

1 we became aware of put our necks on the line.

2 Q So Mr. Harvey was arrested in February of 2017; is
3 that right?

4 A That's correct.

5 Q When did these teachers get arrested?

6 A About a year prior to that.

7 Q And to shift gears a little bit --

8 MR. HAYES: May I approach the witness, Your Honor?

9 THE COURT: You may.

10 BY MR. HAYES:

11 Q And do you recognize that?

12 A I do.

13 MR. HUTCHINS: Can he identify it, Judge?

14 THE COURT: Is it marked?

15 MR. HAYES: It is not yet marked. I'd like to mark
16 it as Defendant's -- is that 14?

17 THE CLERK: Fifteen.

18 THE COURT: Fifteen.

19 MR. HAYES: Fifteen, thank you.

20 MR. JUDKINS: What's the number?

21 MR. HAYES: Fifteen.

22 BY MR. HAYES:

23 Q What is that document?

24 A It's a runaway report on K. P.

25 Q Have you seen this document before?

1 A I haven't seen the actual City of Tallahassee
2 report, but the content of this was reproduced by both WCTV
3 and WTXL and was posted online.

4 Q What date was that?

5 MR. HUTCHINS: Judge, I'm going to object. Is he
6 going to read it off of there or does he know it?

7 THE COURT: If he knows it.

8 THE WITNESS: It was mid November.

9 BY MR. HAYES:

10 Q Mid November. And who showed that to you?

11 A Mr. Harvey.

12 Q And, again, it reflects a missing person's report --

13 MR. HUTCHINS: Objection to leading, Your Honor, as
14 to what it is.

15 THE COURT: It's leading. Restate the question.

16 BY MR. HAYES:

17 Q What type of document is it?

18 A It's a missing runaway juvenile report describing a
19 15-year-old female that the Tallahassee Police Department was
20 looking for at that point in time.

21 Q Did Mr. Harvey show you anything else about that
22 missing person?

23 A He did.

24 Q What did he show you?

25 A A video that she put online.

1 MR. HAYES: May I approach, Your Honor?

2 THE COURT: (Nods affirmatively.)

3 BY MR. HAYES:

4 Q Do those appear to be still screenshots from the
5 video that Mr. Harvey showed you?

6 A They do.

7 Q Did he show you that video at or about the time that
8 he showed you the missing persons report?

9 A Yes, sir, that's correct.

10 MR. HAYES: And, Your Honor, I'd like to introduce
11 the video itself.

12 MR. HUTCHINS: Objection.

13 MR. HAYES: It gets at the mental state --

14 THE COURT: Has it been marked? Are you asking for
15 it to be admitted?

16 MR. HAYES: No, no, no, no, sorry. My apologies.

17 THE COURT: I mean, you need to do this in the
18 proper manner.

19 MR. HAYES: You're right. I'd like to queue it up,
20 if possible. I intended to do that prior to.

21 THE COURT: Do you have an objection?

22 MR. HUTCHINS: Yes, Your Honor. What's the
23 relevance?

24 MR. HAYES: The effect that this video had on
25 Mr. Harvey. It substantially explains his behavior

1 later.

2 THE COURT: I'll allow it.

3 MR. HUTCHINS: Lack of foundation as well, Judge.

4 MR. HAYES: I can establish the foundation with
5 Mr. Perrine.

6 THE COURT: Well, you need to do that first.

7 MR. HAYES: Certainly.

8 BY MR. HAYES:

9 Q And so, Mr. Perrine, when Mr. Harvey showed you this
10 video, is there an audio track on the video?

11 A There's background music, which I heard many times
12 before I actually saw the video. Our offices are adjacent and
13 our doors are open.

14 Q And the video descriptions are already in evidence.
15 what does the video describe?

16 MR. HUTCHINS: Judge, I'm going to object. It's
17 hearsay.

18 THE COURT: That's sustained.

19 MR. HAYES: It's not asserted for any -- that any
20 part of the video is true, Your Honor, only that
21 Mr. Darrel -- Mr. Harvey saw the video and it had an
22 emotional effect on him.

23 THE COURT: Sustained.

24 BY MR. HAYES:

25 Q Did the video have a significant effect on

1 Mr. Harvey?

2 MR. HUTCHINS: Objection, calls for speculation.

3 THE COURT: That's sustained.

4 BY MR. HAYES:

5 Q Did the video have a significant effect on you?

6 A It had a significant effect on both of us.

7 MR. HUTCHINS: Objection, Your Honor, to the
8 response, "to both of us." He can only testify as to
9 what it had on him. You've already sustained our
10 objection.

11 THE COURT: All right. The jury is to disregard
12 that response. Ask the question again. And listen to
13 the question and answer the question in response to you.

14 BY MR. HAYES:

15 Q Did the video have a significant emotional effect on
16 you?

17 A Yes, it did.

18 Q What was that emotional effect?

19 A It's a video of a young woman talking about being
20 sexual --

21 MR. HUTCHINS: Objection. He's trying to backdoor
22 what's on the video. He can't testify to that.

23 MR. HAYES: Your Honor, it's already been testified
24 to what's the content of the video.

25 THE COURT: These stills are already in evidence.

1 MR. HUTCHINS: They are, Judge, you've just already
2 sustained our objection to what's contained in the actual
3 video. It's not in at this point.

4 THE COURT: I thought at this point we were going to
5 lay the foundation for the video.

6 MR. HAYES: Which is what I was trying to do, Your
7 Honor. Which the foundation for the video is that it had
8 a significant emotional effect on anybody that would view
9 it. It did, in fact, have a significant effect on
10 Mr. Harvey. And --
11 (Attorneys confer.)

12 MR. HAYES: The foundation is, Your Honor, that they
13 watched the video and that the video pertains to K. P.,
14 they acted on it.

15 THE COURT: All right. So you're marking it as a
16 particular exhibit? What, do you have it on a flash
17 drive?

18 MR. HAYES: I do, Your Honor.

19 THE COURT: And you're marking it as what,
20 Defendant's Exhibit No. 16?

21 MR. HAYES: Yes, Your Honor.

22 THE COURT: All right. Do you want to make another
23 objection for the record?

24 MR. HUTCHINS: I think there's been a lack of
25 foundation. We don't know when this video was made. We

1 don't know anything about it. We don't if it's been
2 altered in any way. What's contained within the video,
3 Your Honor, is hearsay.

4 And, again, it goes to no material fact as to this
5 specific case. Now, obviously, there are ways that they
6 could get it in, but I don't think they've laid the
7 proper foundation through this witness.

8 THE COURT: All right. I'm going to allow it to be
9 admitted as Defense Exhibit 16. I do note for the record
10 that there's already still shots in evidence in
11 Exhibit 12.

12 (Defendant's Exhibit No. 16 received in evidence.)

13 THE COURT: And so this will play the video. How
14 long is the video?

15 MR. HAYES: Less than ten minutes, I believe, Your
16 Honor.

17 BY MR. HAYES:

18 Q Mr. Perrine, as this plays, if you would, review the
19 still shots and verify that the still shots are an accurate
20 reflection of the video that Mr. Darrel showed you, and that
21 the video is an accurate and complete copy of the video that
22 he showed you.

23 (Video with no audio played in open court.)

24 BY MR. HAYES:

25 Q Mr. Perrine, are those screenshots an accurate

1 reflection of the posters that were held up?

2 A They are.

3 Q There are texts accompanying each screenshot because
4 some of those are a little -- are all of those screens easy to
5 read?

6 A No, no. She moved it back and forth. It was
7 sometimes difficult to read.

8 Q Does the text accompanying the still shots appear to
9 be an accurate reflection of the text written on the things
10 that she has held up?

11 A (Witness reviews document.) Yes, they do. The text
12 does match.

13 Q would you read them to the jury?

14 MR. HUTCHINS: Judge, this is cumulative at this
15 point. They've already published the video.

16 THE COURT: If they want to read them to the jury,
17 he can have him read them to the jury. They're going to
18 go back to the jury room with the jury and they've
19 already seen them once, but you can go ahead and read
20 them.

21 THE WITNESS: This is my story. This is not for
22 attention. And then there's something real small at the
23 bottom that we couldn't read there, that Darrel and I
24 couldn't --

25 THE COURT: Just read what you can read.

1 THE WITNESS: Sorry.

2 I lived with my mom and dad when I was little. I
3 used to visit this man's house and my brother would stay
4 in the living room. He used to take me in the room and
5 make me bend over. After all that was over, I went home.
6 I have no idea if my mom knows. I am currently living
7 with my mom and like it.

8 Then I moved and stayed with my dad. He raped me
9 when I was nine. I don't -- IDK, which in teen speak is
10 I don't know, how many times he did, but I remember one
11 time. My mom or anybody else had no idea. I was
12 heartbroken. Day by day I lived with depression. I was
13 sad inside. I always seem happy on the outside, but day
14 by day I struggle with depression.

15 My mom don't even know how I feel day by day. I am
16 hurting. I cry myself to sleep a lot. I feel like
17 nobody cares. A couple weeks ago, I cut and my mom found
18 out. I was so sad, but I was happy because I want help.
19 I -- I am -- I am in like counseling and I talk to my
20 pastors.

21 It is really hard to say how I feel so I write it.
22 I hate myself. My friends cut and people think that they
23 talked me into it, but they don't know I cut before.
24 Well, I'm going to make more videos, but bye-bye for now.
25 I love you.

1 MR. HAYES: And, Your Honor, I would move to admit
2 the poster. I believe that was Defendant's 15.

3 THE COURT: Any objection?

4 MR. HUTCHINS: I'm sorry, I didn't hear what he
5 said.

6 THE COURT: He's moving to admit Defense Exhibit 15
7 into evidence, which is the missing persons poster.

8 MR. HUTCHINS: No objection.

9 THE COURT: It will be admitted.

10 (Defendant's Exhibit No. 15 received in evidence.)

11 BY MR. HAYES:

12 Q And did Darrel Harvey act on that video?

13 A He did.

14 Q What did he do?

15 A He investigated it. And I'm not sure exactly what
16 all he did, but he told me the next morning --

17 MR. HUTCHINS: Objection, Your Honor, hearsay.

18 THE COURT: That's sustained.

19 BY MR. HAYES:

20 Q On the TPD missing persons report, is there a phone
21 number to report to -- the whereabouts of the missing person?

22 A There is.

23 Q And what is that number? What are the last four
24 digits of that number?

25 A 4200.

1 MR. HAYES: And, Your Honor, I'd like to approach?

2 THE COURT: Okay.

3 BY MR. HAYES:

4 Q As part of your role at Net Tally, are you a records
5 custodian for the company?

6 A I am.

7 Q And in that role, do you know if the company
8 regularly keeps phone bills?

9 A They're all recorded online, yes, sir.

10 Q And does Mr. Harvey have a phone through the
11 company?

12 A He does.

13 Q And would you review that document that I have
14 placed in front of you?

15 MR. HAYES: And I'd like to mark that as
16 Defendant's -- is that 17?

17 THE COURT: Seventeen.

18 THE CLERK: (Nods affirmatively.)

19 (Defendant's Exhibit No. 17 marked for identification.)

20 BY MR. HAYES:

21 Q Does that appear to be a phone bill kept in the
22 ordinary course by Net Tally?

23 A It is.

24 Q And if you would review that and make sure that it
25 is a complete copy of the phone bill?

1 A It appears to be, yes. There's a lot of phone
2 numbers.

3 Q If you would, does -- Mr. Harvey has one phone. If
4 you would flip to the pages that are Mr. Harvey's phone
5 number, phone records. I believe there is a tabbed page. Is
6 that tabbed page in and among Mr. Harvey's records; that is,
7 the records for his cell phone?

8 A It is.

9 Q And that is his company cell phone?

10 A That is correct, yes, sir.

11 Q And on the date -- or, if you would, review the date
12 on the missing persons report.

13 A November 9th, 2016.

14 Q Are there phone records from November 9th, 2016?

15 A Yes, there are.

16 MR. HUTCHINS: Judge, I'm going to object to what's
17 contained within there. They haven't introduced those in
18 evidence and they haven't moved to introduce them in
19 evidence. What's contained within there is hearsay.

20 THE COURT: That's correct.

21 BY MR. HAYES:

22 Q This phone bill is regularly kept in the course of
23 business?

24 A It is.

25 Q Did you retrieve it?

1 A I did.

2 Q How did you do that?

3 A Verizon maintains a customer web portal. And I went
4 into that web portal and retrieved all of the calls -- at the
5 time I did the retrieval, all the calls for the month of
6 November.

7 MR. HAYES: Your Honor, I would move to admit
8 Defendant's --

9 THE COURT: Seventeen.

10 MR. HAYES: -- seventeen. Thank you.

11 THE COURT: Any objection?

12 MR. HUTCHINS: Can I inquire, Your Honor?

13 THE COURT: You may.

14 MR. HUTCHINS: Inquire of the witness? Thank you.

15 VOIR DIRE EXAMINATION

16 BY MR. HUTCHINS:

17 Q Do you work for Verizon?

18 A No, sir, I do not.

19 Q Did you create those records?

20 A No, sir, I did not.

21 Q Okay. So those were records that were created by
22 someone else; correct?

23 A Yes, sir, that's correct.

24 Q Do you know when Verizon created those records?

25 A They're contemporaneous with the calls.

1 Q My question is: Do you know when Verizon created
2 those records?

3 A At the time the call was created, that's when the
4 record is created, the call record.

5 Q And you can't testify that those records are
6 accurate because you're not the one who created it; correct?

7 A I did not create them, that is correct.

8 Q And you can't testify that Verizon didn't make some
9 mistake and that all those calls are accurate; can you, sir?

10 A No.

11 MR. HUTCHINS: Judge, it's not a business record.
12 We would object.

13 THE COURT: It's sustained. It's not a business
14 record unless they have somebody here from Verizon to
15 testify to it. It's not coming into evidence.

16 MR. HAYES: One moment, Your Honor.

17 (Attorneys confer.)

18 MR. HAYES: Your Honor, these are Net Tally's
19 business records. While he didn't create them --

20 THE COURT: These are Verizon business records.
21 They were taken off the Verizon portal. That's what the
22 defendant [sic] testified to.

23 MR. HAYES: They're automatically generated records
24 that the records custodian has testified he has gotten
25 directly from the source company, that nobody has

1 modified them prior to that, and that he has received
2 them.

3 MR. HUTCHINS: He can't testify --

4 THE COURT: They're not records that are made by
5 this witness or that company in their regular course of
6 business. They're Verizon records that are made in the
7 regular course of business, not this company's records.
8 The objection is sustained.

9 DIRECT EXAMINATION (CONTINUED)

10 BY MR. HAYES:

11 Q Did Mr. Harvey tell you that he had reported --

12 MR. HUTCHINS: Objection, hearsay, Your Honor.

13 THE COURT: That's sustained. But you can finish
14 the question if you want and then I can make my ruling.

15 BY MR. HAYES:

16 Q Did he tell you that he had reported Ms. K. P.'s
17 whereabouts to law enforcement?

18 THE COURT: Don't answer that.

19 What's your objection?

20 MR. HUTCHINS: Hearsay.

21 THE COURT: Sustained.

22 MR. HUTCHINS: Thank you.

23 BY MR. HAYES:

24 Q Did Mr. Harvey show you communications that he had
25 with Ms. K. P. after she was reported missing?

1 A He did.

2 Q Was he secretive or did he appear ashamed of those
3 communications in any way?

4 A Why would you hide communications where you're
5 trying to help somebody?

6 MR. HUTCHINS: Objection, unresponsive.

7 THE COURT: Overruled.

8 BY MR. HAYES:

9 Q Did she ask him for money in those communications?

10 A She asked for some money for --

11 MR. HUTCHINS: Objection, Your Honor, that's
12 hearsay.

13 THE COURT: That's sustained.

14 THE WITNESS: I saw them.

15 THE COURT: You can't testify to that, sir. That's
16 a legal objection.

17 BY MR. HAYES:

18 Q Were you skeptical that Ms. K. P. may have been --
19 were you skeptical of Ms. K. P.'s need for money?

20 MR. HUTCHINS: Judge, this calls for speculation as
21 to --

22 THE COURT: No, he can answer that.

23 THE WITNESS: I wasn't skeptical so much of her need
24 as to her --

25 MR. HUTCHINS: Judge, I'm going to object. The

1 basis of this opinion is based on hearsay. He obviously
2 saw something and that's what caused him -- it's hearsay.

3 THE COURT: I'm going to allow this testimony. You
4 can answer this question, if you can.

5 THE WITNESS: Thank you, Your Honor. The girl was
6 troubled so I had questions. I mean, I don't doubt that
7 she needed, never did, based on what I saw, but I had
8 questions.

9 BY MR. HAYES:

10 Q Did you tell Mr. Harvey to take steps on the basis
11 of your questions?

12 A I suggested it, yes.

13 Q what did you suggest?

14 A That --

15 MR. HUTCHINS: Objection, Your Honor. It's an
16 out-of-court statement. It's hearsay.

17 THE COURT: That's sustained.

18 MR. HAYES: Just a moment, Your Honor.

19 (Attorneys confer.)

20 MR. HAYES: Your Honor, would it be possible to have
21 a comfort break?

22 THE COURT: Not in the middle of this witness.
23 we'll finish this witness first and then we're going to
24 take a break after that.

25 MR. HAYES: Thank you, Your Honor.

1 THE COURT: Okay.

2 BY MR. HAYES:

3 Q So let's switch gears a little bit again. As an
4 employee of Net Tally, have you ever had to make a report to
5 law enforcement?

6 A I have.

7 Q Have you received requests from law enforcement?

8 A On several occasions, yes.

9 Q What type of requests?

10 A We've had requests from both the sheriff's
11 department and TPD for customer information related to
12 investigations they were conducting, had a request from the
13 Toledo, Ohio, police department for customer investigations.
14 We've worked with the FBI on a FISA warrant investigation.

15 Q What is a FISA warrant?

16 MR. HUTCHINS: Objection to relevance, Your Honor.

17 THE COURT: Overruled. If you know.

18 THE WITNESS: The Federal Intelligence -- it's the
19 intelligence court that issues warrants for stuff dealing
20 with foreign governments or foreign espionage.

21 BY MR. HAYES:

22 Q Did Net Tally have to research to have enough
23 information to report to law enforcement?

24 A Absolutely.

25 Q Does Net Tally have equipment in its offices related

1 to the Amber Alert system?

2 A Specific equipment that's -- the company cell phones
3 all report Amber Alerts. We also host FDLE's servers that run
4 all of the e-mail notifications that are generated with Amber
5 Alerts in one of our server rooms.

6 Q And so you have FDLE equipment in your server rooms?

7 A Correct.

8 Q And so a statement to the effect that Net Tally has
9 done work for FDLE would be an accurate statement?

10 MR. HUTCHINS: Objection, Your Honor.

11 THE COURT: What's the question again?

12 MR. HAYES: I'll rephrase the question, Your Honor.

13 BY MR. HAYES:

14 Q Would it be an accurate statement that Net Tally
15 does work for FDLE?

16 A We have done work for FDLE, yes, indeed.

17 Q As an employee of an Internet Service Provider, you
18 have some technical background; is that correct?

19 A Yes, sir, I do.

20 Q What is that background?

21 A I've been doing computers and computer-related work
22 for 35 -- well, more than that, 40 years.

23 Q Do you have any experience in cloud computing?

24 A We work with cloud hosts. I don't run cloud
25 servers, but we work with cloud hosting.

1 Q And you have seen the text -- well, have you seen
2 the text communications at issue in this case?

3 A I have.

4 Q How did you see them?

5 A First time I saw them was immediately following the
6 arrest when I saw the backup that Darrel had done. And then
7 I've subsequently seen the court copies.

8 Q Did he show you the process he went through to get
9 to the backup?

10 A He did a -- he did a backup off of his cell phone
11 and then he accessed it through the cloud, yes.

12 Q It appears that there are some things that are
13 different from the conversation -- the texts that are in the
14 cloud storage and the conversation that --

15 MR. HUTCHINS: Objection to leading, Your Honor.

16 THE COURT: Go ahead and state the question.

17 BY MR. HAYES:

18 Q It appears that there are some differences between
19 those two conversations?

20 A Correct.

21 Q In your experience with cloud computing, do you find
22 that backups to the cloud are always perfectly accurate?

23 A Backups to the cloud from a fiber connection are
24 very accurate. Backups to the cloud through a wireless
25 connection, not so much.

1 Q So if there are differences, it's possible that it
2 could be a problem in the backup --

3 MR. HUTCHINS: Objection to leading, Your Honor.

4 THE COURT: Restate the question.

5 BY MR. HAYES:

6 Q If you found that a copy to the cloud from a mobile
7 device was imperfect, what conclusion would you draw from that
8 information?

9 A There very well could have been an interruption in
10 signal that would cause part of the data to not be fully
11 backed up. Or the phone could be -- could have been turned
12 off in the process of the backup, or, you know, put into
13 airplane mode. Any of those things could cause it.

14 MR. HAYES: Just a moment.

15 MR. JUDKINS: Your Honor, before we tender the
16 witness, it's getting to an emergency proportion for a
17 break for me.

18 THE COURT: All right. well, are you done with your
19 direct?

20 MR. JUDKINS: Before we tender the witness, I would
21 like to have a short break, please.

22 THE COURT: All right.

23 MR. HUTCHINS: Judge, are they done with their
24 questioning?

25 THE COURT: No. You're not done with your direct;

1 is that correct?

2 MR. JUDKINS: I had like to go to the bathroom
3 before we tender the witness and I would like to have a
4 discussion with my partner before we tender the witness.

5 THE COURT: All right. We're going to take a short
6 break. Okay. It's 11:00. It's a good time for a break
7 and so the deputy will take you out. We'll start back up
8 with the direct after we return.

9 Just wait until the jury goes out and then we'll be
10 excused.

11 (Jury excused from the courtroom at 11:00 a.m.)

12 THE COURT: All right. We're in recess for about
13 five to ten minutes. I don't want you to have any
14 conversations with anyone about your testimony between
15 now and when you return to the stand; okay?

16 THE WITNESS: Okay.

17 (Recess taken from 11:00 a.m. to 11:11 a.m.)

18 MR. JUDKINS: Thank you, Judge.

19 THE COURT: Sorry, Mr. Judkins. I don't want to
20 inconvenience you. I didn't know that --

21 MR. JUDKINS: I'm sorry?

22 THE COURT: I didn't want to inconvenience you to
23 that extent. I apologize for that. All right.

24 Why don't we go ahead and bring the jury back in.
25 Let me ask just as a -- when we finish with this witness,

1 do you want to take a short break again so that you can
2 have a discussion with your client or have you had that
3 discussion already?

4 MR. JUDKINS: I want it to be the last thing, Your
5 Honor.

6 THE COURT: All right. So then I'll have to send
7 the jury out at that point. But I think what I'll do is
8 then we'll probably break for lunch at that point and
9 then whether or not your client will be testifying or if
10 you're going to rest, then we'll do that right after
11 lunch. And then if there's rebuttal witnesses, then
12 we'll address them at that time.

13 MR. HUTCHINS: Judge, we released Investigator
14 Newlin. I just wanted to check with the defense to make
15 sure that they don't want him retained so he can go back
16 to his training in Orlando.

17 THE COURT: Do you want to retain Investigator
18 Newlin?

19 MR. JUDKINS: If I do, I would want to ask him
20 about --

21 THE COURT: I don't need to know what you were going
22 to ask him about. I just want to know if you want to
23 retain him.

24 MR. JUDKINS: It's not worth it, no, no.

25 THE COURT: Okay. So he is excused. Thank you.

1 MR. HUTCHINS: Thank you, Judge.

2 (Attorneys confer.)

3 THE COURT: Do you want to go out and release him
4 now?

5 MS. FRAZIER: I sent him a text message, Judge.

6 THE COURT: Okay, great. Let's bring the jury in,
7 please.

8 (Jury returned to the courtroom at 11:14 a.m.)

9 THE COURT: You may be seated. Thank you for your
10 patience.

11 And, Mr. Hayes, you may continue.

12 MR. HAYES: Thank you, Your Honor.

13 BY MR. HAYES:

14 Q Mr. Perrine, if you wanted to find out if a Net
15 Tally employee had made a particular phone call, what would
16 you do?

17 A I would query the Verizon database of calls.

18 Q Do you have the resources in front of you to tell if
19 Darrel Harvey called law enforcement on November 9th, 2016?

20 A I do.

21 MR. HUTCHINS: Objection, Your Honor.

22 THE COURT: What's your objection?

23 MR. HUTCHINS: It's going to be based on something
24 the Court has already ruled that they can't get in.

25 THE COURT: That's sustained.

1 BY MR. HAYES:

2 Q If you had known K. P.'s whereabouts on
3 November 9th, 2016, do you feel like you would have had a duty
4 to report that?

5 A Absolutely.

6 MR. HUTCHINS: Objection to relevance and
7 speculation.

8 THE COURT: I'll allow it. No, it's coming from
9 him, it's not speculation. You can answer that.

10 THE WITNESS: Yes. There's no question.

11 BY MR. HAYES:

12 Q Did you report her whereabouts to law enforcement?

13 A I didn't know her whereabouts. They were reported.

14 MR. HUTCHINS: Judge, I'd object to that last
15 statement as unresponsive and ask it be stricken from the
16 record. There's no evidence to support it.

17 THE COURT: Overruled. He can say that. If he
18 knows it, he can say that. He didn't say anything else.
19 I'll allow that statement to stand.

20 BY MR. HAYES:

21 Q How do you know that it was reported?

22 A Subsequent events and communications which I
23 personally saw.

24 Q And was it reported by Darrel Harvey?

25 MR. HUTCHINS: Objection, Your Honor.

1 THE COURT: That's sustained.

2 BY MR. HAYES:

3 Q As an employee of Net Tally, when you see something
4 that is an image, that may be an image that you have to
5 report, that is -- sometimes those -- are those images
6 sometimes ambiguous as to age?

7 A They are.

8 Q Do you have a system or a way of verifying the age
9 of people in photographs that you may need to report?

10 A You would look at the other information within the
11 photograph, other things that might provide a clue as to the
12 content. We would also do a Google search to see if the image
13 is found online and cross-correlate any information we would
14 find there.

15 Q would you use software to analyze the photograph to
16 identify the age of the participants?

17 A You certainly use it to refine the quality, you
18 know, try to de-fuzz the photograph or -- you know, whether
19 it's the person or whether it's some other object in the
20 photograph that you're trying to determine.

21 Q would you use software that would analyze the face
22 of a person to identify how old that person is?

23 A I have not personally used that, we do have it. we
24 have access to it.

25 Q Have you seen the photographs that law enforcement

1 shared with Mr. Harvey in this case?

2 A I have.

3 Q Have you submitted those photographs to software
4 that would identify the age of the people in the photograph?

5 A I have not. My assessment of the age was based on
6 the phone that was in it.

7 MR. HUTCHINS: Objection, Your Honor, lack of
8 foundation as to -- or lack of foundation. He can't
9 testify as to how he assessed it. There's been no
10 foundation laid.

11 THE COURT: He can testify. He can answer this
12 question. You can continue with your answer.

13 THE WITNESS: Based on the cell phone that was in
14 the photograph, the iPhone, there's no way that that
15 person was --

16 THE COURT: Hold on a second.

17 THE WITNESS: Sorry.

18 THE COURT: Now that's not answering the question.

19 THE WITNESS: Okay. Sorry.

20 THE COURT: Ask the question again.

21 BY MR. HAYES:

22 Q Have you used software that would analyze
23 photographs to identify the age of the person in the
24 photographs presented by the State in this case?

25 A Not the ones presented by the State, no, sir.