

1 examination.

2 THE COURT: Any question you want to ask.

3 MR. KNIZLEY: Thank you.

4 THE COURT: It's that broad. That's an easy  
5 standard, isn't it? I said it's that broad.

6 MR. KNIZLEY: Oh, yes, sir. Thank you.

7 THE COURT: Any question you want to ask.

8 (BRIEF RECESS)

9 (JURY NOT PRESENT)

10 DAVID MCCULLOUGH,  
11 after having been first duly sworn, was examined  
12 and testified as follows:

13 DIRECT EXAMINATION

14 BY MR. KNIZLEY:

15 Q. State your name, please, Detective.

16 A. David McCullough.

17 Q. Detective, were you the officer in charge or the  
18 detective in charge of this case when it commenced  
19 on August 1st, 2020?

20 A. Yes.

21 Q. And in that capacity, did you begin to gather  
22 evidence relative to the case?

23 A. Yes.

24 Q. And I want to focus on the area of evidence  
25 surrounding the automobile that cut -- that

1       allegedly turned in front of Dr. Nakhla's vehicle.  
2       When you arrived on the scene of the accident that  
3       night, did someone give you information that there  
4       may have been a car that turned into the Comfort  
5       Inn near -- while Dr. Nakhla's car was going down  
6       the service road?

7   A.   Yes, and I was also present from the evidence on  
8       the road that it was possible.

9   Q.   What was it about the evidence on the road that  
10       indicated that to you?

11  A.   The fact that the skid marks curved to the left.

12  Q.   Tell us, if you would, how that led you to the  
13       possibility or probability that some other car may  
14       have been there.

15  A.   Because the road is straight, straight road.

16  Q.   And?

17  A.   There shouldn't have been any steering wheel  
18       manipulation on a straight road.

19  Q.   Any other reason?

20  A.   No.

21  Q.   All right. Well, you were there and you saw that  
22       and you saw that as a potential of what may have  
23       happened. Where did your investigation lead you,  
24       if it did, relative to finding any other  
25       intervening factor?

1 A. I used to work that area when I was in patrol. I  
2 was quite familiar with the businesses on the  
3 beltline and which ones did or did not have camera  
4 footage and I started there.

5 Q. How long had you been on patrol in that area? How  
6 long did you work in patrol in that area?

7 A. From the time I started to the time I went to  
8 general investigations.

9 Q. And to get this part out of the way, is that a high  
10 crime area?

11 A. It is.

12 Q. And are those hotels known to be high crime hotels?

13 A. To an extent.

14 Q. To a considerable extent?

15 A. To a normal extent for a hotel. I mean, hotels are  
16 known areas of high traffic because they're  
17 temporary.

18 Q. Okay. These economy hotels on that strip are known  
19 to have drugs and prostitution in them routinely;  
20 are they not?

21 A. Yeah.

22 Q. And you knew that hotel was one of those hotels  
23 that commonly had calls from the police for drugs  
24 and prostitution?

25 A. They all have calls.

1 Q. Well, that hotel was one of the hotels -- excuse me  
2 -- that commonly had calls from the police for  
3 drugs and prostitution; did it not?

4 A. Yes.

5 Q. And you knew that?

6 A. Yes.

7 Q. At the time you began investigating this accident?

8 A. Yes.

9 Q. Now, back to looking into the intervening factor,  
10 all right, once you saw that the car had taken a  
11 left, evasive move, you thought there was a  
12 possibility then that another car may have been in  
13 its pathway; therefore, it may have made that turn;  
14 is that right?

15 A. Yes. When I first visually walked the scene, that  
16 was what I gathered, and then I also heard that  
17 from the officers on the scene.

18 MS. RICH: Can I just clarify something? I  
19 thought you said they would be allowed to ask any  
20 question they wanted to ask outside the presence of  
21 the jury. Do I need to object if I --

22 THE COURT: No. This is not going to render  
23 anything admissible necessarily at trial if that's  
24 your concern.

25 MS. RICH: Yes, that is.



1 THE COURT: This is a hearing for purposes of  
2 their motion for a mistrial.

3 MS. RICH: All right. Okay.

4 THE COURT: That's all. I will say this,  
5 since this is prior sworn testimony and the State  
6 has represented, they could, in theory, use this as  
7 impeachment later when he testifies. It could be,  
8 he's not been foreclosed for that, but the fact  
9 that he testifies on a topic does not render it  
10 admissible.

11 MS. RICH: Okay.

12 THE COURT: Am I making myself clear?

13 MS. RICH: Yes, Your Honor.

14 THE COURT: We still have the rules of  
15 evidence as to what's proper for trial. This is a  
16 hearing right now, a pretrial hearing, like, a  
17 motion to suppress. Maybe it's admissible, maybe  
18 it's not. Go ahead.

19 Q. Officer, you said the officer on the scene, he had  
20 said something to you about the possibility of  
21 there being some other vehicles involved in the  
22 incident?

23 A. They'd expressed that they had heard from the  
24 Defendant that another car turned in front of him  
25 while he was on-scene, to me.

1 Q. Do you recall who told you that or was there a  
2 number of people?

3 A. A number of officers that were on the scene.

4 Q. And along with your observations of the roadway,  
5 did that seem like a reasonable matter to  
6 investigate?

7 A. Yes.

8 Q. What, if anything, did you do to make that  
9 investigation in regards to whoever else may have  
10 been on the roadway that evening that could have  
11 caused him to take the left-hand turn?

12 A. I went to the Comfort Inn and I spoke to the hotel  
13 manager that was on duty.

14 Q. And who was that?

15 A. It was the lady that was working the front desk  
16 that day. The owner of the hotel was not there and  
17 I had to come back.

18 Q. Do you remember any names?

19 A. I don't remember who was working the front desk.  
20 When I said I need to look at video and she told me  
21 that I had to come back.

22 Q. Would there be some notes if you had had somebody  
23 that had those names come around?

24 A. No. People that just told me I had to come back.

25 Q. Okay. So it was the Comfort Inn you concentrated

1       on to try to find video to see about the  
2       possibility of a car turning to the left; is that  
3       right?

4   A.   Yes.

5   Q.   And when you went to the lady, the person in charge  
6       there, what, if anything, did she share with you  
7       about someone turning in front in any way or a  
8       video that may help you make that determination?

9   A.   She called the owner and I scheduled a time to come  
10       back and talk to him.

11   Q.   Do you know his name; do you remember it? Mr.  
12       Patel?

13   A.   Mr. Patel.

14   Q.   You don't recall his first name?

15   A.   No. It's in my notes.

16   Q.   All right. Did you do any other investigation that  
17       evening at the Comfort Inn in order to possibly  
18       determine if a car had turned in, whether that car  
19       was still there, whether the car had left or  
20       whether the owner of the -- the driver of the car  
21       -- that's a compound question. I'm sorry.

22       First off, did you do any further investigation to  
23       try to determine whether the driver of the vehicle  
24       was still present?

25   A.   I drove around the parking lot looking for the car

1           and that was it.

2   Q.   And what information, if any, did you have as to  
3       what the car looked like?

4   A.   I just looked. I didn't. I mean, it was just  
5       before the car -- I believe at the hospital, he  
6       told me it had a sunroof.

7   Q.   I didn't hear that part.

8   A.   He told me it had a sunroof.

9   Q.   So that was at the hospital, you didn't get to the  
10      hospital until what, 2 or 3 o'clock?

11   A.   Yeah, that night but around that time.

12   Q.   Now, first off, before you left the scene, did you  
13      go see the lady about the video?

14   A.   No.

15   Q.   Did you do anything before you initially left the  
16      scene regarding this other car that may have turned  
17      in front?

18   A.   No.

19   Q.   You just had some information from your officers  
20      and your visual observation of what was on the  
21      roadway?

22   A.   Yes.

23   Q.   And you were going to attempt to investigate that  
24      aspect of it at a different time?

25   A.   Yes.

1 Q. And then you went to the hospital and talked with  
2 Dr. Nakhla, and he related to you the story about  
3 another car turning in front of him?

4 A. Yes.

5 Q. And after receiving that information, you returned  
6 to the Comfort Inn area to further investigate this  
7 contention that Dr. Nakhla had said and that the  
8 other officers had told you and that you had saw  
9 evidence of on the roadway?

10 A. Yes.

11 Q. What did you do, going back to the Comfort Inn, to  
12 investigate that aspect of the case?

13 A. When I met with the owner, he allowed me to view  
14 the video to my content. There was two exterior  
15 cameras that were working.

16 Q. In relation to what we watched today, could you  
17 give us the channels or cameras if you recall them  
18 right now?

19 A. 20, and I believe the other one was 8.

20 Q. The one that this Court has watched several times  
21 and I think we may have just watched a moment ago  
22 that has the cars coming down the roadway, what  
23 channel is that, the Nakhla vehicle and the latest  
24 vehicle --

25 A. 20.

1 Q. 20, okay. And Channel 8 would be the one with --

2 A. The angle pointing towards the side into the fence  
3 area.

4 Q. The fence where there was some people walking or  
5 running down toward the fence?

6 A. Yes.

7 Q. That we just watched a few moments ago?

8 A. Yes.

9 Q. You watched Channel 20 and Channel 8. Did you do  
10 anything else at that time?

11 A. I collected those two videos.

12 Q. And did you collect any other videos at that time?

13 A. Not at that time.

14 Q. Okay. And did you gain any other information about  
15 anyone who may have been at or about the hotel, in  
16 the hotel, came driving through the hotel that may  
17 have been the car that cut in front or that turned  
18 in front of Dr. Nakhla?

19 A. Yes.

20 Q. What did you find?

21 A. I reviewed the videos.

22 Q. I don't mean to interrupt. But did anybody tell  
23 you anything before you went back and looked at the  
24 videos and they gave you some indication who the  
25 person was?

1 A. No.

2 Q. So you didn't go up to the hotel rooms and knock on  
3 -- I know you did later?

4 A. I did later.

5 Q. But at that time, you didn't go knock on the hotel  
6 room doors or say do you know any of these people  
7 that are checked in here that may know something  
8 about that car turned or didn't get any other  
9 information like that?

10 A. No.

11 Q. You went and looked at the videos?

12 A. Uh-huh, right.

13 Q. Then what did you do?

14 A. I looked at the videos. I saw some individuals  
15 running down the fence line. I saw them coming  
16 back to the hotel. I went to the hotel clerk and I  
17 said, do you know what room these individuals would  
18 be staying in.

19 Q. Let me stop you right there. How did you even know  
20 those people were staying at the hotel?

21 A. Well, they came from the hotel, they came back to  
22 the hotel.

23 Q. They came back down that fence line, but you didn't  
24 see them go in and out of the hotel at that time?

25 A. No.

1 Q. So you just know they traversed the area along the  
2 fence line on the north side of the hotel, right?

3 A. And it's a closed parking lot, so you have to go  
4 all the way around it.

5 Q. So you made the assumption these people may be in  
6 that hotel?

7 A. Yes.

8 Q. Okay. And did you, at that time, identify those  
9 people as the same people that were in Channel 8, I  
10 believe it is, did you think they were the same two  
11 sets of people?

12 A. Yes.

13 Q. How so?

14 A. They were wearing similar clothing.

15 Q. Other than that?

16 A. It was four of them. The only people that came  
17 from the back of the complex at the time of the  
18 crash, there were only four people that went to the  
19 back of the hotel at the time of the event.

20 Q. And you couldn't determine their facial features  
21 from either one of those videos, could you?

22 A. No.

23 Q. You identified some clothing -- correct me if I'm  
24 wrong -- on two separate videos that seemed to be  
25 of people that seemed to be maybe at that hotel.



1           So you were going to go find out?

2   A.    Yes.

3   Q.    And you went back up there and you talked to, this  
4           time, the owner or back to the manager?

5   A.    The lady that was working the front desk.

6   Q.    What did you ask her and what did she say to you?

7   A.    I asked her if she knew if these individuals were  
8           staying in the hotel and where they were staying  
9           at.

10   Q.   What'd she say?

11   A.    She said she knew which hotel they were staying at  
12           and they were on this floor and this hotel number.  
13           And I went up there --

14   Q.    She knew what hotel, so she was only involved in  
15           one hotel, this hotel?

16   A.    Yeah, this hotel, what floor and what room number.

17   Q.    At that point, did she tell you a little more about  
18           those people, such as, yeah, they come here all the  
19           time, I've seen them a bunch of times, yeah, this  
20           one and this one, they're great tenants, they're  
21           troublemakers or anything like that?

22   A.    I really don't recall her saying anything like  
23           that. She just knew because they checked in with  
24           her.

25   Q.    Well, did she say if they had checked in before?

1 A. I don't recall her saying.

2 Q. Would you have taken notes about this?

3 A. If she would have told me, yeah.

4 Q. Did you take notes?

5 A. She didn't tell me anything.

6 Q. Well, you just said you don't remember. How do you  
7 know she didn't tell you anything?

8 A. Because I would have took notes.

9 Q. Did you make any notes in association with your  
10 communications with the manager that afternoon when  
11 you went back to determine whether she knew  
12 anything about these four people?

13 A. I'm sorry. Could you say that again?

14 Q. Did you take any notes or memorialize the  
15 conversation or communication with the manager when  
16 you went back to inquire as to whether or not the  
17 four people in the video rented a room at the  
18 hotel?

19 A. No.

20 Q. There are no notes?

21 A. No, not to my knowledge.

22 Q. I didn't say not to your knowledge. You're saying  
23 there may be some and you don't recall?

24 A. I don't recall taking any notes.

25 Q. Okay. Thank you. Or making any reports or making

1 any reports about that interview?

2 A. I don't know if I mentioned it in my narrative or  
3 not.

4 Q. It would be in the narrative if you would have  
5 produced it to Defense counsel if you have?

6 A. My investigation, yes.

7 Q. And there's no other narrative or no other report  
8 related to that interview with the person at the  
9 hotel that you went back to the next day to  
10 determine if these four people had been registered  
11 at the hotel?

12 A. No.

13 Q. When the lady said I see those -- you showed her  
14 the picture. Tell me what she did. Did she  
15 immediately say she knew what room they were in,  
16 she had to go back and look or what did she do?

17 A. She checked into her computer system and that she  
18 remembered checking them in and I don't know what  
19 she did on her computer, but then she came back  
20 with the room number.

21 Q. Had they given IDs? Did she tell you they had?

22 A. I don't recall. She told me who rented the room.

23 Q. Did they give any IDs if you recall; did she tell  
24 you that?

25 A. I don't recall.

1 Q. And did she tell you who had rented a room?

2 A. Harry Matthews.

3 Q. Did she tell you these people occupied two rooms --

4 THE COURT: Wait a minute. Did you say Harry  
5 Matthews?

6 THE WITNESS: Harry Matthews.

7 THE COURT: Both rooms or one room?

8 THE WITNESS: From what I remember, I heard  
9 one room under Harry Matthews. I don't remember  
10 her saying two rooms. But when I got up there, I  
11 determined it was two rooms.

12 Q. Okay. And with the information that the lady gave  
13 you, you went upstairs to the 2nd floor?

14 A. Yes.

15 Q. And tell the judge what you did when you went to  
16 the 2nd floor?

17 A. I knocked on the room number that she gave and an  
18 individual answered the door. I asked for Harry  
19 Matthews and he went next door to the adjacent room  
20 and knocked on the door and called Harry and woke  
21 him up and then he came out and talked to me.

22 Q. Okay. At that point in time, did you have any  
23 correlation with these four men to the automobile  
24 that cut in front?

25 A. No.

1 Q. So why were you asking about these four men?

2 A. They could have been potential witnesses. I  
3 believed, because I went back to review the video  
4 after I determined that these people may or may not  
5 have been involved in the hotel, and I saw them at  
6 the stairwell. And there was three people that  
7 left and four people that came back.

8 Q. That's a little bit later, right? Right now we're  
9 at the door, okay. That's a little bit later, what  
10 you just talked about? You didn't have those  
11 videos when you went up there and knocked on the  
12 door to talk to Harry, did you?

13 THE COURT: Now, which videos are you talking  
14 about?

15 MR. KNIZLEY: He's talking about 20 and 8.

16 THE COURT: 20 and 8, is that what you're  
17 talking about?

18 MR. KNIZLEY: Yes, sir. He had 20 and 8.

19 THE COURT: Okay. Go ahead. Go ahead.

20 Q. You didn't have the other videos, did you?

21 A. I'm trying to remember. I want to say -- I really  
22 want to say that when I went back to the hotel to  
23 inquire about these four individuals, that I asked  
24 to see the cameras again.

25 Q. And maybe at that time looked at them?

1 A. Yes.

2 Q. You say the cameras again; are you looking at 20  
3 and 8 again? Are you looking at the interior  
4 pictures we saw today?

5 A. Looking at all the cameras that the hotel offered.

6 Q. We know that's seven hours. Did you look at seven  
7 hours of video that day and then go knocking on the  
8 door?

9 A. I looked at the time of the crash and the time that  
10 they walked back.

11 Q. Okay. Now, you say you did, do you remember doing  
12 it, or you think you had done it?

13 A. I remember doing it. I don't remember -- I didn't  
14 collect the video for those three views at that  
15 time.

16 Q. Are you telling the Court that at that time you  
17 stopped and made a conscious decision you saw three  
18 people come and then four people come out and only  
19 three people come back in?

20 A. Yes, three people come out and four people come  
21 back. Three people left the stairwell and then  
22 four people returned and that was the same four  
23 people that would have been on the first two  
24 cameras.

25 Q. Does that in any way reflect that the fourth person

1           somehow was operating the vehicle?

2   A.    It brought to me the assumption, yes.

3   Q.    Explain to the judge how a video of three people in  
4           the room and four people come back out make the  
5           fourth person somehow potentially the person that  
6           was operating the vehicle that cut in front of  
7           Nakhla?

8           THE COURT:  Do you mean three people leave  
9           the hotel, four people come back?  Because you  
10          didn't say that, literally.

11          MR. KNIZLEY:  I think the Court has an  
12          understanding and I may have said it --

13          THE COURT:  That's okay.  You mean what makes  
14          him conclude from three people leaving the hotel  
15          and four people coming back or something?

16   Q.    That the fourth person that came back with the  
17           three people was in some way affiliated with the  
18           car that cut in front of Nakhla; what was it about  
19           the circumstances you viewed, if you gained that,  
20           that understanding, what led you to that  
21           understanding?

22   A.    The crash happened at 12:40.  The car goes to the  
23           back of the parking lot at 12:41.  There's four  
24           individuals running down the fence line.  I look at  
25           the other cameras, at 12:41, there's three

1 individuals running down the stairwell. It's  
2 assumed at that point the fourth person is the  
3 driver of the Lexus.

4 Q. Anymore than that?

5 A. No.

6 Q. There was another car that came in a minute or so  
7 earlier, right?

8 A. It was a couple of minutes earlier as I recall.

9 Q. Did you think that might be the person or you  
10 concluded it was the person or say, well, I'm going  
11 to investigate this further?

12 A. I assumed and I wanted to investigate further.

13 Q. Okay. And then you saw the people come back, okay.  
14 And then so after looking at that that morning, you  
15 go up and talk to Harry?

16 A. Yes. Well, when?

17 Q. August 2nd about 9:40?

18 THE COURT: No. Wouldn't it be August 1st?

19 THE WITNESS: No, sir. It was the day after.

20 THE COURT: Okay. Go ahead.

21 A. Yeah, that's relatively accurate, yes, sir.

22 Q. It is the Sunday morning, right? It's not the same  
23 morning of the crash, is it?

24 A. No.

25 THE COURT: You go the next day?



1 MR. KNIZLEY: Yes, sir.

2 THE COURT: Okay. I lost that chronology.

3 Go ahead.

4 Q. You go up there and so Harry has been in that room  
5 registered. You know he got registered on Friday  
6 night and you know he's registered on Saturday  
7 night because that's when you went up there, Sunday  
8 morning?

9 A. Yes.

10 Q. Did you ask or inquire whether he was registered  
11 Thursday, Wednesday or on back?

12 A. No.

13 Q. Did you inquire whether he was registered to stay  
14 longer than that?

15 A. No.

16 Q. Did you inquire whether Harry had a Mobile address?

17 A. No.

18 Q. Wouldn't that have been important to you?

19 A. No.

20 Q. Okay. Did he have a Mobile address, if you know?

21 A. I don't know.

22 Q. Do you know now?

23 A. I don't know now.

24 Q. Wouldn't you find it odd that somebody from a  
25 Mobile address, unless they had some problem with

1           their house and their plumbing or electricity, to  
2           go rent a hotel room for two nights?

3   A.    No.

4   Q.    All right.  You talked to Harry and what did you  
5           ask Harry and what did he say to you?

6   A.    I asked him if he knew who the fourth person was  
7           that they ran down the fence line with.

8   Q.    And what did he say?

9   A.    He said that was Christopher Davis.

10  Q.    What did you say then?  What else did you say?

11  A.    I said what kind of car was Christopher Davis  
12           driving and he told me a Lexus.

13  Q.    All right.  And did he say what his relationship to  
14           Christopher Davis was?

15  A.    I didn't pry into their relationship.  I asked for  
16           his phone number and I made him show me his  
17           Facebook page so that I could later go back and  
18           identify who I was talking to if I needed to track  
19           him down further.

20  Q.    And he had his Facebook page readily available for  
21           you?

22  A.    Well, yeah.

23  Q.    What do you mean, well, yeah?

24  A.    I mean, he pulled up his Facebook on his phone and  
25           typed in Christopher Davis's name and showed it to

1 me.

2 Q. You've got to bear with me. I don't have Facebook  
3 on the phone, okay. I didn't know everybody had  
4 that. Okay.

5 A. Okay.

6 Q. So you're saying that he pulled up Facebook  
7 generally and typed in Chris Davis or has he got  
8 him sort of logged in on his phone as a friend in  
9 Facebook or something like that or what?

10 A. I mean, they're friends on Facebook. I mean, it's  
11 obviously how he was able to find him, yes.

12 Q. He told you he was friends with him on Facebook?

13 A. I asked him if he could pull him up on Facebook. I  
14 didn't inquire into their personal life. I asked  
15 him if he could show me --

16 Q. And he did?

17 A. Yes.

18 Q. Did you know his last name at that time, or did he  
19 give you his last name at that time, or did he say  
20 his name was Chris?

21 A. Yeah, he said Christopher Davis and he gave me his  
22 cell phone number.

23 Q. And he didn't say he was his brother-in-law, right?

24 A. No.

25 Q. You later found that out?

1 A. Yes.

2 Q. Did he say how he knew Chris?

3 A. No.

4 Q. Did he say what the purpose of Chris coming --  
5 being there that Friday, early Saturday morning  
6 was?

7 A. No.

8 Q. Did you ask him?

9 A. No.

10 Q. So you got those two things. Did you say if anyone  
11 was with Chris that night? Did you ask that?

12 A. I did not because there was nothing to me on the  
13 video that indicated that he would have had a  
14 person with him because there was nobody else seen  
15 on the video. It was just three people running  
16 downstairs accompanied by a fourth person and then  
17 four people walk back up the stairs, that was it.

18 Q. But in the car, doesn't there seem to be another  
19 person riding with Chris in the car when it first  
20 comes under the canopy?

21 A. In my first observations of the video without  
22 having just talked to Chris?

23 Q. And have you talked to Chris any this week?

24 A. Yes.

25 Q. For two and-a-half years you thought what?

1 A. I thought he was alone.

2 Q. Looking at that video, you thought he was alone?

3 A. Absolutely.

4 Q. Okay. What do you think now?

5 A. Well, now I've been told otherwise by Chris.

6 Q. You've been told what?

7 A. That he had his wife and his little baby girl with  
8 him.

9 Q. While we're on that, did he explain why his wife  
10 and baby girl was not on any of these videos we  
11 just watched?

12 A. Yes.

13 Q. What is that?

14 A. They stayed in the car because it was early in the  
15 morning and the baby was sleeping.

16 Q. They were leaving in the morning for what?

17 THE COURT: No. I think he said staying.

18 MS. RICH: He said he was staying.

19 A. They were staying, they stayed in the car.

20 MS. RICH: It was early in the morning.

21 MR. KNIZLEY: I'm sorry. If you don't mind,  
22 can I do this, please? Do you mind?

23 Q. What did he say about the wife and kid being in the  
24 car?

25 A. Kids.

1 Q. Children, excuse me.

2 A. They stayed in the car. It was early in the  
3 morning and they didn't want to get out.

4 Q. Did he explain to you why he drove at 12:40 in the  
5 morning with his wife and children to the hotel to  
6 only stay there 30 minutes?

7 A. Yes.

8 Q. What was that?

9 A. Harry Matthews is his sister-in-law, his wife's  
10 brother, and I don't believe that they had seen  
11 each other in a while and that's it. I don't  
12 believe that they had seen each other for a while.

13 And the two other individuals were -- and I  
14 believe, this is what he told me, but he'll  
15 obviously testify better than I could tell you what  
16 he knows, that the other two were military and they  
17 had come into town, and that he had learned about  
18 them coming into town either the day or the day  
19 before because it was arranged by Harry and not  
20 him. And once he found out, he wanted to see his  
21 friends.

22 Q. What were their names?

23 A. I don't know the other two names, that's something  
24 that Christopher has.

25 Q. When did Chris first begin cooperating with the

1 police?

2 A. I don't -- I don't know when. He started speaking  
3 with counsel, but he was very forthcoming to talk  
4 to me during this week.

5 Q. Starting Monday?

6 A. Yesterday, yesterday.

7 THE COURT: When you say this week, you're  
8 talking about this calendar week of '23? Is that  
9 what y'all are saying?

10 THE WITNESS: Yes.

11 MS. RICH: Trial week, right?

12 A. Yes, yes, this week.

13 Q. And Ms. Rich or Ms. Walsh told you that they had  
14 had contact with Mr. Davis and now he wants to talk  
15 to law enforcement? Is that how you got around to  
16 talking to him?

17 A. Yes.

18 Q. And when did they tell you that?

19 A. Yesterday.

20 Q. All right. And did they tell you that he'd been up  
21 there since Monday?

22 A. I didn't know that information.

23 Q. Did they tell you he had been up there since  
24 Monday?

25 A. They didn't have that information, no.

1 THE COURT: When you're asking up there, what  
2 are talking about?

3 MR. KNIZLEY: Up here in the courthouse --

4 THE COURT: Okay. Go ahead.

5 Q. -- at or around the DA's office, you didn't know  
6 that?

7 A. No.

8 Q. Nobody's ever told you that?

9 A. No. The first time I've seen him since I  
10 interviewed him in my office was yesterday.

11 Q. It was yesterday he first began to divulge this  
12 information to you; is that right?

13 A. Yes.

14 Q. You didn't think it was important to ask him the  
15 names of the two other people that were with them?

16 A. He mentioned it. It wasn't -- I wasn't -- I was  
17 present while he was being deposed.

18 Q. Oh, I'm sorry. You didn't interview him?

19 A. I was there.

20 Q. Yes, sir. You did not interview him, did you?

21 A. I wasn't the primary person to be speaking with  
22 him. I was there secondary and I did ask certain  
23 questions.

24 Q. Who asked the questions?

25 A. Ms. Rich.



1 Q. And while you were present while Ms. Rich was  
2 asking questions yesterday, did you become aware  
3 that Ms. Rich had talked to him earlier in the week  
4 as well?

5 A. I don't recall that being in the conversation.

6 Q. Well, did you become aware of it not only in that  
7 conversation but by some other means? You didn't  
8 know Chris had been up here since Monday?

9 A. No. I've been in the courtroom with you.

10 Q. Okay. Just tell us what -- Ms. Rich was asking the  
11 questions and did she or did she not, to your  
12 recollection, ask the identity of the other two  
13 people that were in the video that we just saw?

14 A. Yes.

15 Q. What are their names?

16 A. I don't recall because I did not have a pen and  
17 paper and I wasn't writing the answers down.

18 Q. Was it recorded?

19 A. No.

20 Q. Are you sure?

21 A. I didn't have a recorder on.

22 Q. Did you see any other court recorders around?

23 A. No, I did not notice any other recorders.

24 Q. Okay. Let me back up a little bit more now.

25 A. I do want to make a correction.

1 Q. Sure. Yes, yes.

2 A. Because on Wednesday when we started and when the  
3 jury was seated, I did see Chris sitting on the  
4 bench, but I did not talk to him Wednesday and that  
5 was when the judge ordered the rule and he stepped  
6 out.

7 Q. Fair enough. You're just clarifying that you did  
8 see him?

9 A. On Wednesday.

10 Q. But yesterday was the first time you were present  
11 when he was interviewed about the case?

12 A. Yes.

13 Q. Let's back up a little bit now. You didn't get the  
14 videos we saw today, the numbers being Channel 19,  
15 7 and 6. You say your best recollection is back on  
16 August 2nd, 2020, you did not ask the person at the  
17 Comfort Inn to download those videos for you that  
18 day or did you?

19 A. I did not.

20 Q. Did you at some later time go back and get those  
21 downloaded?

22 A. I did.

23 Q. And when was that?

24 A. I looked at the time on the file and it said 9/2 of  
25 2020.

1 Q. '21?

2 THE COURT: Did you say 2020?

3 A. 2020.

4 Q. 2020. So about a month later on September the 2nd,  
5 2020, you got them downloaded. Did you do that at  
6 anyone's direction, such as, Jennifer Wright?

7 A. Yes. It was directed that I should go download  
8 what I observed and how I identified the driver.

9 Q. Jennifer Wright asked you to go retrieve or  
10 download the information from the --

11 A. Comfort Inn.

12 Q. -- Comfort Inn at how you identified the driver?

13 A. Yes.

14 Q. And did you do that?

15 A. Yes.

16 Q. And did you make a note in your file about that?  
17 Just explain the filing system about evidence  
18 collection in the Mobile Police Department you had  
19 right there and how that is correlated with the  
20 District Attorney's Office in keeping up with  
21 evidence.

22 A. I keep everything together. Once I get something,  
23 I try to burn it on a CD or burn it on two CDs, one  
24 for me and one to turn in.

25 Q. Do you have a log you make?

1 A. No.

2 Q. If the District Attorney asks you to get a video  
3 and you go get the video, do you then turn it over  
4 to the District Attorney and make some record of  
5 that?

6 A. When I turn everything over to them, I turn  
7 everything over at once.

8 Q. Well, the driver of this other car is sort of an  
9 important thing, isn't it?

10 A. It's related. I wouldn't say it's --

11 Q. Okay. Say whatever you want, it doesn't matter.  
12 The DA asked you to go get it?

13 A. Yeah.

14 Q. And did you bring it back and hand it to her?

15 A. Not that single three videos. Like I said,  
16 everything is collected during my investigation.  
17 And when I get ready to present it to the District  
18 Attorney, I bring everything up and I provide it to  
19 them.

20 Q. When did you give this information to the District  
21 Attorney?

22 A. I don't recall a specific date.

23 Q. Best recollection?

24 A. Between the date of the crash --

25 MS. RICH: Your Honor, can we specify when --

1 THE COURT: Just a minute.

2 MS. RICH: I've asked him to --

3 THE COURT: Just a minute. Let me hear.  
4 I've got to hear her.

5 MS. RICH: My objection is I'm asking for  
6 specification of which video. There's five views.

7 THE COURT: What was your question? Say it  
8 again, Mr. Knizley.

9 Q. When did you deliver the channels that you were  
10 asked by Jennifer Wright to go pick up that  
11 identified the driver which were Channels 6, 7 and  
12 19?

13 THE COURT: Okay.

14 MS. RICH: Thank you. That assumes that he  
15 did something, Your Honor.

16 THE COURT: Okay. Listen to what he says.

17 MS. RICH: That is an assumption, that's my  
18 objection.

19 THE COURT: All right.

20 A. It would have been between the time of the  
21 incident, obviously. I mean, I don't want to say  
22 too early because I don't know what their log shows  
23 on when they gathered anything, but it would have  
24 been around the time of his first arrest.

25 Q. And do you recall when that was?

1 A. Honestly, I don't.

2 Q. Would it be fair to say it would have been within a  
3 couple of weeks or a month from when you gathered  
4 it?

5 A. (No Response)

6 THE REPORTER: Wait. Wait. He didn't  
7 answer. He didn't answer the question.

8 Q. I'm sorry. Go ahead.

9 A. I don't know.

10 Q. Do you feel that she had those videos before the  
11 warrant was issued for Dr. Nakhla's arrest?

12 THE COURT: What did you say? I couldn't  
13 understand what you said.

14 A. I breathed. Honestly, I don't know for sure.

15 Q. What do you think?

16 THE COURT: Well, we need to know. I mean,  
17 he can say what he thinks but that only goes so  
18 far, Dennis.

19 A. It's under my assumption that she had these videos  
20 before a Grand Jury.

21 Q. Okay. And why do you believe that?

22 A. Because when she had began asking me questions  
23 about the case that she wanted clarification on  
24 before Grand Jury, one of the instructions I was  
25 given was to review all the videos again and write

1 details about when to start videos and what happens  
2 on each video and I did that.

3 Q. Were you the witness in the Grand Jury that  
4 narrated the videos?

5 THE COURT: Well, wait a minute. We're not  
6 going to talk about Grand Jury. Okay. Next  
7 question.

8 Q. Well, she asked you to do that in preparation,  
9 right?

10 A. Yes.

11 Q. And you did that?

12 A. Yes.

13 Q. And did you report back to her you had done that?

14 A. Yes.

15 Q. And did that include information of Channels 7, 6  
16 and 19?

17 A. Yes.

18 Q. So at some time when you were preparing for the  
19 Grand Jury, you had gotten that information and  
20 discussed it with Ms. Wright. She asked you to  
21 prepare it, you said you prepared it?

22 A. I did prepare it and I sent my answers, if you  
23 will, and the video descriptions to her, and I was  
24 prepared on another sheet that included the  
25 questions and my answers that were sent back to me.

1 Q. Your answers that were sent back to you, in other  
2 words, as if Jennifer had reviewed what you had  
3 sent, the material?

4 A. I would assume that. I don't know who prepared the  
5 second document that had my answers included with  
6 her questions.

7 Q. Okay. And I'm not trying to pry into your Grand  
8 Jury proceedings or anything of that nature. Did  
9 you keep a copy of the video and send one to the DA  
10 or did the only copy go to the DA?

11 A. I had a copy.

12 Q. Did you make, to your best recollection, make a  
13 second copy and send it to the DA?

14 A. I would have to pop that CD in a CD drive to see if  
15 it's all five videos on it or just the two. I  
16 don't know. There is a CD that's for the Comfort  
17 Inn video and I would have to put it in a computer  
18 to verify if all five were on it or just the first  
19 two.

20 Q. Well, who has that CD?

21 A. I do, in the DA's Office.

22 Q. You're saying that you know that to be one in the  
23 same CD, a copy of the CD or one in the same CDs?

24 A. I burned two CDs, put video collections on a CD. I  
25 burn two, the same video is on each CD.



1 Q. And do you have a CD that has all five of them on  
2 it?

3 A. Like I said, I have a video -- I have a CD with  
4 Comfort Inn videos. I haven't put it in the  
5 computer in a while.

6 Q. Where did we get these today?

7 A. That would have -- I don't -- they were from the  
8 DA's Office.

9 Q. Where did we get the ones last night that Mr.  
10 Yeager and me and you stood right here and copied,  
11 where did that come from?

12 A. My file.

13 Q. Your file?

14 A. My file.

15 Q. And is that different from the CDs you're talking  
16 about?

17 A. Like I said, I would have to put the CD into a  
18 computer to see what's on the CD, if all five are  
19 on the CD or just two.

20 Q. Do you have it with you today?

21 A. Yes.

22 MR. KNIZLEY: Do you want me to include it  
23 somehow, Judge?

24 THE COURT: Sure, whatever you want to do. I  
25 told you, ask your questions.

1 Q. Could you get it for us and see what you got on it?

2 MS. RICH: Your Honor, can I take him on Voir  
3 Dire on this subject for just a second about the  
4 videos?

5 THE COURT: I'll allow that, sure.

6 MS. RICH: Okay.

7 THE COURT: That's routine, but get your disc  
8 anyway and let Ms. Walsh have it so she might can  
9 assist you. I'll put it on VC-1. That way, she  
10 can look and pull up whatever you want to look at.  
11 Come back up here, Detective. Yes, she's just going  
12 to plug it in and you can look at it.

13 VOIR DIRE EXAMINATION

14 BY MS. RICH:

15 Q. Detective McCullough, we've had a lot going on  
16 today. So didn't you tell me just a few minutes  
17 ago that you looked at the list of Comfort Inn  
18 videos on your computer and that there are two  
19 different dates? There's one date, maybe I  
20 understood this wrong, but there's one date for  
21 view, 8 and 20, and then you received it and  
22 there's another date for Channels 6, 7 and 19 when  
23 you received it?

24 A. Yes.

25 Q. Okay. Can you explain that, please?

1 A. The two different times that I would have  
2 downloaded the video that they were saved.

3 Q. Explain that. I don't understand what you're  
4 talking about. So on the first day, Channels 8 and  
5 20, they have a date on it, right?

6 A. Yes.

7 Q. Okay. Is that the date you received the videos?

8 A. Yes.

9 Q. From the Comfort Inn?

10 A. Yes.

11 Q. And what date was that?

12 A. 8/2/20.

13 Q. Right. And you provided discovery to the District  
14 Attorney's Office on 8/2, didn't you?

15 THE COURT: That was the 8 and 20 videos?

16 MS. RICH: Yes.

17 Q. You provided, on that day, discovery to the  
18 District Attorney's Office?

19 A. If you have that on record that I turned in  
20 evidence on 8/2, then yes.

21 Q. And then the channels that are in question here  
22 today, Channels 6, 7 and 19 have a different date  
23 on your computer that you received them from the  
24 Comfort Inn, correct?

25 A. Yes.

1 Q. And what is that date?

2 A. 9/2/2020.

3 MS. RICH: Okay.

4 THE COURT: Mr. Knizley.

5 MR. KNIZLEY: Do you have a device where you  
6 can put that in and check that CD out?

7 THE COURT: Ms. Walsh has it plugged in.

8 MS. WALSH: Yes, it's right here, Judge and  
9 it's exactly what we have been saying. We have 8  
10 and we have 20.

11 Q. The CD you just gave him has 8 and 20 on it? Do  
12 you have a different CD that has 6, 7 and 19 on it?

13 A. That is the only CD that I'll have Comfort Inn  
14 video on.

15 Q. I can't hear you.

16 A. That is the only CD that I would have had Comfort  
17 Inn video on that I turned in.

18 Q. So you don't have 6, 7 and 19?

19 A. I guess I don't.

20 Q. So if you don't have it, you didn't turn it over to  
21 them yesterday, right?

22 A. No.

23 Q. You didn't turn it over to them last week?

24 A. No.

25 Q. You didn't turn it over to them last month?

1 A. No.

2 Q. A year ago?

3 A. No.

4 Q. Ever?

5 A. I guess not.

6 Q. Somebody did, but they had, yesterday 6, 7 and 19?

7 A. No, they got it this morning.

8 Q. No. I had 6, 7 and 19 --

9 A. Last night --

10 Q. Didn't they sit right here and tell us that there  
11 were three more they wanted to put into evidence  
12 yesterday?

13 A. When you and Ms. Rich were talking about  
14 introducing the Comfort Inn videos, Ms. Rich said,  
15 if I recall correctly --

16 THE COURT: This is yesterday?

17 MR. KNIZLEY: Yes.

18 THE COURT: Go ahead. By the way, we're not  
19 in here at this point, the judge and the court  
20 reporter, right? The case is over for the day.  
21 Okay. Go ahead.

22 A. Y'all were talking about introducing the Comfort  
23 Inn video. She said she wanted to introduce the  
24 Comfort Inn video, if you had any objections. You  
25 said to the two videos, and she said to the two

1 videos. And then you said, is that all the video,  
2 and then y'all both looked at me and I said, no,  
3 there should be internal cameras.

4 Q. Ms. Walsh didn't say there were more videos, if you  
5 recall?

6 A. I don't remember any of that --

7 Q. Okay.

8 THE COURT: Can he finish? I want to hear  
9 this chronology. Go ahead. So continue. What  
10 happened?

11 MR. KNIZLEY: Yes, sir.

12 A. I said that there was internal cameras into the  
13 hallway and the stairwell, not just the two  
14 external views. And Ms. Rich appeared like that  
15 was new knowledge and information to her, and you  
16 obviously appeared that that was new information to  
17 you. And I was very confused, why that was new  
18 information to both of y'all.

19 Q. Did Ms. Walsh or Ms. Rich say, well, we're not  
20 going to use that anyway, no need to turn that  
21 over?

22 THE COURT: You mean yesterday?

23 MR. KNIZLEY: Yes, sir.

24 A. We had --

25 Q. You don't have to look at them --

1 A. I'm not looking at them. I'm trying to think. Say  
2 again.

3 Q. Didn't you hear them say that we're not going to  
4 use that anyway, you don't need to give it to them?

5 THE COURT: Mr. Knizley, Mr. Knizley.

6 MS. RICH: Judge --

7 THE COURT: Wait. Stop. Mr. Knizley, let  
8 him have some time to answer.

9 MR. KNIZLEY: Yes, sir.

10 THE COURT: You're rapid firing -- the record  
11 is not going to reflect how quickly the questions  
12 are coming, but the detective is trying to answer.

13 MR. KNIZLEY: Yes, sir.

14 A. I'm sorry. The judge was talking and I was  
15 waiting. You're going to need to repeat.

16 Q. I'm giving you an opportunity to think about  
17 whether or not you heard Ms. Rich or Ms. Walsh say  
18 you don't need to give him that, we're not going to  
19 use that anyway.

20 A. I honestly don't -- I don't recall that part of the  
21 conversation. I really don't.

22 Q. You mentioned a log, when you turn something over  
23 to the DA, if the DA could look at their log,  
24 right, and see when you turned something over?

25 A. I believe that they take the log.

1 Q. Do you believe that or do you know that?

2 A. I assumed that everything that I give them that  
3 they -- because they scan it in.

4 Q. Have you ever seen a log of that nature before?

5 A. No.

6 Q. Okay. But it's your impression or understanding  
7 they have a log?

8 A. Yes, because they scan everything into court.

9 Q. Let's go back then to you going and interviewing  
10 Harry and getting Chris' phone number. And did you  
11 call Chris?

12 A. I did.

13 Q. What happened then?

14 A. I told him who I was. I told him I needed to speak  
15 with him. I asked him to come meet with me, he  
16 said he was at work. I said, where do you work and  
17 the phone was disconnected.

18 Q. And did you try to call him back?

19 A. I did.

20 Q. Were you blocked I think is what it was?

21 A. I was never answered.

22 Q. What happened after that in regards to your  
23 interview with Chris Davis?

24 A. I continued looking into him to try to track him  
25 down further. I continued to call him the



1 following days. I spoke to someone, may have been  
2 his mother, that said that she would have him call  
3 me. And then I did speak to him and told him he  
4 needed to come in and make a statement about that  
5 night, and he showed up at my office with his  
6 uncle.

7 Q. Did you talk to his uncle before then?

8 A. No.

9 Q. And tell us what happened when he and his uncle  
10 showed up?

11 A. I had never met his uncle before. I did not know  
12 he was affiliated with MPD.

13 Q. Did he introduce himself and let you know that he  
14 used to be a Mobile Police Officer?

15 A. No.

16 Q. Did he ever do that?

17 A. No, not to me.

18 Q. Did you ever become aware of that before you got  
19 the statement from Mr. Christopher Davis?

20 A. No, it was after.

21 Q. And after the uncle said, you know, was up there,  
22 he said he's going to write out a statement I think  
23 is what he said, right?

24 A. Yes. He said he was only there to make a written  
25 statement.

1 Q. And did you then try to interview him verbally?

2 A. Yes.

3 Q. And what happened then?

4 A. I don't really want to speak on his mind frame but  
5 I mean, he was kind of uneasy and he said I'm only  
6 here to make a statement and that's on body cam.

7 Q. Right. We've seen that, right, you've given it to  
8 us?

9 A. Yes.

10 Q. And this is August 5th, right?

11 A. If that's the date on the body cam.

12 Q. That's the written statement I'm saying, the  
13 written statement I'm talking about now. And maybe  
14 the body cam too, but the written statement is  
15 dated August 5th; is that right?

16 A. I would refer to the body cam date. I'm not a  
17 hundred percent sure -- I don't know who wrote that  
18 date.

19 Q. Is that the statement he gave? (Indicating)

20 A. Yes, but I didn't write that date so I would defer  
21 to the body cam date.

22 Q. Okay. Looks like it's 3:14 in the afternoon; does  
23 that sound about right?

24 A. I would defer to the body cam time. Like I said, I  
25 did not write that date or time, I usually do on my

1 witness statements.

2 Q. Okay. That's all the information you got from him,  
3 right?

4 A. Yes.

5 Q. So four days after the wreck you know a guy was up  
6 in a hotel room at one of these places that you  
7 used to patrol and know what kind of activity goes  
8 on there, right?

9 A. Yes.

10 Q. And he won't give you a statement, okay, and you  
11 have to run him down and you can't call him back.  
12 Did you then try to get his telephone to see if  
13 he's on any phone activity?

14 A. You mean --

15 Q. In a homicide investigation, traffic homicide  
16 investigation, is it typical to take the phone of  
17 the operator of the vehicle that may be involved in  
18 the accident to see what kind of phone activity  
19 there may be at or about the time of the collision?

20 A. The operators that are involved in the accident,  
21 yes.

22 Q. Well, you had the video; did you not?

23 A. Yes.

24 Q. And you saw the car turned in front of this other  
25 car; did you not?

1 A. Yes.

2 Q. And you knew this was a place where, from time to  
3 time, there was drug activity, right?

4 A. Sure.

5 Q. Were you able to determine any place of employment  
6 of Mr. Davis or anything else?

7 A. No.

8 THE COURT: Hold on. I'm going to let you  
9 keep going, but I just would ask counsel, both  
10 sides as officers of the Court, this is not  
11 cross-examination for the trial for the jury. I  
12 hear you. I want to be mindful of the purpose of  
13 this hearing, which is issues that bear on the  
14 motion for mistrial and the disclosure issue.

15 MR. KNIZLEY: Yes, sir.

16 THE COURT: I know some of this may be  
17 tangentially related. This is certainly  
18 cross-examination in front of the jury, but you're  
19 getting into just stuff that I'm not sure it bears  
20 on the pending issue.

21 MR. KNIZLEY: And Judge --

22 THE COURT: I'm not cutting you off.

23 MR. KNIZLEY: Again, Judge, that's why I  
24 asked --

25 THE COURT: We're not going to finish today

1 with the witnesses if we don't stay on track.

2 MR. KNIZLEY: I know, and that's why I asked  
3 about the parameters. I didn't know where you  
4 wanted me to go.

5 THE COURT: I'm not cutting you off. I'm not  
6 cutting you off. I want you to do what you --  
7 given the circumstances, I'm giving great freedom  
8 to counsel to ask, but I'm asking you as an officer  
9 of the Court, it's 3:30 on a Friday and I just want  
10 to make sure we get the -- I want to get those  
11 other two witnesses so both sides can do their  
12 research this weekend and we can have a vigorous  
13 discussion or argument on Monday morning is my  
14 plan. Go ahead.

15 MR. KNIZLEY: Yes, sir.

16 Q. And back to my question, you had a reluctant  
17 cooperating witness, right? You had a reluctant  
18 witness?

19 A. Yes.

20 Q. And you had the video where the car turned in front  
21 of the other vehicle?

22 A. Yes.

23 Q. And you knew he had stayed or you had saw him at a  
24 -- you downloaded the -- you had not downloaded all  
25 the video at that time, right?

1 A. Yes.

2 Q. You had not?

3 A. I had not.

4 Q. But you knew it was a high crime area?

5 A. Yes.

6 Q. And you knew there were drugs often in these type  
7 -- in this particular hotel from your patrol  
8 experience?

9 A. I'm familiar with the beltline, I know how it  
10 operates. This specific hotel, I have not had any  
11 encounters of that nature at that hotel, but I know  
12 that they're all similar.

13 Q. Okay. And you knew when the car came up at 12:40  
14 in the morning?

15 A. Yes.

16 Q. And you knew the car left -- did you know the car  
17 left 30 minutes later at that time?

18 A. I did not.

19 Q. Did you see Corporal Estes, his video at that time?

20 A. I saw Corporal Estes' video.

21 Q. So you know the car left at that time?

22 A. I did not know it was the same car --

23 Q. You didn't associate the two cars at that time?

24 THE REPORTER: Dennis, let him get his  
25 question out. You're right on top of him. Okay.

1 MR. KNIZLEY: I'm sorry, Carol. I'll try to  
2 slow down. I promise.

3 THE COURT: While we've got an interruption,  
4 can I get a copy of the witness Davis's statement?  
5 Could I just see it?

6 MR. KNIZLEY: Give him ours.

7 THE COURT: I'll get Preston to make a copy  
8 and give yours back to you.

9 MR. KNIZLEY: We've got plenty of copies,  
10 Judge.

11 THE REPORTER: You said: "Did you know that  
12 the car left 30 minutes later at that time."

13 Q. And did you?

14 A. I did not.

15 Q. Okay. When did you look at Officer Estes' video  
16 and make that determination?

17 A. Last night.

18 Q. That was the first time y'all came to that  
19 conclusion from Officer Estes' video?

20 A. After speaking to Christopher Davis.

21 Q. Okay. All right. So we're at August 5th and he's  
22 not giving you an oral statement. Do you or do you  
23 not ask for his phone at that time?

24 A. I did not.

25 Q. And certainly I'm not trying to pick on you, but

1           why not?

2   A.    Because that car was not -- there was no contact  
3           between the Defendant's car and Chris Davis's car.  
4           They were not involved in a collision.

5   Q.    Is that the only criteria you would give to whether  
6           a car cut in front of someone where you should see  
7           if the guy was on the cell phone?

8           MS. RICH: Judge, this does not have any  
9           bearing on any of this. This is asking a Daubert  
10          hearing.

11          THE COURT: Okay. Stop. I really agree with  
12          what the State is saying. This is good stuff for  
13          cross-examination. I just don't know what this has  
14          got to do with the motion for mistrial and  
15          disclosure issue.

16          MR. KNIZLEY: I will try to focus on that,  
17          Judge.

18          THE COURT: Okay. And I will say this to  
19          both sides, you know, when you're a lawyer and  
20          you're up on your feet, you have a dynamic and  
21          experience factor that drives your examinations.  
22          And I know because I've been there, and so I  
23          understand, I'm not upset. But we need to focus on  
24          the issue and just try to remember. Go ahead.

25          MR. KNIZLEY: Judge, you know, when we get



1 down to the disclosure of evidence, you know, these  
2 factors are related to some degree.

3 THE COURT: They're related. They're  
4 related, there's no question. The question is how  
5 closely.

6 Q. And so with that information, then a month later,  
7 Jennifer Wright asks you to go get the other videos  
8 you had viewed of the hallways that we saw today?

9 A. Yes.

10 Q. And I know I asked you, but is your understanding  
11 what you turned -- you followed her request and  
12 turned that over to her?

13 A. I was under the impression that I did.

14 Q. Now, so when you get those videos, do you see a man  
15 being carried down the hallway, for whatever reason  
16 he cannot function very well?

17 A. Prior to the crash, yes.

18 Q. 30 minutes prior to the crash?

19 A. Yes.

20 Q. Do you have a Facebook record for that time?

21 A. I don't recall of the date that I received the  
22 Facebook records.

23 Q. Did you see another gentleman that had a very  
24 difficult time walking down the hallway?

25 A. No, not that I --

1 Q. See it today?

2 A. No.

3 Q. You did not see a man walking down the hallway just  
4 about bouncing from side to side, you didn't see  
5 that?

6 A. I'd be more than happy to look at it again.

7 Q. You're the agent in charge and you were sent back  
8 to look at these videos and you got these videos,  
9 and you're telling the Court you did not see a  
10 person walking down the hallway with this group of  
11 people into the room in question that was having a  
12 very difficult time walking; that's what you're  
13 telling the Court?

14 A. Like I said, if you want to play the video again  
15 and point it out to me, you know, I did not  
16 identify that.

17 Q. All right. But you did see the man being toted  
18 along the way?

19 A. Yes.

20 Q. And then after seeing that, did you go back to the  
21 Facebook videos and say I remember seeing some  
22 photographs in there about some people being real  
23 sick or something at or about the same identical  
24 time?

25 A. What time would that be?

1 Q. Between 12:30 and 1:30, August 1st, 2020.

2 A. What time are you asking that I went and discovered  
3 this information?

4 Q. I'm asking did you?

5 A. Yes, I did discover that.

6 Q. When was that?

7 A. Yesterday.

8 Q. Yesterday is the first time you put together the  
9 information you saw on Channel 7, 6 and 19 and  
10 compared that information to Chris Davis's video  
11 post at or about the same time, video post on  
12 Facebook?

13 A. It wasn't Chris Davis's video post. It was in a  
14 message that Chris Davis was a part of which is why  
15 it was included in his Facebook download. But yes,  
16 a picture depicting that person having vomited on  
17 himself in a car which I could identify him as  
18 being the person carried down the hall.

19 Q. And I think it may have been because I stood here  
20 and said y'all have seen the vomit pictures, right?  
21 That's what got you going on it?

22 A. That is what caused the inquiry.

23 Q. Okay. I'll wrap this up focusing on the mistrial  
24 issue, it is your understanding you turned 6, 7 and  
25 19 over to Jennifer Wright?

1 A. It is my understanding that I turned it into the  
2 DA's Office.

3 Q. Do you have any recollection of a conversation with  
4 Ms. Wright, Ms. Rich, Ms. Walsh or any other  
5 representative of the DA's Office about those  
6 videos after you were asked to get it prepared for  
7 Grand Jury, those videos being 6, 7 and 19?

8 A. I don't remember talking about it to anybody about  
9 the hallway videos other than the Grand Jury, not  
10 in the Grand Jury, other than the Grand Jury  
11 paperwork, the preparation.

12 Q. I think what we're saying, that's the last time you  
13 recall discussing 6, 7 and 19 with a representative  
14 of the DA's Office; is that what you're saying?

15 A. Yes.

16 MR. KNIZLEY: Pass the witness, Your Honor.

17 THE COURT: Can I get those pages you printed  
18 out from the Facebook? I want not only the  
19 pictures but the texts that are associated with  
20 them.

21 MR. YEAGER: Yes, sir.

22 THE COURT: Ms. Rich, Ms. Walsh, any  
23 questions from the State for this witness? Any  
24 questions from the State?

25 CROSS-EXAMINATION

1 BY MS. RICH:

2 Q. So the disc that you provided us, you know, the  
3 disc that Ms. Walsh has put in here, okay, you gave  
4 that to the District Attorney's Office, right?

5 A. Yes.

6 Q. Do you have a disc that you allegedly gave to the  
7 DA's Office that contained 6, 7 and 19?

8 A. That is the CDs that I have in that little orange  
9 folder is the CDs that I provided to the District  
10 Attorney's Office.

11 Q. And the only one in there that you provided to the  
12 District Attorney contains Channels 8 and 20?

13 A. Yes, ma'am. Yes.

14 Q. So you didn't provide 6, 7 and 19 to the DA's  
15 Office?

16 A. There's a possibility I did not, no, not  
17 intentionally.

18 Q. Right. No one is saying anybody did anything  
19 intentional, but you cannot provide a disc like you  
20 can for 8 and 20 that you provided to the DA's  
21 Office that contains 6, 7 and 19?

22 A. No, ma'am.

23 REDIRECT EXAMINATION

24 BY MR. KNIZLEY:

25 Q. Ms. Rich just asked you did you provide 6, 7 and 19

1 to the DA's Office. Did you or to the best of your  
2 knowledge, you provided 6, 7 and 19 to Ms. Wright;  
3 did you not?

4 A. To the best of my knowledge, I turned over all the  
5 evidence that I had.

6 Q. Did you provide 6, 7 and 19 to Ms. Wright to the  
7 best of your knowledge?

8 A. To my knowledge, yes.

9 Q. And that is further confirmed by you being asked to  
10 go over 6, 7 and 19 in preparation for Grand Jury  
11 testimony?

12 A. They didn't ask about 6, 7 and 19 in Grand Jury  
13 testimony.

14 Q. But you noted 6, 7 and 19 in that preparation?

15 A. I did note it in that preparation because they  
16 wanted the description of all the videos.

17 Q. And you sent that description back to Ms. Wright?

18 A. Yes.

19 Q. Thank you.

20 THE COURT: Any Recross, Ms. Rich?

21 MS. RICH: No.

22 THE COURT: Step down, Detective. Thank you.

23 Now, the next witness the parties wanted to talk to  
24 is which one?

25 MR. KNIZLEY: We were going to take Uncle