there is
20 no basis.
21 MR. ROTH: The parties did not agree. That's a
22 misstatement.
23 MR. MORLEY: At the bench, we reached an
24 agreement. Nothing was placed on the record that anybody
25 was objecting to it.

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1 THE COURT: Okay. If I recall correctly, I
2 think what was placed on the record was that it did rise
3 to the level of it being a basis for dismissal.
4 Is that -- am I remembering that correctly,
5 Mr. Roth?
6 MR. ROTH: My position was at that time nothing
7 needed to be done particularly given that we had more
8 than a week left on the trial. But given that we're now
9 at the end, all we have left, really, are closings and
10 this afternoon. We have two alternates for a reason. I
11 think is the appropriate time. The other thing it does
12 is it erases the appellate issue.
13 THE COURT: Can I see counsel at the bench a
14 minute?
15 (At 1:41 p.m., an at-the-bench
16 discussion is held off the
17 record.)
18 THE COURT: All right. We've had a conference
19 at the bench in part to help refresh me as to what the
20 prior issues were to make sure I had them right. I did
21 recall them correctly, apparently, based on what you told
22 me at the bench with regard to Juror No. 8.
23 And then that the Defense, as I understand it,
24 is objecting to the proposal by the prosecutor that both
25 11 and 8 be dismissed at this point in time or discharged

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1 at this point in time. The prosecutor's position, as I
2 understand it, is that would eliminate any issue, the
3 only issues we had about any seated jurors. And I
4 understand there is then objection to that, including the
5 continued objection as to 8.
6 And then, Mr. Morley, comments?
7 MR. MORLEY: I think that's accurate,
8 Your Honor. To be clear I think I conceded to 11
9 previously. I'd object to the removal of both No. 11 and
10 No. 8, there being no basis for their removal, and the
11 Court should just rely on its random draw.
12 THE COURT: Mr. Roth?
13 MR. ROTH: Nothing further.
14 THE COURT: Okay. It does appear, as I said, I
15 think, if I remember correctly when we discussed 8 that
16 it did not rise -- given his answers, it did not rise to
17 the level of demonstrating juror misconduct or a basis
18 along that line for removal. I think the same is true
19 for No. 11.
20 There has been, during the trial, substantial
21 testimony about the Defendant having been arrested and
22 being held in custody, albeit not the specific length of
23 time being held in custody, but I don't think it rises to
24 the level, again, of tainting the juror. So I will deny
25 the request as to both.

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1 Mr. Roth?
2 MR. ROTH: The one other thing to note for the
3 record, and I don't recall if it was placed on this
4 morning, is that the Defendant was in civilian clothes
5 when he was in the patrol car and in the front seat this
6 morning and not visibly in handcuffs.
7 THE COURT: Is that correct, to your
8 understanding, Mr. Morley; he was in civilian clothes?
9 THE DEFENDANT: I don't know. My hands could
10 have been up like this.
11 THE COURT: Speak with your counsel, sir, and
12 then we'll ask Mr. Morley.
13 MR. MORLEY: To my knowledge, it's accurate,
14 Your Honor. There could have an inadvertent display, but
15 to my knowledge, yes.
16 THE COURT: Okay.
17 MR. ROTH: Thank you, Your Honor.
18 THE COURT: All right.
19 So with that, Mr. Roth, are we ready for the
20 jury?
21 MR. ROTH: I believe so, Your Honor.
22 THE COURT: Mr. Morley, are you ready to
23 proceed with the understanding that we have, as to the
24 timing of witnesses and that you'll need to break
25 between, I understand it?

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1 MR. MORLEY: Yes, sir.
2 THE COURT: Okay.
3 All right. Let's bring the jurors in.
4 (At 1:49 p.m., the jury entered
5 the courtroom.)
6 THE COURT: Please be seated.
7 And, Mr. Morley, do you elect to present
8 evidence?
9 MR. MORLEY: I would, Your Honor.
10 THE COURT: Okay.
11 MR. MORLEY: Defense would call Lieutenant Lisa
12 Gee-Cram, I believe it is, please.
13 THE COURT: Raise your right hand.
14 Do you swear or affirm to tell the truth, the
15 whole truth, and nothing but the truth?
16 LIEUTENANT GEE-CRAM: Yes, sir.
17 THE COURT: Please be seated. State your full
18 name for us, and spell your last name.
19 THE WITNESS: Lisa Gee-Cram, G-E-E - C-R-A-M.
20 THE COURT: Mr. Morley?
21 LISA GREE-CRAM
22 called by the Defendant at 1:50 p.m., sworn by the Court,
23 testified:
24 DIRECT EXAMINATION
25 BY MR. MORLEY:

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1 Q. Lieutenant, you've testified previously, and I'll tell
2 you what I'm doing. I want to address some of the tips
3 that you and I discussed previously. Do you recall that?
4 A. I do.
5 Q. The prosecutor has just sat down his copies of the tips,
6 and what I'll do for ease of reference is I'll give you
7 the number. I'll give you an opportunity to review them,
8 and you let me know when you're ready. I would like to
9 start --
10 Well, let me give all brief -- we've
11 established it already, but it's my understanding that
12 Sergeant McPhee activated or set up the tip line as it
13 relates to this matter, right?
14 A. That is correct.
15 Q. You were the tip coordinator I believe your title was,
16 right?
17 A. That is correct.
18 Q. Does that make you -- I'm not minimizing or anything.
19 Does that make you the number two, or are you two peers
20 in terms of investigators at that point?
21 A. I guess let me --
22 Q. Here's what I'm trying to get at: Are people reporting
23 to you. "Here, Lieutenant, here's what we found."
24 A. I am getting the tip sheets back. So I'm finding what --
25 what was found.

114

1 Q. Okay.
2 A. Are they reporting back to me directly? No. I don't
3 think in the sense that you're referring to. If you had
4 a tip and you were done with the tip, you may give it
5 back to me. You may have ended your shift before I came
6 in, in the morning so the completed tip sheet could be
7 sitting in my in-basket, at which time I would look at
8 it.
9 I may proactively generate a new tip based off
10 of something that the trooper found, and just, as a
11 detective, say "Gee, it would be nice to follow up on
12 this." So I may have initiated yet a new tip off of that
13 existing tip, if the case was so necessary, but --
14 And then I would close the tip, you know, close
15 the tip out and taken it and married my two sheets back
16 together and then filed it.
17 Q. Fair to say -- and I don't need to beat this to death,
18 but your hands are on all of these in some form or
19 fashion? It's all got to go through you at one point,
20 correct?
21 A. That is correct.
22 Q. That's what I want. With that said, I'd like to refer
23 you to Tip No. 100, please.
24 A. Okay.
25 Q. Why don't you take a moment and review that and let me

115

1 know when you're ready, please.

2 **A. Okay.**

3 Q. Tip No. 100 came in on December 12th of '14. It appears

4 it was assigned to you. You're Lisa that's referenced in

5 there, right?

6 **A. Initially -- let me just explain this to you. Tip**

7 **No. 100 is what we're looking at, yes?**

8 Q. Right.

9 **A. Tip No. 100 was sourced from Tip No. 72. It was prepared**

10 **by me --**

11 Q. I understand that. I'm just --

12 **A. -- on 12-12. It was assigned initially to Peterson.**

13 Q. I see that.

14 **A. And then --**

15 Q. But I'm asking are you the Lisa referenced in this?

16 **A. Yes, I am.**

17 Q. That's all I wanted.

18 **A. Yes.**

19 Q. And Tip No. 100 indicates:

20 3515 Morton Road. Truck and

21 trailer with partial (verbatim)

22 damaged vehicle seen leaving

23 above address on 12-9 of '14.

24 Right?

25 **A. Actually, sir, I believe it says:**

116

1 3515 Morton Road-truck and

2 trailer (w/ --

3 Meaning with.

4 -- parted/damage vehicle).

5 Q. Parted. Any idea what parted means?

6 **A. Parted means not an entire vehicle.**

7 Q. Okay. And then on the next page, you then went to 3515

8 to conduct an investigation, right?

9 **A. I did go to 3515 Morton Road, yes.**

10 Q. But they refused to contact law enforcement, in your

11 words, right?

12 **A. Let me explain Tip 100 to you because you're missing --**

13 Q. No, no. I'm just asking --

14 **A. No. They did not --**

15 Q. My question is --

16 **A. They did not return a call, yes, to --**

17 Q. In fact, you indicated they refused to contact LE, law

18 enforcement, right?

19 **A. Correct.**

20 Q. Okay. And then related to that, and you referenced it

21 earlier, is Tip No. 72.

22 **A. Yes.**

23 Q. And, again, these two are related:

24 Caller (texter) saw white --

25 This one says:

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1 -- partial (verbatim) vehicle on

2 trailer leaving residence on

3 Morton Road on Tuesday.

4 **A. Correct.**

5 Q. Goes on to tell you makes reference to a Denali.

6 Front end looked like belonged to

7 a newer type vehicle. 80 percent

8 sure belonged to a Denali.

9 Stated that the driver of the

10 Denali is a white male, 5' 9",

11 medium build --

12 Something.

13 -- facial hair and is always

14 wearing a hat.

15 Right?

16 **A. I'm reviewing this, sir. None of this is my writing.**

17 Q. I understand.

18 **A. What you -- what you read to me, yes, is in this tip.**

19 Q. In fact, that tipster then directed you to where he saw

20 all of this, the alleged Denali and the alleged subject

21 at 3515 Morton Road in Stockbridge, right?

22 **A. That is correct.**

23 Q. And that is not the Defendant's residence, right?

24 **A. It is not.**

25 Q. Did you conduct a follow-up investigation into that?

118

1 **A. I did go to 3515 Morton Road, yes.**

2 Q. Direct your attention to Tip No. 135, please.

3 **A. I'm sorry, say that again, 1, what?**

4 Q. 1-3-5.

5 **A. Okay.**

6 Q. In December 7th, a tip was assigned to you. The person

7 identified as Raquel has information on a possible

8 culprit vehicle, right?

9 **A. That is correct.**

10 Q. That was assigned to you on December 29th of '14?

11 **A. December 7th of '14. It was prepared by me. It was,**

12 **yes, aside to -- I made disposition on it on 12-29.**

13 Q. Is there any investigation done between December 7th and

14 December 29th?

15 **A. Not by myself.**

16 Q. Direct your attention to Tip No. 139, please.

17 **A. Okay.**

18 Q. And 12-18, you received information:

19 Anonymous caller advised Anthony

20 Hildabridge was bragging about

21 causing accident at Dam Site.

22 Caller requested anonymity.

23 That was assigned to you on or are about 12-19,

24 correct?

25 **A. That is correct.**

119

1 Q. Did you follow up with that investigation?
 2 A. **That tip came in on 12-18, sir, and I closed it out on**
 3 **12-19.**
 4 Q. Direct your attention to Tip No. 140, please.
 5 A. **Okay.**
 6 Q. 12-13 of 2014, you received information that:
 7 Caller believed the SUV in photos
 8 may have previously belonged to
 9 her.
 10 Do you recall that? This was assigned to you
 11 on December -- that's a two-part question. I apologize.
 12 This was assigned to you on December 13th of 2014?
 13 A. **Correct.**
 14 Q. Do you recall that?
 15 A. **I do, yes.**
 16 Q. Did you investigate that?
 17 A. **Yes, I did.**
 18 Q. Direct your attention to Tip 141.
 19 A. **Yes, sir.**
 20 Q. On December 12th, a tip was -- of 2014. A tip was
 21 assigned to you advising that:
 22 Tip reported that Brian Bridle
 23 was driver taking friend back to
 24 Stockbridge.
 25 Do you recall that?

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1 A. **I do.**
 2 Q. Did you investigate that?
 3 A. **Yes, I did.**
 4 Q. Direct your attention to Tip 144.
 5 A. **Okay.**
 6 Q. On May 13th, it appears you reviewed information that:
 7 Shannon Gauthier was in vehicle.
 8 Is that accurate?
 9 A. **That is not my writing.**
 10 Q. It says:
 11 Information reviewed by Lisa.
 12 Is that you?
 13 A. **Yeah, that is me.**
 14 Q. Okay. And Shannon Gauthier is also or was Shannon
 15 Hildabridle?
 16 A. **That is correct.**
 17 Q. Did you investigate this?
 18 A. **I did not.**
 19 Q. Direct your attention to Tip 38, please.
 20 A. **Yes, sir.**
 21 Q. This one appears undated. This caller says:
 22 Tyler Brown went to a house at
 23 1:30 Sunday to beat someone up.
 24 Right?
 25 A. **Yes, it does.**

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1 Q. It's assigned to you, right?
 2 A. **Yes, it is.**
 3 Q. Did you investigate this?
 4 A. **I did not investigate this one myself. There is**
 5 **disposition, though, on there that --**
 6 Q. Direct your attention -- that wasn't my question. Direct
 7 your attention to Tip 39, please.
 8 A. **Okay. Yes?**
 9 Q. 12-9 of '14, you received -- appears it was assigned to
 10 you on -- it's undated:
 11 Luke Bramlett has Facebook page
 12 with a white SUV in corner of
 13 picture.
 14 Is that accurate?
 15 A. **That -- yes, sir.**
 16 Q. Did you investigate that?
 17 A. **I did not.**
 18 Q. Direct your attention to Tip 111.
 19 A. **Yes, sir.**
 20 Q. This is a tip that is prepared by you on December 12th of
 21 2014, right?
 22 A. **That is correct.**
 23 Q. It indicates:
 24 A guy named Cleo Davenport
 25 driving white SUV. Said he was

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1 wanted for murder of police
 2 officer in chase.
 3 And in parenthesis it says:
 4 (ID Cleo.)
 5 Did you investigate that?
 6 A. **It was not assigned to me.**
 7 Q. Did you investigate that?
 8 A. **No.**
 9 MR. MORLEY: That's all I have, Lieutenant.
 10 Thank you.
 11 THE COURT: Thank you, Mr. Morley.
 12 Mr. Roth?
 13 MR. ROTH: Thank you, Your Honor.
 14 CROSS-EXAMINATION
 15 BY MR. ROTH:
 16 Q. The tips that Mr. Morley asked you about, there was a
 17 fair number where the answer was "I didn't personally
 18 investigate it."
 19 The ones that weren't personally investigated,
 20 did you have somebody; you or Detective Sergeant McPhee
 21 or Detective Trooper Johnston assign somebody to
 22 investigate each of them?
 23 A. **Yes, sir.**
 24 Q. And were any of these tips closed out before they were --
 25 the subject was eliminated in some way?

123

1 **A. Were the -- I guess repeat that. Were these --**
 2 Q. I can ask leading questions. So we can do it this way.
 3 **A. Okay.**
 4 Q. Isn't it true you didn't close out any tips until the
 5 person doing the investigation, whoever it was assigned
 6 to, found some information one way or the other to
 7 eliminate or confirm the subject?
 8 **A. Prior to an arrest being made in this case, that is true.**
 9 Q. Correct. I want to talk a little more broadly about tip
 10 lines. When you go to the media and you ask for the
 11 public's assistance, as police officers, do you know that
 12 you're going to get a certain number of tips that are bad
 13 leads that aren't going to lead to anything?
 14 **A. We expect a number of tips that lead to nothing.**
 15 Q. And you understand that even when you get those, you have
 16 to investigate them to some extent to rule them out,
 17 correct?
 18 **A. That is correct.**
 19 Q. As police officers, are you trained based on those
 20 investigations to tell, to determine which ones are
 21 substantial and which ones are just people who say "I saw
 22 a white SUV somewhere?"
 23 **A. Yes, sir.**
 24 Q. The only tip I wanted to follow up on specifically that
 25 Mr. Morley asked you about was the front end of the

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1 vehicle. Did you investigate that?
 2 **A. I did go to that -- yes, I did.**
 3 Q. Could you explain how that was eliminated?
 4 **A. I can.**
 5 Q. Go ahead.
 6 **A. I don't recall which tip number it was. The tip**
 7 **information as we discussed was a vehicle that was seen**
 8 **leaving, I believe it was, 3515 Morton Road, which**
 9 **happens to be a neighboring house to Mr. Kelsey's**
 10 **residence.**
 11 **And the information is, is that though it came**
 12 **in in different forms with different, as we heard,**
 13 **different information, we can call it a parted vehicle, a**
 14 **partial vehicle, a disassembled vehicle, the tip was is**
 15 **that a white vehicle, white believed to be SUV vehicle, a**
 16 **portion of this vehicle or not an entire vehicle was seen**
 17 **leaving on a trailer from 3515 Morton Road.**
 18 **When I went to 3515 Morton Road, as I**
 19 **indicated, it was previously -- that tip was previously**
 20 **assigned to somebody else. It was assigned to Detective**
 21 **Peterson whose card was laying on the ground at the door**
 22 **when we went there. Whether it blew out of the door or**
 23 **whether the people saw it or not, who knows. It was on**
 24 **the ground. So I knew that Detective Peterson had been**
 25 **there prior to me.**

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1 **When I went to that residence to follow up,**
 2 **nobody was -- nobody was home. Nobody answered the door.**
 3 **I left another vehicle -- er, another card. However, the**
 4 **information was that a parted vehicle left. So the**
 5 **concern, being an investigator and detective, is that**
 6 **perhaps the vehicle we were looking for, which belongs to**
 7 **Mr. Kelsey who lives down the road, had been disassembled**
 8 **at this location. That would be the concern.**
 9 **There are neighbors. There are people that are**
 10 **around 3515 that I interviewed, that I talked to, that I**
 11 **said, "Did you see anybody disassembling a vehicle across**
 12 **the road?" The answer to that was no. I -- when I went**
 13 **to knock on the door at 3515, there is a garage there**
 14 **that one could assume that a vehicle could be**
 15 **disassembled in. That garage has an entry door. In**
 16 **front of that entry door, it was a dirt drive. There was**
 17 **a pile of rubble, whether it was an old fire. It had**
 18 **been there for some time. It wasn't fresh.**
 19 **There were no fresh tracks, no tracks at all,**
 20 **actually, leading into the front of the garage. And,**
 21 **furthermore, the garage door, which is right next to the**
 22 **house, was glass, and it was visible to see into. So**
 23 **looking into the garage, there was nothing that appeared**
 24 **to me to be pieces of any white vehicle.**
 25 **Based off of that, we had no reason to**

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1 **believe -- I -- I should say, I had no reason to believe**
 2 **that the vehicle we were looking for that had not been**
 3 **located at this point in time, which was this white**
 4 **Denali, had been disassembled at that residence, and that**
 5 **that was actually the vehicle that was observed being**
 6 **transported on this flat trailer.**
 7 Q. Thank you.
 8 **A. I closed the tip based on that.**
 9 MR. ROTH: Thank you.
 10 I have nothing further.
 11 THE COURT: Thank you, Mr. Roth.
 12 Mr. Morley, anything further?
 13 MR. MORLEY: No, sir.
 14 THE COURT: You may step down, ma'am. Thank
 15 you.
 16 THE WITNESS: Thank you.
 17 (At 2:08 p.m., the witness
 18 stepped down from the witness
 19 stand.)
 20 THE COURT: Mr. Morley, further witnesses?
 21 MR. MORLEY: Call Trooper Rochefort, if I'm
 22 saying that right, please.
 23 THE COURT: I'll indicate for the media that
 24 the media is not to film this witness or to report his
 25 name.

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1 Please raise your right hand, sir. Do you
 2 swear or affirm to tell the truth, the whole truth, and
 3 nothing but the truth?
 4 TROOPER ROCHEFORT: Yes, sir.
 5 THE COURT: Could you again state your full
 6 name for the record, please.
 7 THE WITNESS: Trooper Leslie Joseph Rochefort
 8 III.
 9 THE COURT: Mr. Morley?
 10 LESLIE J. ROCHEFORT III
 11 called by the Defendant at 2:09 p.m., sworn by the Court,
 12 testified:
 13 DIRECT EXAMINATION
 14 BY MR. MORLEY:
 15 Q. Troop, you testified previously -- and to cut ahead a
 16 little bit, I'm going to ask you some questions about
 17 tips. That is the prosecutor's book of tips. And I'll
 18 tell you right now I'd like to ask you about Tip No. 10.
 19 If you want to flip to that and take a look at that and
 20 let me know when you're ready, please.
 21 A. I'm ready.
 22 Q. Tip No. 10 on December 8th was assigned to you, and it
 23 indicates that:
 24 Retired Detective Ballentine from
 25 Ingham County Sheriff's

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1 Department advised he has a
 2 friend in Stockbridge who knows
 3 everyone in Stockbridge. The
 4 names Tyler Brown and Luke
 5 Bramlett were mentioned as
 6 possible suspects. No additional
 7 info received that supports the
 8 name given as possible suspects.
 9 Interview both suspects.
 10 Is that accurate?
 11 A. Yes.
 12 Q. Did you conduct a further investigation into those two
 13 names?
 14 A. I did.
 15 Q. That was not the first time you heard either of those
 16 names, though, is it?
 17 A. I don't recall.
 18 Q. You don't recall whether you'd heard the name Tyler Brown
 19 or Luke Bramlett previously?
 20 A. Before December 8th, I could not tell you right now if I
 21 heard them before the exact time this tip came over or
 22 not.
 23 Q. I mean --
 24 A. I don't know. This could have been the second time or
 25 the third time. Maybe this was the first time. I don't

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1 know, sir.
 2 Q. Direct your attention to Tip No. 1 and specifically the
 3 pages associated with it. Do you have an e-mail
 4 associated with Tip No. 1?
 5 A. Yes, sir.
 6 Q. That's what I'm referring to and actually the last full
 7 paragraph of that e-mail.
 8 A. Okay.
 9 Q. It's an e-mail from you to other Michigan State Police
 10 personnel dated December 8th, 2014. And in relevant
 11 part, you received information from the Stockbridge
 12 Police Chief Torres that -- three persons he thinks may
 13 be responsible.
 14 Luke and Tyler were involved in
 15 the fight and not sure how David
 16 Porter fits in. Torres --
 17 Being Chief Torres.
 18 -- was convinced Tyler drives a
 19 white SUV so I checked the Heeney
 20 address and was unable to locate.
 21 Is that accurate?
 22 A. That is, looks like, the last paragraph.
 23 Q. Last full paragraph?
 24 A. Last full, yes.
 25 Q. Any reason to disagree with that?

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1 A. No. I wrote it.
 2 Q. Did you investigate any of that?
 3 A. Yes.
 4 Q. Tip No. 32 -- and we have may have addressed this the
 5 other day, but I have a different question. Are you
 6 ready?
 7 A. I'm here.
 8 Q. This is a December 9th -- looks like it was assigned to
 9 you on or about December 9th referencing you:
 10 Interviewed Luke Bramlett, who
 11 identified Billy Porter (William)
 12 from Gregory, Michigan. Porter
 13 is a half brother of Davy
 14 Crockett Bettelon, who was beat
 15 up in a bar. Photograph vehicle.
 16 Is that accurate?
 17 A. Yes.
 18 Q. So on December 8th -- disregard?
 19 Do you know where Davy Bettelon lives?
 20 A. I believe it was a Morton Road address.
 21 Q. 3500 Block of Morton Road?
 22 A. I don't know.
 23 Q. Direct your attention to Tip No. 35, please.
 24 A. I'm there.
 25 Q. December 9th, this was assigned to you.

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1 Caller advised Jeff Shepherd,
 2 white male, thirties, owns a
 3 white SUV. Lives on Brogan.
 4 Known to hang out at Back Street
 5 bar. Caller stated Shepherd
 6 would run from police. He also
 7 has --
 8 Excuse me.
 9 Also owned Walnut Ridge Care Home
 10 on Oakley Road. Interview bar
 11 tender and owner of bar to
 12 confirm info.
 13 Did you investigate that?
 14 **A. Looks like I did.**
 15 **Q.** Well, the sum and substance of your investigation appears
 16 to be that you contacted the owner of the Back Street,
 17 and she was unsure if he was there. Is that accurate?
 18 **A. That's what I wrote.**
 19 **Q.** Because it says -- under that it says:
 20 Closed.
 21 Right?
 22 **A. Yes.**
 23 **Q.** So that was the sum and substance of your investigation?
 24 **A. Negative.**
 25 **Q.** What other -- it says right here:

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1 Contacted owner of Back Street.
 2 She was unsure if he was there.
 3 Closed.
 4 **A. I didn't write closed, but I did write "Contacted owner
 5 of Back Street. She was unsure if he was there."**
 6 **Q.** Okay.
 7 **A. My penmanship is quite different than whoever wrote
 8 closed.**
 9 **Q.** Direct your attention to Tip 86, please.
 10 **A. Okay.**
 11 **Q.** It appears this one, albeit undated, is prepared by you,
 12 right?
 13 **A. Yes.**
 14 **Q.**
 15 I was contacted by Allison Cole,
 16 owner of Back Street bar, who
 17 informed me her bartender had
 18 more info from the night of the
 19 fight. Angela Falgenhauer, who
 20 bar tends, stated she saw several
 21 people from the fight get into a
 22 white SUV.
 23 Right?
 24 **A. Yes.**
 25 **Q.** And you subsequently contacted Angela, and she confirmed

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1 that several people, including a Christina and Luke
 2 Royal, entered the SUV, right?
 3 **A. Entered, yes, the SUV.**
 4 **Q.** Direct your -- strike that.
 5 MR. MORLEY: That's all I have, Troop. Thank
 6 you.
 7 THE COURT: Thank you, Mr. Morley.
 8 Mr. Roth?
 9 MR. ROTH: May I approach the witness,
 10 Your Honor.
 11 THE COURT: You may.
 12 CROSS-EXAMINATION
 13 BY MR. ROTH:
 14 **Q.** (Approaching the witness.)
 15 Mr. Morley asked you about the address where
 16 Davy Bettelon was initially located. You thought it was
 17 the 3500 Block of Morton Road. Does that refresh your
 18 memory as to the exact number?
 19 **A. Yes, sir.**
 20 **Q.** What number is that?
 21 **A. 3585.**
 22 **Q.** Thank you. Mr. Morley asked you about a number of tips.
 23 I'm not going to go through them one by one. Did you
 24 investigate each one?
 25 **A. Yes.**

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1 **Q.** And based on physical evidence, interviews, the video
 2 evidence, were you able to rule out those as possible
 3 suspects --
 4 **A. I --**
 5 **Q.** -- in conjunction with the remainder of the
 6 investigation?
 7 **A. Yes. It was determined to be unrelated.**
 8 MR. ROTH: Thank you.
 9 Nothing further.
 10 THE COURT: Thank you, Mr. Roth.
 11 Mr. Morley?
 12 MR. MORLEY: No, sir. Thank you.
 13 THE COURT: All right. Thank you.
 14 You may step down, sir.
 15 THE WITNESS: Thank you, Your Honor.
 16 (At 2:17 p.m., the witness
 17 stepped down from the witness
 18 stand.)
 19 MR. MORLEY: Approach, Judge?
 20 THE COURT: You may.
 21 (At 2:18 p.m., an at-the-bench
 22 discussion is held off the
 23 record.)
 24 THE COURT: Ladies and Gentlemen, we're going
 25 to have you go back to the jury room with Mr. Adkins.

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1 (At 2:18 p.m., the jury left the
2 courtroom.)
3 THE COURT: All right. So we'll be on break.
4 And, Mr. Morley, you can get set up, but, as I
5 said, depends on how long it takes me to get through
6 these other couple matters.
7 MR. MORLEY: Understood. Thank you, Judge.
8 THE COURT: All right.
9 (At 2:18 p.m., recessed;
10 reconvened at 3:02 p.m.)
11 THE COURT: Are we ready for the jury?
12 MR. ROTH: Yes, Your Honor.
13 THE COURT: Mr. Morley, are you ready, sir?
14 MR. MORLEY: Yes, sir.
15 THE COURT: Okay. Let's bring them in.
16 (At 3:03 p.m., the jury entered
17 the courtroom.)
18 THE COURT: Please be seated.
19 Mr. Morley, you may call your next witness,
20 sir.
21 MR. MORLEY: Call Dr. Charles Funk.
22 THE COURT: Please raise your right hand.
23 Do you swear or affirm to tell the truth, the
24 whole truth, and nothing but the truth?
25 DR. FUNK: I do.

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1 THE COURT: Please state your full name for us
2 and spell your last name, please.
3 THE WITNESS: Charles Funk, F-U-N-K.
4 THE COURT: Mr. Morley?
5 CHARLES FUNK
6 called by the Defendant at 3:05 p.m., sworn by the Court,
7 testified:
8 DIRECT EXAMINATION
9 BY MR. MORLEY:
10 Q. Dr. Funk, I'd like to ask you -- what's your current
11 profession?
12 A. I am a mechanical engineer.
13 Q. What's your educational background?
14 A. I have a bachelor's degree in mechanical engineering from
15 Drexel University. I have a master's degree and Ph.D. in
16 mechanical engineering from the University of Michigan.
17 Q. What is your professional background?
18 A. I had a bunch of jobs when I was an undergraduate. And
19 subsequent to that I was a research assistant and a
20 teaching assistant at the University of Michigan.
21 I finished my Ph.D. in 2005, at which time I
22 was employed by an engineering consulting firm called
23 Exponent, which I was there until 2012, at which point I
24 left and joined a firm called Armstrong Forensic
25 Engineers where it's doing the same style work: Accident

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1 reconstruction, mechanical engineering related.
2 And then in May of 2014, I left Armstrong
3 Forensic Engineering, and I'm now with Explico
4 Engineering.
5 Q. You indicated or you used the phrase mechanical
6 engineering, accident reconstructionist. Are those two
7 interrelated?
8 A. They go hand in hand. In order to understand accident
9 reconstruction, you need to understand the principles of
10 mechanical engineering, such as physics, dynamics, the
11 things that are taught in a mechanical engineering
12 program.
13 Q. Have you previously testified as an expert as a
14 mechanical engineering/accident reconstructionist?
15 A. Yes, I have.
16 Q. About how many times, if you know?
17 A. I think in court somewhere around 20 times. Maybe just a
18 little under that, about 20 times.
19 Q. And you distinguished in court. Have you been retained
20 as an expert but not necessarily -- the matter hasn't
21 gone to court or something to that effect?
22 A. Sure. I've been retained in probably somewhere between
23 500 and 1,000 cases of reconstruction, but only a small
24 number of those actually go to trial. So about 20 of
25 those.

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1 Q. Have you ever been offered as an expert and not so
2 qualified or accepted?
3 A. No.
4 MR. MORLEY: Your Honor, I'd move to qualify
5 Dr. Funk as an expert in mechanical engineering and
6 accident reconstruction.
7 THE COURT: Mr. Roth?
8 MR. ROTH: Without objection, Your Honor.
9 THE COURT: All right. The witness then is
10 qualified and will be permitted to testify in the fields
11 of mechanical engineering and accident reconstruction as
12 an expert.
13 Go ahead, Mr. Morley.
14 BY MR. MORLEY:
15 Q. Dr. Funk, what materials have you reviewed as it relates
16 to this matter?
17 A. Sure. I was provided with the scene photographs of the
18 incident, as well as the police reports and police
19 accident reconstruction materials that were provided as
20 part of their workup in this matter.
21 Q. And when you say workup, Sergeant Avery testified
22 previously. He's the Michigan State Police accident
23 reconstructionist. And there were a lot of calculations
24 done as part of that accident reconstruction. Was that
25 included in the materials that were provided to you and

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1 that you reviewed?

2 **A. Yes. He used a program called RECFORMS in order to do**

3 **those calculations.**

4 Q. Apparently common within the industry?

5 **A. Sure. It's a free program that anybody can download and**

6 **get access to, yes.**

7 Q. Did you not get materials that you needed or anything not

8 provided to you that would help you formulate an opinion

9 in this matter?

10 **A. No. I had everything that I needed to provide an opinion**

11 **within a reasonable degree of an engineering certainty.**

12 Q. And did you go to the scene of the underlying crash?

13 **A. Yes, I have.**

14 Q. When and why?

15 **A. We went -- I went in May of this year, and I wanted to**

16 **understand what the topography of the road was. I wanted**

17 **to understand the width of the lanes, the eastbound and**

18 **the westbound lanes. I wanted to understand if there was**

19 **a shoulder. Was it paved? Was it gravel? Was it grass?**

20 **How close were the objects to the roadway that were**

21 **there? Were there any, what I'll call, perturbations or**

22 **things in the roadway that could cause slight**

23 **imperfections while driving down the roadway? Somebody**

24 **may call it pothole perturbation or just a bump in the**

25 **road or a dip. Those are all examples of perturbations.**

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1 Q. You just said it. Are bumps in the roadway -- is it

2 perturbation, P-E-R-T-U-R-B-A-T-I-O-N?

3 **A. Perfect.**

4 Q. Is a bump or bumps in the roadway considered

5 perturbations?

6 **A. Yes.**

7 Q. And did you take photos of the scene?

8 **A. I did.**

9 Q. Were there any -- let me step back a little bit. Were

10 there any signs or indications of bumps in the roadway or

11 anything like that?

12 **A. No. On the eastbound approach, there are no signs**

13 **indicating a dip in the road that you sometimes would see**

14 **or that there were any imperfections in the road.**

15 Q. And just to be a little bit more specific, and correct me

16 if I'm wrong, please, you reviewed the accident scene and

17 also from about a half-mile east of the accident scene --

18 check that, west of the accident scene to about a quarter

19 mile east to the accident scene. Is that accurate?

20 **A. Sure. I drove from the -- understand from the stop sign**

21 **that was located at Brogan Road all the way up past --**

22 **just past the incident location.**

23 Q. And you have prepared, not quite a Power Point but a

24 presentation to assist the jury as an illustrative aid to

25 your expert testimony?

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1 **A. Yes, I have.**

2 Q. Is this -- does this include both what's waiting to be

3 seen on this screen as well as the videos that you

4 referenced?

5 **A. One of the videos, yes.**

6 Q. Are either of these meant to recreate the underlying

7 event, or are they merely illustrative aids for the jury?

8 **A. No. They are not meant to recreate anything having to do**

9 **with this incident. They're purely demonstrative aids.**

10 Q. Do they bear a reasonable or a substantial similarity to

11 the underlying crash?

12 **A. They do. The roadway -- we understand the roadway, the**

13 **approach that the officer was taking, and the incident**

14 **location. All of those things could be well understood.**

15 MR. MORLEY: Approach the witness, Your Honor?

16 THE COURT: You may.

17 MR. MORLEY: Judge, I should have asked

18 beforehand. Am I at F or G?

19 THE COURT: Oh, where you are? Okay. You have

20 already marked F. So you are on G.

21 BY MR. MORLEY:

22 Q. (Approaching the witness.)

23 Show you what's been marked as Defendant's

24 Proposed G. It's previously been provided to the

25 prosecutor by e-mail.

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1 **A. Okay.**

2 Q. And what is Defendant's G?

3 **A. Defendant's G is the printout or hard copy of my Power**

4 **Point presentation, and it appeared toward the end there**

5 **were a couple extra superfluous or extra pieces of paper.**

6 Q. That's my fault. Good spot. Defendant's H, Proposed H.

7 Ask if you can -- are you able to tell me what that is?

8 **A. Well, it's labeled inspection site videos that were**

9 **conducted by me, but that's just how it's labeled. I**

10 **don't know what is actually on the disk.**

11 Q. Okay. Those are the videos that we referenced on -- you

12 used a GoPro at the scene, right?

13 **A. Correct. I mounted a GoPro to the front windshield of my**

14 **vehicle and drove the scene.**

15 Q. And are either of these -- these are meant simply to

16 support or help explain and illustrate your testimony to

17 the jury?

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

19 MR. MORLEY: Your Honor, I move for admission

20 of Defendant's G and H.

21 MR. ROTH: Voir dire, Your Honor?

22 THE COURT: You may.

23 VOIR DIRE EXAMINATION

24 BY MR. ROTH:

25 Q. So let's talk first about the GoPro, sir. What kind of

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1 vehicle were you driving?

2 **A. A 2015 Chevy Equinox.**

3 Q. That's obviously very different than the vehicle in

4 question in this case, correct?

5 **A. That's correct.**

6 Q. And what speeds were you driving?

7 **A. I don't recall the exact speeds I was going at the time.**

8 Q. Above the posted limit?

9 **A. I don't know. It's possible a little over, but I'm not**

10 **sure.**

11 Q. But certainly no where near the speed involved in the

12 pursuit, correct?

13 **A. No. That's correct, no.**

14 Q. And when we look inside of the presentation here, there

15 is some stuff about -- there is some government

16 standards, right?

17 **A. Correct. Yeah, there is --**

18 Q. As it relates to the make and model of this vehicle?

19 **A. As it just relates to the standard of what the government**

20 **runs to certify vehicles sold in the US, yes.**

21 Q. And that's specifically applied to this make and model of

22 the patrol vehicle, correct?

23 **A. It is within the realm of that generation of Impala, yes.**

24 Q. All right. That does not specifically speak to an Impala

25 with what's known as the police package, correct?

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1 **A. No. It's meant to purely just be a demonstrative aid to**

2 **understand that when they certify these vehicles, they**

3 **run them at a certain speed, and that speed requires a**

4 **certain amount of energy. That's simply all it is.**

5 Q. And what's that speed?

6 **A. 35 miles per hour.**

7 Q. And that's when they run it into a wall, right?

8 **A. Correct.**

9 Q. And obviously an accident at a much greater speed would

10 be different, correct?

11 **A. That's correct.**

12 Q. And with a different vehicle, it would be different,

13 correct?

14 **A. Could be.**

15 Q. And with the vehicle with the different package, for

16 example, a police package, which would alter the makeup

17 of the vehicle, it would be different, correct?

18 **A. It could be.**

19 MR. ROTH: Your Honor, I have no objection to

20 most of the presentation. I think the GoPro video would

21 be under 403 or 401 or 402 a relevance issue as it does

22 not deal with any of the same conditions; different

23 vehicle, different speeds, different time of day.

24 And then we look at the government standards at

25 a different speed, a different type of -- same make and

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1 mold of vehicle but different composition.

2 And then, finally, there is a video of driving

3 a car into a wall, which I think poses a 403 problem the

4 same way that there was an objection to playing audio.

5 THE WITNESS: There is no video of crashing

6 into a wall.

7 MR. ROTH: Brian?

8 THE WITNESS: That's in the presentation.

9 MR. MORLEY: Presentation. It's not a video.

10 It's pictures is, I think, what he's saying. I

11 understand what you're saying.

12 MR. ROTH: (Talking to Mr. Morley off the

13 record.)

14 So not the video. There is pictures of that --

15 that item.

16 That's my objection.

17 THE COURT: Mr. Morley, response?

18 MR. MORLEY: Judge, these are being offered

19 simply as demonstrative aids and only as illustrative

20 aids. And the case law requires it's generally

21 admissible if it bears a reasonable or substantial

22 similarity to an issue of fact involved at a trial.

23 In this case there is no disputing that the

24 view was done in May, so it's going to be little bit

25 different out there, and it's not at night. But the

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1 roadway hasn't changed. Nothing has changed. It's not a

2 recreation. It's just an illustrative aid. So there is

3 no -- there no reason it doesn't come in.

4 Similarly, the case law on videos, and I'd cite

5 the Court to *People v Bulmer*, B-U-L-M-E-R, 256 Mich App

6 33, an '03 decision, referencing specifically videos, as

7 a matter of fact:

8 Demonstrative evidence is

9 admissible when it aids the fact

10 finder in reaching a conclusion

11 on a matter that is material to

12 the case. Demonstrative evidence

13 must be relevant and probative.

14 Further, when evidence is offered

15 not in an effort to recreate an

16 event, but as an aid to

17 illustrate an expert's testimony

18 regarding issues related to the

19 event, there need not be an exact

20 replication of the circumstances

21 of the event.

22 And that cites to the *Lopez* decision, *Lopez v*

23 *General Motors*, 224 Mich App 618, '97 decision, which is

24 the controlling case.

25 THE COURT: Anything further, Mr. Roth?

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1 MR. ROTH: Your Honor, the People stand with
2 the objection.

3 THE COURT: The objection is overruled so long
4 as the presentation -- and I haven't seen the
5 presentation, but so long as the presentation is as
6 represented; that it is used as a demonstrative or
7 illustrative assist to the expert's testimony. And so I
8 will allow it on that basis.

9 (At 3:18 p.m., DXG and DXH are
10 received.)

11 MR. MORLEY: Thank you, Judge.

12 DIRECT EXAMINATION (CONT'G)

13 BY MR. MORLEY:

14 Q. Doctor, with that, could you take us into the
15 presentation and tell us -- tell us what this is; what
16 we're about to see.

17 A. **Sure. It was sort of -- what we're about to see is we're
18 going to look for, basically, the supporting evidence,
19 the physical evidence to help me reach the opinions that
20 I did in this case. So the first thing we want to start
21 off with is, we want to understand sort of what -- what
22 are the basic things that we know here? We know the date
23 of the loss, the approximate time of the loss, the
24 location. We know the Chevrolet is traveling eastbound
25 in a police packaged Chevrolet Impala.**

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1 **It's a dark road. It's unlit. The roadway is
2 unlit and the roadways are dry, and the speed limit is
3 55 miles per hour.**

4 Q. Is this just normal fact finding for you right here?

5 A. **Correct. This is just normal fact finding just sort of
6 bring it all together so we all understand that we're on
7 the same starting point. Then what we want to understand
8 is where did this incident occur. So what we want to do
9 is we get -- I get Google Earth images.**

10 **And first I want to show you just sort of a
11 general macroscopic large picture where we're talking
12 about and then sort of zoom in. And you can see there is
13 Dexter Trail going left and right across the screen, and
14 Brogan Road is going sort of north and south. And the
15 red circle that's in there is the area of the subject
16 incident, the crash.**

17 Q. And right there I think you said these are just taken
18 from Google Earth?

19 A. **Correct. These are just taken right from Google Earth.**

20 Q. All right.

21 A. **Once again, here we go. This is Dexter Trail, and it's
22 right in the area of the subject crash.**

23 Q. Okay.

24 A. **And it shows that the Chevrolet is going eastbound or to
25 the right in this image and crashes into the trees that**

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1 **are on the north side or the top portion of your screens.**

2 Q. And at this point I think you used the word a macro view.

3 You have, at least in this presentation, you have not yet
4 delved into -- I talked about the calculations from that
5 program in Sergeant Avery's report. This is on a more
6 macro 10,000 feet level right here?

7 A. **Correct. This is how I approach a case and how I
8 approach an accident reconstruction. Always, the first
9 thing you do is gather the physical evidence. And one of
10 the things we can gather is aerial photographs of the
11 image to help us overlay the vehicles as we're going to
12 see in a little bit. The vehicles and the physical
13 evidence documented by the police helps us to identify
14 them on the roadway.**

15 Q. And these are scene photographs that were -- actually,
16 these were taken by the Michigan State Police, right?

17 A. **That's correct. These are -- these are photographs that
18 show -- and the series of photographs that I'm going to
19 show are of two tire marks in the roadway. There is --
20 one is in red, and one is in blue. And what that means
21 is that there were two tire marks that were documented by
22 the police and they did a great job documenting those
23 tire marks as to taking many points along that curve.**

24 **And as we move forward once again we can see
25 that there are -- that there are those red and blue**

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1 **markers in the roadway. And you can also see there that
2 there are some imperfections in the roadway just in the
3 -- as the roadway is lit up.**

4 Q. Can you show me where that is -- you said imperfections.

5 A. **Sure.**

6 Q. What are you referencing?

7 A. **If you look on to -- I'm sorry.**

8 Q. I think you can touch the screen.

9 A. **Oh, can I? Wow. That's pretty neat. Over in this area
10 over here (illustrating), there are some perturbations in
11 the roadway that are visible by the external lights that
12 were brought in as part of the investigation.**

13 Q. Okay.

14 A. **There are two tire marks. I labeled them. The tire mark
15 is Tire Mark 1, and the blue flags are Tire Mark 2.
16 Purely done -- I could have done it the other way. It
17 doesn't matter.**

18 Q. And these are the tire marks of the police cruiser?

19 A. **Correct. These are the police marks on the tire marks
20 from the police cruiser. And so what we have to do is we
21 have to attribute them to what tires are they from. So
22 we want to understand how those -- how this vehicle went
23 off the roadway and then crashed into the trees.**

24 **So we understand then from looking at the
25 various -- the various photographs that were taken along**

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1 this route. And then you can see that the tire marks go
 2 off into the grass -- grass area that's located there on
 3 the northern part of the road.

4 Q. These are still, although in daytime, these are not --
 5 these are photographs taken by Michigan State Police,
 6 right?

7 A. That's correct. These were taken obviously in the
 8 morning time now versus at nighttime, but they still show
 9 the same -- the same progression of the tire marks. And
 10 you can see -- even see the tire marks in the roadway and
 11 sort of -- the one that's primarily is this blue one
 12 that's here (illustrating.) You can see that there is a
 13 dark mark between those two blue points, and there is a
 14 comparable one for the red, for the red mark, that they
 15 documented.

16 And, once again, you can see it here. They do
 17 go off of the roadway into the grass and then off into
 18 the trees. So when we want to understand tire marks, and
 19 they call them tire marks because you have to understand
 20 what they are first. There are essentially two main kind
 21 of tire marks. One is a skid mark. So you go out on the
 22 roadway. You slam on your brakes. You leave a nice
 23 black patch on the ground. That's a skid mark. Okay.

24 A yaw mark is different; in that, a yaw mark is
 25 a mark that's caused when a vehicle is starting to spin

1 or rotate. And we can tell the difference based on what
 2 the patterns look like on the tire marks. But in this
 3 particular case, because they're separated, we can tell
 4 that they're yaw marks.

5 So in this illustrative example here from the
 6 Northwestern Traffic Accident Reconstruction book, this
 7 is a vehicle making a right turn. And what happens is
 8 that when it's making a right turn, it leaves marks on
 9 the left side because that's where the weight is getting
 10 transferred. When you make a right turn, you actually
 11 transfer weight to the left side of the vehicle. So the
 12 left side.

13 In this particular case in our crash, we have a
 14 left turn going on. So when we have a left turn going
 15 on, you're going to see the marks on the right side.
 16 Okay. That's just the way -- that's just the way
 17 vehicles operate. It's kind of the same principle if
 18 you're driving down the roadway and you make a right turn
 19 and you have got a bag of groceries sitting immediately
 20 to your right, they're going to fall to the left. It's
 21 the same thing. It's just the way the weight shift is
 22 going in the car.

23 So the next step is --

24 MR. ROTH: Your Honor, I guess I'm going to
 25 object. This is a narrative. There is no questions.

1 MR. MORLEY: No. That's -- no, and I've been
 2 interjecting, and counsel is right. I'm not trying to
 3 make it a narrative. However, Judge, there have been
 4 narratives earlier, and an expert needs to be able to
 5 convey his opinion. I have been trying to make sure that
 6 it's not a narrative, and I'll keep an eye on it. I
 7 don't think it's been abused.

8 THE COURT: All right. The point is well
 9 taken.

10 So, Mr. Morley, if you'll --

11 MR. MORLEY: I'll try.

12 THE COURT: -- proceed in the appropriate
 13 fashion, that will be fine.

14 MR. MORLEY: I'm trying.

15 BY MR. MORLEY:

16 Q. Is there anything more that you think we need to know at
 17 this stage regarding yaw marks?

18 A. Not until we get to the actual calculations.

19 Q. And now we're going to your collision reconstruction
 20 steps, which means what?

21 A. These are the steps that you need to take in order to
 22 reach -- to determine the speed of the police vehicle at
 23 the point of loss of control.

24 Q. This is simply telling what you got to do?

25 A. Right. Look at the physical evidence, which is what the

1 police documented at the scene, photographs and the
 2 measurements. What's the right methodology? And from
 3 that, you get the speed of the Chevy.

4 Q. What is right or appropriate methodology mean?

5 A. Well, appropriate methodology is, well, you have to
 6 figure out based on what you have, what's the right
 7 equation to use. In this particular case, we're going to
 8 talk about it, and it's called the critical speed
 9 calculation. We're going to talk about that a little bit
 10 more. But in this particular case, that's the best
 11 methodology to get the speed of the Chevy.

12 Q. Is this what we're talking about then with the vehicle
 13 speed?

14 A. Correct. Not to make this a math lesson here today, but
 15 essentially the equation that you need to understand for
 16 critical speed is when a vehicle is going in a curve, the
 17 acceleration, A, is related to the -- this by the speed
 18 squared as well as the radius of the curve.

19 And when we combine things, we get --
 20 essentially we need to know three terms in order to get
 21 vehicle speed. The first one is gravity. That's a
 22 constant, so we know that. So there are two others we
 23 need. One is drag factor, which is essentially friction
 24 between the tires and the road. And we need to
 25 understand the radius of the curve. That's -- those are

1 the two things that we need to determine.

2 Q. So at least right here you're just giving us the formula?

3 A. That's correct.

4 Q. Go ahead.

5 A. That's correct. This is just the formula that we're

6 going to employ in a second.

7 Q. F is what; force?

8 A. No. Force is -- in this particular case, there are two

9 Fs. The first one is big F, and that's the pull force.

10 In this particular case there are multiple ways of

11 determining the drag factor or the friction on the road.

12 In this particular case, the police employed

13 what we call a drag sled. Essentially what that is, is

14 you kind of take a tire, you fill it up with concrete,

15 and you know the weight of it, and then you pull it and

16 you record the force that's being measured on the -- on

17 the measurement tool for pulling it.

18 So -- and the relationship between the weight,

19 the force being pulled divided by the weight, that gives

20 you the drag factor.

21 Q. All of this goes into determine the speed --

22 A. Absolutely.

23 Q. -- here? Okay. Go ahead.

24 A. So what did the police do? Well, they have a drag sled.

25 The weight of that drag sled is 48 pounds, and then they

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1 pulled it five times. Okay. And each one of those

2 received a different -- a slightly different ranging from

3 33 pounds up to 39 pounds. So all we do is take --

4 divide 37, for example, by 48. You get .77. So what I

5 did is I calculated at minimum the average and the

6 maximum drag factors for the road.

7 Q. Your photo or police photo?

8 A. What this is, this is the aerial photograph that we

9 talked about just a second ago that was pulled from

10 Google Earth. And then all of the various white text,

11 that's all of the measurements that the police documented

12 with their survey device at the scene. And then the

13 red -- the red and the blue lines on there are the tire

14 marks that we talked about. And then I have superimposed

15 a Chevrolet Impala. It's sort of blue on the screen

16 here. I'm going to highlight that for you here for a

17 second. (Illustrating.)

18 That's the Chevrolet Impala. I've highlighted

19 four positions of the Chevrolet Impala on the road.

20 Q. Same picture?

21 A. This is just a little more zoomed in, and I took away all

22 of the text. And, once again, this is zoomed in a little

23 more, and all we're focused on here and all we care about

24 here is the physical evidence in the roadway. As soon as

25 we get into the grass, that has a different drag factor.

157

1 So you have to measure that as well. But in order to do

2 the calculations that we need to do, all we care about in

3 this particular case is the asphalt, and that's what they

4 did the measurements on.

5 So we position the car on the road so that the

6 right front tire and the right rear tire line up with the

7 measurements that were taken by the police.

8 Q. That's what we saw earlier with the red and blue, I

9 think, markers?

10 A. That's correct.

11 Q. Okay. So this is simply -- your lines on this diagram

12 are simply from what was previously grafted by Michigan

13 State Police, right?

14 A. Correct. The two colored lines there, yes.

15 Q. Okay.

16 A. Now, there is also -- as you can see, there is a white

17 line that is drawn -- well, we say from the center of

18 gravity of the vehicle all along that curve. And what

19 that is going to do is going to provide us with the

20 radius. So we calculate the radius of the --

21 Q. Radius of what, I'm sorry?

22 A. The radius of the curve that the officer is making as he

23 goes from the roadway off toward the grass on the north

24 side. That radius of that curve is 1,222 feet.

25 Q. Okay.

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1 A. And that's what we calculate.

2 Q. Any significance to that or just part of the equation?

3 A. That's the main variable. There are two main variables:

4 The friction, which we already talked about with the drag

5 sled, and now the radius. So now we know the radius, and

6 we know the friction. Now we can calculate the speed.

7 So what we do is we range the speed by varying

8 the drag factor between our minimum and our maximum. And

9 what you get is an average speed of 117 miles per hour,

10 and then the range of that speed is 112 to 122 miles per

11 hour.

12 Q. What do you mean by that with a range?

13 A. Well, as in any accident reconstruction, as you see the

14 officers took five measurements with the drag sled and

15 got five slightly different numbers. So in order to do

16 that, you need to range things. So we take the minimum,

17 and we take the maximum, and we know it's somewhere

18 between those numbers. And then we take the average

19 value as well.

20 And when we do that, we get that the speed

21 range for this -- this Chevrolet police vehicle was

22 between 112 and 122 miles per hour at the point of the

23 loss of control that we have documented in the roadway.

24 Q. And that loss of control was to reference back to a

25 prior -- that's right as we started that radius?

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1 **A. Correct. That's the point located here.**

2 Q. Okay.

3 **A. (Illustrating.)**

4 **Like I circled right there.**

5 Q. Okay.

6 **A. That puts us at about 112 to 122 miles per hour.**

7 Q. Now, this is -- our calculations, speed calculations that

8 you've done based on the Michigan State Police

9 reconstruction, is there also event data recorder speeds?

10 **A. Correct. The subject Chevrolet was equipped with an**

11 **event data recorder.**

12 Q. Let me interrupt real quick. What's the difference

13 between the event data and the calculations we just went

14 through?

15 **A. Well, essentially an event data recorder is information**

16 **that's gathered from the vehicle while it's going down**

17 **the roadway. And then what you want to do, is you want**

18 **to make a comparison between your hand calculation and**

19 **your event data recorder numbers that you have here. And**

20 **then you want to make a comparison. Do they line up? Do**

21 **they make sense. So that way you know if you have a good**

22 **mesh between what's being stored in the car's computer**

23 **versus what's being calculated based on the physical**

24 **evidence.**

25 Q. Okay. So this is -- you're now calculating the event

160

1 data recorder speed. Why? To buttress your prior

2 calculations?

3 **A. That's correct. We want to understand what is the event**

4 **data recorder say? I mean, 112 to 122 miles an hour,**

5 **okay, we understand that's the range it's calculated, but**

6 **does the event data recorder agree with that, or is it**

7 **something different? In this particular case, we have**

8 **just leading to the point where the vehicle goes out of**

9 **control, we have the vehicle speed as recorded here, and**

10 **it ranges somewhere here, down around 116, 117 miles per**

11 **hour. So we know that 117 miles an hour is the speed --**

12 **is speed that the vehicle was going.**

13 Q. You then are -- do you determine the severity of the

14 crash? Is that what this is?

15 **A. No. This -- this slide is talking about the accuracy of**

16 **the event data recorder.**

17 Q. Of, what, I'm sorry?

18 **A. The event data recorder information.**

19 Q. Okay.

20 **A. And so when you look at this, this paper was published**

21 **back in 1999. It says that vehicle speed in an event**

22 **data recorder is accurate to within four percent. So**

23 **that means that the speed could be four percent lower or**

24 **four percent higher than that 117 miles per hour. And**

25 **what that means if you apply four percent is that you get**

161

1 **the speed of the vehicle was between 112 and 122 miles**

2 **per hour.**

3 Q. Is that --

4 **A. So our --**

5 Q. I'm sorry, those are the same numbers that your

6 calculations came up with?

7 **A. Absolutely. We got the same result between our**

8 **calculation and event data recorder information. So we**

9 **have a good mesh between the two.**

10 Q. Does that happen often?

11 **A. Typically you'll get within the range of something, but**

12 **to fall the bound exactly on top of each other, it's a**

13 **little more uncommon.**

14 Q. What did you do next?

15 **A. Well, what we wanted to do next is we wanted to**

16 **understand, okay. The vehicle is going 117 -- 112 to**

17 **122 miles per hour. What does that mean in terms of the**

18 **severity of it going -- while it's going down the**

19 **roadway. And one of the things we want to compare it to**

20 **is when you buy a new car, any car, any car sold in the**

21 **United States, it has to be certified by the federal**

22 **government. And what the federal government does is that**

23 **they take cars and they crash them into a wall at**

24 **35 miles per hour. Okay. And --**

25 Q. Why?

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1 **A. Well, what they want to do is they have dummies in the**

2 **car. And they want to make sure if you crash into a wall**

3 **at 35 miles per hour that your -- that the injuries sort**

4 **of sustained by the dummies in the car are going to be**

5 **low. The last thing you want is to crash into a wall at**

6 **35 miles an hour and the car just disintegrates into**

7 **nothing.**

8 **So what they do is they range it between one**

9 **and five stars. Five stars being the highest. So any**

10 **time you see a car commercial now, they say "Received**

11 **five star safety rating." Or when you go buy a car, look**

12 **at the sticker on a brand new car. It has on the right**

13 **side of the sticker, it talks about the crash. And it**

14 **has roll over, front, and side.**

15 **And they evaluate those three parameters. So**

16 **anytime you buy a car and you're looking at it, you'll**

17 **see most cars now fall somewhere between four and five**

18 **stars.**

19 Q. Did you research that specifically to an '06 Impala?

20 **A. Well, for the '06 Impala, what I wanted to do is, yes, we**

21 **found an '06 Impala there, and they ran that vehicle --**

22 Q. Let me interrupt. I'm sorry. You did that because

23 that's the information that you were provided because

24 that was the make and year of the underlying police

25 cruiser, right?

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1 A. It's within the range of that.

2 Q. Okay.

3 A. What they -- they don't test a vehicle every year. I

4 mean, Chevy doesn't put out a brand new Impala every

5 year. So what they do is they typically will test the

6 first year of a new vehicle. So if a vehicle is launched

7 -- a new vehicle is launched, they'll crash that car.

8 But they don't need to crash it again if nothing changed

9 the following year. Unless there is a major structural

10 change to the vehicle, they won't re-crash it.

11 Q. Okay.

12 A. So that crash was done at 35 miles per hour, and this is

13 what the wall -- so I'm talking about here -- this is the

14 wall that I'm referring to. They just crashed the

15 vehicle into the wall and after the wall, they document

16 the damage, and they look at the information from the

17 dummies.

18 So why is all that important? Well, that's

19 important because one of the most important things in

20 crash severity is the energy that goes into a crash. And

21 the energy -- again, not to put more math in here, but

22 energy is essentially one half mass times velocity

23 squared. Okay. So we need to know speed, and we need to

24 know the weight of the object.

25 Q. Why is energy important?

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1 A. Well, energy is important because as you see in this

2 equation, the energy is related to the speed squared. So

3 that means -- let's say you're going 20 miles an hour.

4 You're going to have a certain amount of energy. Okay.

5 Now, if you're going 40 miles an hour, now you

6 have four times the amount of energy. So when you look

7 at things, when you double the speed of a car, right, two

8 squared would be four, so you're going to have four times

9 as much energy. So if you go three times as fast, you

10 have nine times as much energy. So what you see is that

11 the faster you're going compared to something else, the

12 more energy you have, and the more -- the more -- the

13 more energy you have to, what we call, dissipate or get

14 rid of before you stop.

15 Okay. I mean, in order to get rid of all that

16 energy to come to a stop, you have to get rid of it all

17 somehow. So you can hit the brakes. You can run into

18 something. There's got to be a way to get that energy

19 out of the car.

20 So if we can compare that to the speed limit on

21 this roadway, which is 55 to the government test, that

22 means that the -- that on this roadway, you're traveling

23 down the roadway with two and a half times the energy on

24 the government test.

25 Q. Because the government test is at 35 miles an hour?

165

1 A. That's correct.

2 Q. Right.

3 A. Now, let's look at what the Chevy is doing. If we take

4 the 117 miles per hour that it's going, now you have 11

5 times. So that means 11 times more energy that it has to

6 dissipate to come from 117 miles an hour down to stop,

7 and that's a lot of energy that has to get rid of.

8 Q. Do you then take photographs of the scene?

9 A. Correct. So now we wanted to look at the scene --

10 Q. Why?

11 A. -- of the subject incident.

12 Q. Why?

13 A. Well, what you want to understand is you want to

14 understand the roadway. You want to understand what's

15 the width of the road? What's -- what's there on the

16 shoulder? Those kind of things. What's the lane width?

17 So you want to understand all of those things

18 or are there any imperfections or hills or dips or bumps

19 or anything in the roadway that could cause a problem

20 while driving.

21 Q. Did you find anything on the roadway that stood out to

22 you?

23 A. Sure. This is a photograph here that shows -- this would

24 be the approach. So the officer in this photograph would

25 be traveling this way, and I'm standing up near toward

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1 the inter -- you know, the crash location with the trees,

2 and I'm looking back into the roadway. And you can see

3 that there are two dips. One here and one here

4 (illustrating).

5 Q. And are these -- these are dips. Are these marked or are

6 there signs or anything on there?

7 A. No. There are no signs or anything to indicate that

8 there are dips or anything in the roadway.

9 Q. Okay. What is this?

10 A. The other thing is that there is -- there is really no

11 paved shoulder. You can see that there is the fog line.

12 The white line is called a fog line. And then just to

13 the other side of that is gravel and then the grass. So

14 there is no paved shoulder or anything like that.

15 So once you go from the roadway -- from the

16 asphalt to the gravel, your friction goes down. So the

17 amount of friction goes down. Well, what happens if

18 friction goes down? It's much easier to lose control of

19 the vehicle. And if you lose control of the vehicle at a

20 very high right rate of speed, it's going to be very bad.

21 Q. What are we seeing in this picture, the tape measure

22 across the lane?

23 A. Sure. This is the eastbound travel lane. And there is

24 the eastbound shoulder. And this shows that from the

25 center of the yellow dash line here to the center of the

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1 fog line is a little over nine feet. Now, the car is
 2 about six feet, so you got --
 3 Q. Six feet wide?
 4 A. Six feet wide. So you get maybe a foot and a half on
 5 each side if you're traveling exactly in the center of
 6 the lane.
 7 Now, if there is something, perturbation or
 8 something that occurs, you only got a foot and a half
 9 before you're off into the gravel or off to something
 10 else to correct for that. And that's not a lot of space.
 11 And what's going to be really key here is that
 12 when you're driving down the road, when you're driving
 13 at, like, ten miles an hour and you want to make a left,
 14 a left steer, for example, you have to put a lot of steer
 15 to do that. Now, think when you're driving down the
 16 freeway at 70 miles an hour and you want to change lanes,
 17 you just have to input a small amount of steering.
 18 So what happens is that the faster you're
 19 going, the smaller the amount of the steering you have to
 20 put in. So if something happens where there is a
 21 steering input that goes like this or like this
 22 (demonstrating) at those speeds, the likelihood of there
 23 being a loss of control event just is amplified.
 24 Q. And you did drive this, right?
 25 A. Yes, I did drive it.

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1 Q. Why?
 2 A. Well, I wanted to understand what effect -- what effect
 3 this had while just driving down the roadway. And that
 4 there were -- there were the two dips that went over, but
 5 there were also imperfections in the roadway that caused
 6 -- that caused my car to sort of move side to side, like
 7 there were some uneven surfaces. And so as I was
 8 driving, I was rocking. And those alone coupled with the
 9 fact that you have no shoulder, that alone could also be
 10 a reason for -- caused a loss of control event especially
 11 given the speed.
 12 Q. You recorded this on a GoPro, I believe, it's called?
 13 A. That's correct.
 14 Q. Can you play that for us and tell us what we're seeing,
 15 please?
 16 A. Sure.
 17 THE WITNESS: Your Honor, may I go to my
 18 computer and play it?
 19 THE COURT: Sure.
 20 THE WITNESS: Thank you.
 21 (Stepping down from the witness
 22 stand.)
 23 So this is at the stop sign. Now I'm going
 24 eastbound crossing over Brogan Road, coming up the hill
 25 here. Now we're coming down and starting to flatten out

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1 a little bit.
 2 BY MR. MORLEY:
 3 Q. We're on Dexter Trail, right?
 4 A. We're on Dexter Trail, yep, heading eastbound.
 5 Q. Heading east?
 6 A. Yes.
 7 Q. Okay.
 8 A. There is a little side street here. We're still
 9 traveling eastbound. I'm -- we're about to go over the
 10 bumps; one. The other one. There is some rocking of the
 11 car, and then here's where we have the incident location
 12 right there.
 13 Q. Okay. And did you form an opinion as to the cause of
 14 this crash?
 15 A. Sure. Based on -- based on all of the physical evidence
 16 we have, consistent with a single vehicle loss of
 17 control, the speed limit is 55 miles per hour. And we
 18 have a very high energy situation where you have 11 times
 19 more energy than the federal government crash test. So
 20 -- and we have the Chevrolet traveling somewhere between
 21 112 and 122 miles per hour.
 22 So we have traveling more than twice the posted
 23 speed limit. That amount of energy, anything goes wrong
 24 could be catastrophic.
 25 Q. Were these bumps that you referenced, were those a factor

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1 in the crash?
 2 A. They could have been, yes.
 3 Q. I think you testified earlier -- well, let me step back a
 4 little bit. There was testimony from Sergeant Avery that
 5 the front tires of the police cruiser were worn and would
 6 need to be replaced soon, or words to that effect. Does
 7 that affect the subject vehicle at all?
 8 A. Sure. That could affect -- yeah. If the tires are worn,
 9 then, again, any imperfections, anything like that, that
 10 could cause a loss of control event, yes.
 11 Q. You reviewed, and I think you referenced it, that -- the
 12 Michigan State Police investigation. Do you have any
 13 significant disagreements with their investigation?
 14 A. No. I think we're -- I think we're in similar -- similar
 15 ranges in terms of speeds. They did a very nice job
 16 documenting all of the physical evidence.
 17 Q. Sergeant Avery testified, as a quick aside, there was an
 18 exhibit. There was a picture of the speedometer. I
 19 think it was at 82 or 85 miles per hour.
 20 A. Okay.
 21 Q. Is that an accurate indication of the speed at the time
 22 of the crash?
 23 A. No. We call that speedometer slap. So the needle slap,
 24 so it slaps on to the -- it sort of gets stuck in a
 25 position. There has not been any scientific evidence or

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1 any publications out there that talk about that that is
 2 an accurate way of determining speed in a crash. It
 3 might be one of those things that at the end of the day
 4 you do your reconstruction. You find that the
 5 speedometer was stuck at 85. And your reconstruction
 6 says 85. That's one of the things that you go "Hmm,
 7 that's interesting." That's it.

8 Q. In your experience in your opinion how serious was this
 9 crash?

10 A. This was the most serious crash I think I've ever seen in
 11 the 500 to 1,000 crashes I've done.

12 Q. Why?

13 A. Well, we have a high rate of speed. I've never seen a
 14 crash with a speed at this level. And then the fact that
 15 the vehicle was split into multiple pieces. I've never
 16 seen a car split into multiple pieces like that.

17 MR. MORLEY: Thank you, Doctor.
 18 That's all I have, Judge.
 19 THE COURT: Thank you, Mr. Morley.
 20 Mr. Roth, you may cross-examine.
 21 MR. ROTH: Thank you, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. ROTH:

24 Q. Good afternoon, sir.

25 A. Good afternoon.

1 Q. My name is Jonathan Roth. I'm from the Ingham County
 2 Prosecutor's Office. I have a series of questions for
 3 you this afternoon. If at any point you don't understand
 4 or need me to rephrase, please let me know. Okay?

5 A. We'll do.

6 Q. All right. First of all, you worked for the Defense in
 7 this particular case, correct?

8 A. I was retained, yes.

9 Q. They pay you some money for developing the opinion and
 10 coming in and testifying to it, correct?

11 A. Yes.

12 Q. And the direction was to focus on the police vehicle,
 13 correct?

14 A. Yes.

15 Q. Did they ask you to do any investigation, calculation as
 16 it relates to the vehicle that was being pursued, the
 17 white SUV?

18 A. No.

19 Q. Did they produce for you a white 2003 GMC Yukon Denali XL
 20 to study, investigate?

21 A. No.

22 Q. Did you look at any of the data that you talked about
 23 here for the police vehicle for a white 2003 GMC Yukon
 24 Denali XL?

25 A. No.

1 Q. All right. I want you to think about that vehicle for a
 2 second. You're aware that a vehicle was being pursued,
 3 correct?

4 A. That's my understanding.

5 Q. All right. So we've got a vehicle testimony in excess of
 6 100 miles per hour. It's an SUV. Testimony that the
 7 driver had been drinking alcohol. Testimony that the
 8 lights were out. This is not a trained police officer.
 9 If I hadn't said it, front headlights out. What risks
 10 does that vehicle pose, first of all, to the driver of
 11 the vehicle?

12 A. Which vehicle are you talking about, I'm sorry?

13 Q. The suspect -- excuse me, the vehicle being pursued.
 14 Imagine for a second headlights out, driver has had
 15 alcohol, in excess of 100 miles per hour on these same
 16 roads. Not a police trained driver.

17 A. I don't know. I don't have an opinion to that.

18 Q. You couldn't tell me if that poses any risk to the
 19 driver?

20 A. Poses a risk to the driver? Any vehicle traveling that
 21 fast poses a risk to the driver, yes.

22 Q. What about if the driver has been drinking? Does that
 23 risk go up?

24 A. I don't know. I don't have an opinion to that.

25 Q. You don't have an opinion if drinking and driving makes

1 it more dangerous than just driving?

2 MR. MORLEY: Well, I'm going to object, Your
 3 Honor. He's already said he doesn't have an opinion.
 4 He's been qualified as a mechanical engineer
 5 reconstructionist. It's outside his expertise.

6 MR. ROTH: I don't think that's outside of the
 7 realm of expertise at all.

8 THE COURT: I'll overrule the objection.
 9 You can take the answer.

10 MR. ROTH: Thank you, Your Honor.

11 BY MR. ROTH:

12 Q. You don't have an opinion if drinking and driving is more
 13 dangerous than simply driving?

14 A. I'm not a toxicologist. I don't know the effects of -- I
 15 don't understand the effects of alcohol on people. I
 16 don't pertain to know anything about that. No, I don't
 17 have an opinion to it.

18 Q. You don't. All right. What about headlights being out?
 19 Driving at night without the headlights on. More or less
 20 dangerous than driving with headlights on?

21 A. If the headlights are off, that's -- I definitely would
 22 say that's more dangerous, yes.

23 Q. And a trained driver, somebody trained in high speed
 24 pursuit and a not-trained driver; more dangerous, less
 25 dangerous? Does the training help?

1 **A. Just training?**
 2 Q. Yes.
 3 **A. Or are you talking about training with headlights off?**
 4 Q. Training and driving a vehicle at high speeds?
 5 **A. Someone that's trained at driving at high speeds? Sure.**
 6 **They would be more likely to handle something like that.**
 7 Q. Thank you. So now let's talk about the risk that that
 8 vehicle poses to other people on the road. I assume,
 9 again, you're going to tell me that you don't know if
 10 this person being -- having had alcohol in an unspecified
 11 amount, you don't know if that poses a risk to other
 12 people on the road?
 13 **A. No.**
 14 Q. You don't know if that makes it any more dangerous to
 15 other people who might be on the road?
 16 **A. No, I don't.**
 17 Q. Okay. And what about headlights being out? Driving at
 18 night, headlights are out. Does that pose other risks
 19 for people on the road?
 20 **A. Sure. If you're driving with the headlights out, that**
 21 **does pose a risk, sure.**
 22 Q. Well, what about driving at speeds in excess of 100 miles
 23 per hour?
 24 **A. Sure. Anybody driving at speeds in excess of 100 miles**
 25 **per hour, sure.**

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1 Q. And if that vehicle is traveling at -- excuse me,
 2 traveling at in excess of 100 miles per hour and a police
 3 vehicle is pursuing it at 85 miles per hour, when will it
 4 catch up to it?
 5 **A. I'm sorry, so if the vehicle stays above 100 the whole**
 6 **time?**
 7 Q. Yeah. Sort of a story problem. If the first car leaves
 8 in excess of 100 miles per hour and the police vehicle is
 9 after it at 85, when does the police vehicle catch up?
 10 **A. Sounds like an SAT question, but, yeah, sure, it will**
 11 **never catch up.**
 12 Q. Never, right?
 13 **A. Correct.**
 14 Q. What about 90? When does it catch up?
 15 **A. It does not.**
 16 Q. 95?
 17 **A. Nope.**
 18 Q. 100?
 19 **A. No. Well, it depends on how far back the initial pursuit**
 20 **was. You didn't give me the speed of the pursuing**
 21 **vehicle, but basically in order -- depending on the**
 22 **distance between them initially, somebody would have to**
 23 **go faster in order to catch up to somebody ahead of them,**
 24 **correct.**
 25 Q. Thank you. There was reference in your presentation to a

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1 police package that was outfitted to this specific
 2 vehicle, correct?
 3 **A. Yes.**
 4 Q. Police package, is it something that police vehicles are
 5 outfitted to make them a little bit safer, correct,
 6 particularly at high speed?
 7 **A. I don't exactly know why they are outfitted the way they**
 8 **are. But I know that they have, you know, different**
 9 **brakes, tires. Sometimes they have a bumper bar on the**
 10 **front. I don't know all of the reasons for that.**
 11 Q. But they're better? They're certainly not putting worse
 12 options on the police vehicles, correct?
 13 **A. No. I wouldn't figure they put worse options on the**
 14 **vehicles, no.**
 15 Q. All right.
 16 **A. I don't know if they are better, though, but they're**
 17 **definitely not worse.**
 18 Q. Now, the calculations that you showed here, what tools
 19 did you use to reach these calculations?
 20 **A. The calculations that I have, what do you mean; tools?**
 21 Q. Did you have a calculator?
 22 **A. Sure. I used Excel to do it. Microsoft Excel to do it,**
 23 **but I could do it on a calculator or my iPhone.**
 24 Q. Sure. Using a computer?
 25 **A. Sure.**

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1 Q. You were able to sit down at a desk in an office and work
 2 on this?
 3 **A. Sure.**
 4 Q. How much time did it take to process all of this data, to
 5 do the methodology, to each reach your conclusions?
 6 **A. To do all of the methodology and conclusions, a few**
 7 **hours.**
 8 MR. ROTH: I have nothing further, Your Honor.
 9 THE COURT: Thank you, Mr. Roth.
 10 Mr. Morley, redirect examination, sir?
 11 REDIRECT EXAMINATION
 12 BY MR. MORLEY:
 13 Q. Doctor, you testified earlier that you received all of
 14 the information you needed to formulate an expert
 15 opinion, right?
 16 **A. That's correct.**
 17 Q. And in all of your materials, is there any indication
 18 that there was another vehicle involved in this crash?
 19 **A. No. It was not a consideration. I was not -- you know,**
 20 **that was not a consideration in any of the materials that**
 21 **I reviewed, correct.**
 22 Q. This was a one-car motor vehicle crash, right?
 23 **A. Correct. Single vehicle motor vehicle crash.**
 24 MR. MORLEY: That's all I have, Judge.
 25 Thank you.

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1 THE COURT: Thank you, Mr. Morley.
 2 You may step down, sir. Thank you, very much.
 3 THE WITNESS: Thank you.
 4 (At 3:54 p.m., the witness
 5 stepped down from the witness
 6 stand.)
 7 THE COURT: Ladies and Gentlemen --
 8 Well, I should ask Mr. Morley. I shouldn't
 9 assume.
 10 Further proofs, Mr. Morley?
 11 MR. MORLEY: Yes, sir. Call Deputy Hoeksema.
 12 THE COURT: Please raise your right hand.
 13 Do you swear or affirm to tell the truth, the
 14 whole truth, and nothing but the truth?
 15 DEPUTY HOEKSEMA: I do.
 16 THE COURT: Please be seated and state your
 17 full name for us again.
 18 THE WITNESS: Deputy Richard, R-I-C-H-A-R-D,
 19 Hoeksema, H-O-E-K-S-E-M-A.
 20 THE COURT: Mr. Morley?
 21 MR. MORLEY: Approach the witness, Your Honor?
 22 THE COURT: You may.
 23 RICHARD HOEKSEMA
 24 called by the Defendant at 3:55 p.m. sworn by the Court,
 25 testified:

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1 DIRECT EXAMINATION
 2 BY MR. MORLEY:
 3 Q. Deputy, I'm going to show you what's been marked as
 4 Defendant's -- check that -- Plaintiff's 112 and ask if
 5 you've seen that.
 6 A. **If I've seen this actual photograph, sir?**
 7 Q. Yes.
 8 A. **No, sir, I have not.**
 9 Q. Okay. This was admitted. This is a picture of a vehicle
 10 at the Dam Site Inn. Is this the vehicle that you were
 11 trying to catch up to on the early morning hours of
 12 December 7th, 2014?
 13 A. **I don't know.**
 14 Q. Was this the driver of the vehicle that you were trying
 15 to catch up to in the early morning hours of
 16 December 7th, 2014?
 17 A. **No, sir. I don't know.**
 18 MR. MORLEY: Nothing further.
 19 Thank you, Deputy.
 20 THE COURT: Thank you, Mr. Morley.
 21 Mr. Roth?
 22 CROSS-EXAMINATION
 23 BY MR. ROTH:
 24 Q. To be clear, Deputy, you're not saying no. You simply
 25 don't know, correct?

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1 A. **That's correct, sir.**
 2 Q. Did you yield and your department yield that
 3 investigation and that determination to the Michigan
 4 State Police?
 5 A. **Yes, sir.**
 6 Q. Why?
 7 A. **Mainly because we had absolutely no idea who we were**
 8 **chasing that night, sir.**
 9 Q. And given the toll that I'm sure it took on you and your
 10 department, was it more appropriate to go with a detached
 11 third party to do the investigation?
 12 A. **Yes, sir, absolutely.**
 13 Q. All right. And so that question, is that more
 14 appropriate for the investigating body?
 15 A. **Yes, sir.**
 16 MR. ROTH: I have nothing further.
 17 THE COURT: Thank you, Mr. Roth.
 18 Mr. Morley, anything further?
 19 MR. MORLEY: No, sir. Thank you.
 20 THE COURT: You may step down.
 21 THE WITNESS: Thank you, Your Honor.
 22 (At 3:57 p.m., the witness
 23 stepped down from the witness
 24 stand.)
 25 THE COURT: Mr. Morley, any further proofs?

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1 MR. MORLEY: One moment, please, Your Honor.
 2 THE COURT: Sure.
 3 MR. MORLEY: No, sir.
 4 THE COURT: Defense rests.
 5 MR. MORLEY: Yes, sir.
 6 THE COURT: Mr. Roth, rebuttal?
 7 MR. ROTH: People call Sergeant Allan Avery.
 8 It won't be but a minute, Your Honor.
 9 THE COURT: That's fine. Whatever it takes.
 10 Do you swear or affirm to tell the truth, the
 11 whole truth, and nothing but the truth?
 12 SERGEANT AVERY: Yes, sir.
 13 THE COURT: Please be seated. State your full
 14 name for us again.
 15 THE WITNESS: Sergeant Allan Avery, A-L-L-A-N
 16 A-V-E-R-Y.
 17 MR. ROTH: I assume, Your Honor, he's still
 18 recognized as an expert?
 19 THE COURT: He is.
 20 You have no objection to that, I assume,
 21 Mr. Morley?
 22 MR. MORLEY: No objection, Your Honor. Thank
 23 you.
 24 THE COURT: All right.
 25 ALLAN AVERY

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1 called by the People at 3:58 p.m., sworn by the Court,
 2 testified:

3 DIRECT EXAMINATION

4 BY MR. ROTH:

5 Q. Do you know the proximate weight difference between a GMC
 6 Yukon Denali and the police vehicle in this case?

7 A. **Roughly twice. I would say the Denali is probably twice**
 8 **as heavy as the police car.**

9 Q. And how does that weigh into the force of a collision?

10 A. **A heavier object would have more energy.**

11 Q. And, therefore, exponentially more destructive ability in
 12 an accident?

13 A. **Yes, sir.**

14 Q. To both its occupant and driver and anybody else it were
 15 to hit?

16 A. **Yes, sir.**

17 MR. ROTH: Nothing further.

18 THE COURT: Thank you, Mr. Roth.
 19 Mr. Morley, any questions, sir?

20 MR. MORLEY: No questions, Your Honor. Thank
 21 you.

22 THE COURT: All right. Thank you.
 23 You may step down. Thank you.

24 THE WITNESS: Thank you.

25 (At 3:59 p.m., the witness

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1 stepped down from the witness
 2 stand.)

3 THE COURT: Mr. Roth, further rebuttal proofs?

4 MR. ROTH: No, Your Honor. Thank you.

5 THE COURT: Ladies and Gentlemen, what we are
 6 going to do at this point is we are going to recess for
 7 the day and have you come back on Monday morning. Same
 8 program, other than today we made an exception, but 8:15
 9 meet downstairs. Mr. Adkins will bring you up about
 10 8:30, and then we will move to the next part of this
 11 case, which will be the closing arguments.

12 Now, you should plan -- as far as your personal
 13 schedule, you should plan for the potential that you
 14 would be here all day on Monday or a good part of the
 15 day. It is possible you will be here for quite a period
 16 of time on Monday. Depends on how long your
 17 deliberations take.

18 I have, in addition to the closing arguments, I
 19 will present some final instructions to you. So that
 20 takes a little bit of time. I say assume that you may be
 21 deliberating when we reach the lunch hour. And if that
 22 is so, if you are in deliberations, we'll bring lunch
 23 into the jury room for you.

24 In the interim while we are in recess, I again
 25 tell you do not discuss the case amongst yourselves.

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1 We're not finished. You're not at the point where you
 2 can begin deliberating. So do not discuss the case
 3 amongst yourselves. Do not discuss the case with anyone
 4 else.

5 And, once again, I'm sure you're tired of me
 6 telling you this, but do not watch, read, or listen to
 7 any media reports or do any investigation or researching
 8 of anything about this case while we are in recess.

9 Have a good weekend.

10 (At 4:01 p.m., the jury left the
 11 courtroom.)

12 THE COURT: You can be seated.

13 The only issue -- well, first of all, is there
 14 anything that you want to put on the record, Mr. Roth?

15 MR. ROTH: No, Your Honor. Thank you.

16 THE COURT: Mr. Morley?

17 MR. MORLEY: No, sir. Thank you.

18 THE COURT: The only issue I want to address is
 19 obviously I think we need to address the final jury
 20 instructions, and I will be guided, and we don't need to
 21 do this all on the record, but just to say that we need
 22 to obviously be prepared for one unified version of those
 23 instructions before we begin closing arguments on Monday
 24 morning.

25 So we can talk about logistically how we're

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1 going to do that. Again, unless you want it on the
 2 record, we can go off the record.

3 MR. ROTH: I don't need to do it on the record,
 4 but I would like it decided today so we can tailor our
 5 closings to the Court's ruling.

6 THE COURT: That's fine.

7 Why don't we go off the record right now, and
 8 we can talk about a couple of things that I'm aware of we
 9 need to address in the closing instruction, and you can
 10 tell me what you are aware of.

11 MR. ROTH: Thank you, Your Honor.

12 THE COURT: Before we go back, I do want to put
 13 one more thing on the record. I think it is -- it was
 14 assumed based upon my ruling -- overruling of the
 15 objection as to Defendant's G and H, I think it was
 16 assumed that it was admitted, although I'm not sure I
 17 actually said it on the record that G and H are admitted
 18 and received. Just as a matter of housekeeping, that was
 19 the result of the ruling.

20 MR. MORLEY: Thank you, Judge.

21 THE COURT: Mr. Morley, as I have it marked, I
 22 believe what was admitted, then, on behalf of the Defense
 23 were Exhibits A, B, C, D, E, G, and H.

24 MR. MORLEY: I think that's right, Judge.

25 THE COURT: Okay.

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1 MR. ROTH: Just to be clear for the record, the
2 demonstrative exhibits would not go back to the jury,
3 would be my understanding.

4 MR. MORLEY: They're admitted. I don't think
5 there is a preclusion of them going to the jury. It's a
6 cautionary instruction issue.

7 MR. ROTH: I will investigate, Your Honor.

8 THE COURT: All right. So we'll go off of the
9 record and talk about the jury instructions.

10 (At 4:06 p.m., the matter was
11 concluded for the day.)
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1 STATE OF MICHIGAN)
) SS.
2 COUNTY OF INGHAM)

3
4 CERTIFICATE OF REPORTER

5
6 I, Melinda I. Dexter, Certified Shorthand
7 Reporter, do hereby certify that the foregoing
8 **188 pages** comprise an accurate, true, and complete
9 (Volume 7 of 9) transcript of the proceedings and
10 testimony taken in the case of the **People of the**
11 **State of Michigan** versus **John C. Kelsey II,**
12 **Case No. 14-1380-FH, on Friday, June 5, 2015.**

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

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