

Detective Donald Bussa
10/24/2022

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF MICHIGAN
3 SOUTHERN DIVISION
4

5 ROBERT JULIAN-BORCHAK WILLIAMS,
6 Plaintiff,

7 -vs- No: 21-10827

8 HON. LAURIE J. MICHELSON

9 CITY OF DETROIT, a municipal
10 corporation; DETROIT POLICE
11 CHIEF JAMES CRAIG, in his
12 official capacity; and
13 DETECTIVE DONALD BUSSA, in
14 his individual capacity,
15 Defendants.

16 _____/

17 Pages 1 - 90.

18

19 The videotaped deposition of DET. DONALD BUSSA
20 taken at 2 Woodward Avenue, Fifth Fl.
21 Detroit, Michigan,
22 commencing at 10:04 a.m.
23 Monday, October 24, 2022,
24 before Ann L. Bacon CSR-1297.

25

1 APPEARANCES:

2

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18 Local Rule 83.21.

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1 APPEARANCES, Continued:

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9 Appearing on behalf of the Plaintiff.

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18

19 ALSO PRESENT: MR. ROBERT JULIAN-BORCHAK WILLIAMS

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1 T A B L E O F C O N T E N T S

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10 Deposition Exhibit No. 1 34

11 (Warrant Preparation)

12 Deposition Exhibit No. 2 51

13 (Training Directive 19-07)

14 Deposition Exhibit No. 3 54

15 (Transmittal of Written

16 Directive 307.6)

17 Deposition Exhibit No. 4 55

18 (Transmittal of Written

19 Directive 307.5)

20 Deposition Exhibit No. 5 63

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1 Detroit, Michigan

2 Monday, October 24, 2022

3 10:04 a.m.

4 - - -

5 D E T. D O N A L D B U S S A

6 was thereupon called as a witness herein, after
7 having been first duly sworn to tell the truth,
8 the whole truth, and nothing but the truth, was
9 examined and testified as follows:

10 EXAMINATION

11 BY MR. WADOOD:

12 Q. Good morning, Detective Bussa. My name is Ramis
13 Wadood. I'm one of the lawyers representing
14 Mr. Williams in this case, who is also here
15 joining us today. Before we begin, I just had a
16 question for Mr. Cunningham and for you. Our
17 Notice of Deposition included a request that
18 Detective Bussa bring handwritten notes of his
19 work on this investigation. Did you happen to
20 bring any handwritten notes?

21 **A. I did not.**

22 Q. Do you have handwritten notes, not with you, but
23 just in general about this investigation?

24 **A. Not that I can recall.**

25 Q. Okay. We'll follow-up then and see if we can

1 get those if you do have them. Okay. So before
2 we begin, I'm going to say some introductory
3 words, lay out some ground rules, just to make
4 sure we understand each other and the court
5 reporter understands us. Does that sound good
6 to you?

7 **A. Yep.**

8 Q. So I am deposing you today in connection with
9 Mr. Williams' lawsuit against you, and against
10 the City of Detroit for his wrongful arrest.
11 Are you aware of that lawsuit?

12 **A. Yes.**

13 Q. And the reason we're deposing you today is because
14 of your work as a detective on the investigation
15 that eventually led to Mr. Williams' arrest. Do
16 you understand that?

17 **A. Yes.**

18 Q. And so the deposition is going to focus on your
19 job as a detective, your work on that investigation,
20 your knowledge of police department practices,
21 policies, training. Do you understand that?

22 **A. Yes.**

23 Q. Okay. Great. Just have you had your deposition
24 taken before?

25 **A. Yes.**

1 Q. Okay. How many times have you had your
2 deposition taken?

3 **A. Once.**

4 Q. Okay. Great. So you're aware of how this goes.
5 It's kind of an awkward conversation. I
6 obviously have questions prepared that I'm
7 looking for answers for. We'll try to make this
8 as fluid as possible. Let me just reiterate
9 some ground rules just to make sure we're all on
10 the same page. I want to make sure that we are
11 able to understand each other and get through
12 this as efficiently and as civil as possible.
13 So let's try to agree on the following things.
14 One is that we won't interrupt each other. If I
15 ask a question, please wait for me to finish
16 that question, and then if you answer, I'll wait
17 for you to finish that answer before I ask my
18 next question. Is that okay?

19 **A. Yes.**

20 Q. You should give verbal answers only, so instead
21 of giving a thumbs up or nodding your head, you
22 should say yes or you should say no. Is that okay?

23 **A. Yes.**

24 Q. If you don't understand my question, you should
25 feel free to ask for a clarification and then

1 I'll try my best to reiterate the question in a
2 more understandable way. Is that okay?

3 **A. Yes.**

4 Q. Your lawyer, Mr. Cunningham, from time to time
5 may object to a question that I ask. Unless he
6 specifically instructs you not to answer that
7 question, you're still supposed to answer the
8 question I ask even if there's an objection.
9 That objection is just for us to fight about
10 later on, but for now you should still answer
11 the question, unless Mr. Cunningham tells you
12 not to answer. Is that okay?

13 **A. Okay.**

14 Q. Okay. Great. I'm going to jump into some
15 questions, but I also just wanted to touch on
16 two more things. One is some of the terms that
17 I'm going to be using, I want to make sure that
18 we understand they're the same things. So when
19 I say DPD, I'm referring to the Detroit Police
20 Department. Is that okay with you?

21 **A. Yes.**

22 Q. MSP, I'm referring to the Michigan State Police.
23 Is that okay with you?

24 **A. Yes.**

25 Q. And when I say the Shinola investigation, I'm

1 referring to the investigation into the
2 October 2nd, 2018 alleged theft at the Midtown
3 Shinola store, the one that is at the heart of
4 this lawsuit. Is that okay?

5 **A. Yes.**

6 Q. I'll remind you again about that term, because I
7 know there's a lot of alleged thefts and
8 robberies around the area, and then anything
9 else if I use a term or an acronym, I'll try to
10 define it as I go. Is that okay?

11 **A. Yes.**

12 Q. Okay. Great. Last thing is breaks. You're
13 free to take a break whenever you want, however
14 many breaks you want. I have a list of
15 questions that are going to take at least a few
16 hours, but I know this thing gets tiring, so
17 whenever you need to take a break, just let us
18 know. The only thing I ask is that you don't
19 take a break without answering a question that's
20 on the table. Is that okay?

21 **A. Yes.**

22 Q. So if I ask a question, you answer the question
23 first and then ask for a break. Is that okay?

24 **A. Yes.**

25 Q. I'm planning on taking a few breaks myself just

1 to make sure we have everything in place. If
2 we're going pretty late, we'll make sure to take
3 a lunch break maybe around 12:30, 1:00-ish. Is
4 that okay?

5 **A. Yes.**

6 Q. Okay. So let's try to go for about three hours
7 and then take a lunch break. Is that okay?

8 **A. Yes.**

9 Q. Okay. Great. So let's jump into the questions
10 then. So first and foremost, can you please
11 identify yourself for the record, your name and
12 your position?

13 **A. Donald Bussa, detective.**

14 Q. And can you spell your name as well?

15 **A. Donald, D-o-n-a-l-d, Bussa, B-u-s-s-a.**

16 Q. Great. And what town and county do you live in?

17 **A. I live in Gibraltar, which is in Wayne County.**

18 Q. Did you do any preparations for this deposition?

19 **A. Yes.**

20 Q. And what did that preparation look like?

21 **A. Reviewing my notes and case.**

22 Q. Okay. And what do those notes look like? Were
23 they handwritten or were they typed up?

24 **A. No, they're like my warrant packet, the stuff I**
25 **typed up.**

1 Q. Got it. And did you review any other documents
2 other than the warrant packet?

3 **A. I listened to the audio recording of my IA report.**

4 Q. And by IA report, you mean the internal affairs
5 investigation?

6 **A. Yes.**

7 Q. Okay. Great. Did you have conversations with
8 your attorney, without telling me what you
9 talked about, did you talk to Mr. Cunningham or
10 another attorney about the deposition?

11 **A. Yes.**

12 Q. Okay. Can you walk me through your educational
13 background?

14 **A. I have some college. I went to an art school.**

15 Q. And what was the school?

16 **A. IADT, International of Art Design and Technology.**

17 Q. Before we get to college, where did you go to
18 high school?

19 **A. Chippewa.**

20 Q. And what town is that in?

21 **A. Clinton Township.**

22 Q. Okay. And so you had some college at IADT, right?

23 **A. Correct.**

24 Q. And when was that?

25 **A. I don't recall the years.**

1 Q. Was that in the last 20 years?

2 A. Yes.

3 Q. And how many years of college did you do at IADT?

4 A. I have probably 60 credit hours expanded over a
5 couple years.

6 Q. Okay. A couple years, right? Is that right?

7 A. Yes.

8 Q. Okay. And then after those couple years at
9 IADT, did you do anymore education?

10 A. No.

11 Q. Okay. And so after IADT, what did you do?

12 A. For education?

13 Q. Education or work, you know, what did you do
14 after those two years at IADT?

15 A. I just worked. I was working as a police
16 officer during that time, too.

17 Q. During your time at IADT?

18 A. Yes.

19 Q. So let's take a step back and talk about your time
20 as a police officer. Has your entire career
21 been as a police officer in some form or another?

22 A. I was in security. I worked for the department
23 of the army and I also worked retail.

24 Q. Okay. Did you participate in a police academy
25 of any kind?

- 1 **A. Yes.**
- 2 Q. And what was that?
- 3 **A. Detroit Police Academy.**
- 4 Q. Okay. And what years was that?
- 5 **A. 2017 to 2018, started in 2018.**
- 6 Q. Oh, you started in 2018?
- 7 **A. And graduated in 2018.**
- 8 Q. And so you were a police officer before 2018
- 9 though, right?
- 10 **A. No, that's when I started. Before that I was**
- 11 **security.**
- 12 Q. Before that you were security, okay, so let's
- 13 start with your security gig. Where were you a
- 14 security officer?
- 15 **A. Before that I was with Department of the Army.**
- 16 **I worked at TACOM as a station security.**
- 17 Q. And how long was that?
- 18 **A. I want to say two years maybe.**
- 19 Q. Okay. And so that would have been let's say
- 20 2016 to 2018?
- 21 **A. About those times.**
- 22 Q. Okay. And then you left the army security gig
- 23 to go to the Detroit Police Academy, right?
- 24 **A. Correct.**
- 25 Q. What caused you to switch over to the police

1 academy?

2 **A. Change of career.**

3 Q. And then after the police academy, did you join
4 the DPD?

5 **A. I joined the DPD and then went to the police
6 academy.**

7 Q. You joined the DPD and then went to the police
8 academy?

9 **A. Correct.**

10 Q. And so the police academy was part of your job,
11 kind of a requirement?

12 **A. Yes.**

13 Q. And what position did you first hold at the
14 Detroit Police Department?

15 **A. NPO, which is a non-police officer.**

16 Q. Non-police officer. What does an NPO do?

17 **A. Go to the academy.**

18 Q. Go to the academy?

19 **A. Yes.**

20 Q. Okay. So once you graduated from the Detroit
21 Police Academy in 2018, what was your first DPD
22 gig after that academy job?

23 **A. I worked patrol as a police officer.**

24 Q. Okay. And by a patrol, you mean you were
25 essentially a beat cop walking the streets?

- 1 **A. Yes.**
- 2 Q. Or driving the streets?
- 3 **A. Yes.**
- 4 Q. And approximately how long did you do that?
- 5 **A. Approximately nine years.**
- 6 Q. Nine years. From 2018 onward?
- 7 **A. Yes.**
- 8 Q. We're only --
- 9 **A. It's `08, not `18.**
- 10 Q. Oh, okay.
- 11 **A. I'm sorry. I'm on medication right now.**
- 12 Q. You're on medication right now?
- 13 **A. I'm a little under the weather. It's `08, not `18.**
- 14 Q. So I have to ask this question just because you
- 15 mentioned that. Are you taking any drugs,
- 16 medication or alcohol that would affect your
- 17 ability to answer questions today?
- 18 **A. I don't think so, no.**
- 19 Q. So that was just a slip-up?
- 20 **A. Yes.**
- 21 Q. Okay. Sorry, I had to ask that question. So
- 22 let's go back to the police academy. Detroit
- 23 Police Academy you started and graduated in
- 24 2008, right?
- 25 **A. Correct.**

1 Q. And then you became a patrol officer right out
2 of that for nine years, so from 2008 until 2015,
3 is that right?

4 **A. Correct.**

5 Q. Okay. So 2015 did you transition to a new job
6 within the DPD?

7 **A. I've worked a short time as a crime analysis
8 officer.**

9 Q. A crime analyst officer?

10 **A. Yes.**

11 Q. And how long was that?

12 **A. I want to say a year. I don't have the exact
13 dates for the jobs I've done.**

14 Q. And what does a crime analyst officer do?

15 **A. I study crime patterns and put out BOLOs, be on
16 the look out information for our police officers
17 to know of crimes in the area.**

18 Q. And in that job as a crime analyst officer, were
19 you investigating individual cases or just
20 common trends in crimes?

21 **A. Common trends.**

22 Q. So you weren't doing any individual investigative
23 work?

24 **A. No.**

25 Q. So a year out from 2015, what job did you

1 transition to after being a crime analyst officer?

2 **A. I think about that time I went back on patrol.**

3 Q. Back on patrol. And how long were you back on
4 patrol for?

5 **A. About a year.**

6 Q. Okay. So that takes us roughly into 2017, right?

7 **A. That would be a couple years then because from
8 patrol I went to detective.**

9 Q. Okay. And then you became a detective?

10 **A. In `19.**

11 Q. In 2019?

12 **A. Yes, so I was on patrol until `19.**

13 Q. And were you back on the same beat as a patrol
14 officer?

15 **A. No, I worked downtown services.**

16 Q. Okay. Was that job any different than your
17 first patrol job?

18 **A. No.**

19 Q. And downtown services is just the precinct that
20 covers downtown, right?

21 **A. Correct.**

22 Q. And what precinct were you working in your first
23 patrol job?

24 **A. Number nine, first number eight, then number nine.**

25 Q. So you do precincts eight and nine?

1 A. Correct.

2 Q. In that first year as a DPD patrol officer?

3 A. Yes.

4 Q. And eight and nine are far east side, far west
5 side?

6 A. Well, eight is, yes, correct.

7 Q. And so for any of these jobs did you specifically
8 apply for the transition or were you offered a
9 new portfolio?

10 A. As detective?

11 Q. Before your work as a detective, so from a
12 patrol officer to a crime analyst officer, from
13 the crime analyst officer to the patrol officer,
14 again, for either of those two transitions did
15 you apply for them or were you offered them?

16 A. For the crime analyst, I was asked to do.

17 Q. Okay.

18 A. And then for the detective I took a test for.

19 Q. Okay. So for the crime analyst officer, do you
20 know why they asked you to be a crime analyst
21 officer?

22 A. I'm assuming my work ethics.

23 Q. And then when you went back to patrol, did you
24 apply for that job back on patrol or were you
25 offered that patrol job again?

- 1 **A. I transferred, I put in the transfer.**
- 2 Q. You put in the transfer?
- 3 **A. Yes.**
- 4 Q. And why did you do that?
- 5 **A. To be back on the street with my partner.**
- 6 Q. Got it. And so you mentioned a test you took in
7 2019 to become a detective, is that right?
- 8 **A. No, I took a test before that.**
- 9 Q. And when was that?
- 10 **A. I do not recall.**
- 11 Q. Could it have been in 2018?
- 12 **A. No, it was a couple years.**
- 13 Q. And you only took that test one time?
- 14 **A. Correct.**
- 15 Q. So what happens after you take that test?
- 16 **A. When there are spots open, people are appointed**
17 **from the test to new spots.**
- 18 Q. Okay. So you could have passed the test, but
19 not have been appointed, right?
- 20 **A. Correct, until there was a spot opened up.**
- 21 Q. Is that what happened?
- 22 **A. Yes.**
- 23 Q. So a spot opened up in the 3rd Precinct, right?
- 24 **A. Correct.**
- 25 Q. And they offered you that job in 2019?

- 1 **A. Correct.**
- 2 Q. And you took that job?
- 3 **A. Yes.**
- 4 Q. So now let's focus on your job as a 3rd Precinct
5 detective, okay?
- 6 **A. Okay.**
- 7 Q. Other than taking the test and kind of applying
8 for the position, did you have to do anything
9 else to become a detective?
- 10 **A. No.**
- 11 Q. Okay. Can you describe your duties and
12 responsibilities as a detective?
- 13 **A. To communicate with victims and suspects and
14 investigate crimes.**
- 15 Q. So to communicate with victims and suspects and
16 to investigate crimes, right?
- 17 **A. Correct.**
- 18 Q. Anything else?
- 19 **A. How so?**
- 20 Q. Is there anything else you do as a detective?
- 21 **A. I go to court. I testify. I write investigation
22 reports, submit warrants, talk to prosecutors,
23 talk to judges. Occasionally I do a special ops
24 unit where I go on the streets with police
25 officers.**

1 Q. Okay. And so have those duties and
2 responsibilities changed at all since you first
3 started as a detective until now?

4 **A. No, no.**

5 Q. Okay. And who supervises you when you complete
6 those duties?

7 **A. I have a direct sergeant and lieutenant.**

8 Q. And who is currently your direct sergeant and
9 lieutenant?

10 **A. Sergeant Kleinsorge.**

11 Q. Can you spell that please?

12 **A. K-l-e-i-n-s-o-r-g-e.**

13 Q. Okay. And your lieutenant?

14 **A. Collier, C-o-i-l-e-r, I believe.**

15 Q. Have those been your sergeant and lieutenant
16 since you started?

17 **A. No.**

18 Q. So can you name your former sergeant and
19 lieutenant from the time you started as a
20 detective until now?

21 **A. I had Sergeant Irving, Sergeant Jackson.**

22 Q. Okay.

23 **A. Sergeant -- I've had a few sergeants. I can't**
24 **think of anyone else. And then I had Lieutenant**
25 **Chadwick-Bills.**

1 Q. Okay.

2 **A. And that was the only lieutenant, the other two**
3 **which I've had as a detective.**

4 Q. So let me make sure I have this right. From
5 when you started as a detective until now on the
6 sergeant side, you went through Irving and then
7 Jackson and then Kleinsorge?

8 **A. Irving and Jackson were together.**

9 Q. Were together, Irving and Jackson. Is that
10 common for you to have two sergeants?

11 **A. Yes.**

12 Q. As a starting detective maybe?

13 **A. As all detectives.**

14 Q. All detectives.

15 **A. All precincts try to have two.**

16 Q. So do you currently have two sergeants?

17 **A. No.**

18 Q. Is that common?

19 **A. Yes.**

20 Q. Why did you have two then and one now?

21 **A. You'll have to ask the department.**

22 Q. So you had Irving and Jackson and now you have
23 Kleinsorge?

24 **A. Correct.**

25 Q. And on the lieutenant side you had

1 Chadwick-Bills and then Collier?

2 **A. Yes.**

3 Q. And how long was Lieutenant Chadwick-Bills your
4 lieutenant?

5 **A. Eight months maybe.**

6 Q. And do you know why your lieutenant then became
7 Lieutenant Collier?

8 **A. No. I was assigned out to court section for two
9 years and she was assigned out to the precinct.**

10 Q. Did you say the court section?

11 **A. Yes.**

12 Q. Can you explain what that is?

13 **A. Well, I just filed warrants at the court section.
14 There is multiple different facets of the court
15 section. What I was doing, I was filing the
16 warrants.**

17 Q. So how did that fit into your general
18 responsibilities as a detective? Were you just
19 filing warrants?

20 **A. Yes.**

21 Q. So did you do any investigative work in the
22 cases or were you putting together the warrant
23 packets?

24 **A. I was just filing the warrants. I was inputting
25 the warrant information into the system, into**

1 our DPD system.

2 Q. And when were you doing just that?

3 A. Up until two months ago, so sometime in 2020 to
4 `22 for about a year, just over a year and a
5 half, two years, about two years now.

6 Q. So you didn't start in the court section?

7 A. No.

8 Q. So up until 2020 when you were in the court
9 section, what were you doing?

10 A. I was filing the warrants.

11 Q. Well, before you were in the court section, what
12 were you doing?

13 A. I was working investigations as a detective.

14 Q. And so you were working investigations and then
15 you went to the court section and then as of two
16 months ago what are you doing now?

17 A. I'm back to investigations.

18 Q. And why were you transferred to the court section?

19 A. I do not know.

20 Q. Why were you transferred out of the court section?

21 A. I do not know.

22 Q. So when you get these transfer notices, you don't
23 ask any questions, you just listen to them?

24 A. Yes.

25 Q. Okay. Do you have any partners or any colleagues

1 that you do these duties with?

2 **A. Everyone I work with.**

3 Q. Do you have a specific partner or just your
4 precinct?

5 **A. Just the precinct.**

6 Q. And your precinct is made of how many detectives?

7 **A. Currently we have nine detectives I believe and
8 two POs.**

9 Q. And by POs, you mean police officers?

10 **A. Police officers.**

11 Q. Okay. And how do the detectives and the POs
12 work together?

13 **A. The POs, the police officers do the same
14 function as the detectives. They're just like
15 place holders until they either become promoted
16 or they get another detective spot.**

17 Q. So just to make sure I have it right, these are
18 police officers who have applied to become
19 detectives?

20 **A. Some.**

21 Q. And others are just place holders?

22 **A. Yeah, elected to that spot.**

23 Q. So they are effectively detectives-in-training?

24 **A. Yes.**

25 Q. Did you ever hold a position like that as a PO?

1 A. No.

2 Q. And so you just applied and were offered a role
3 eventually?

4 A. Yes.

5 Q. Got it. Okay. Let's move on to when you became
6 a detective. I have some questions about the
7 types of training you received when you first
8 became a detective.

9 A. Okay.

10 Q. And so for these few questions, I want you to
11 think back to when you first became a detective,
12 what you were kind of offered on the job when
13 you started. So when you assumed your new role
14 as a detective, did you receive any training?

15 A. No.

16 Q. So you received no training at all as a new
17 detective?

18 A. No.

19 Q. Okay. Is that common for new detectives?

20 A. I do not know.

21 Q. Have any detectives in the 3rd Precinct started
22 after you?

23 A. Yes.

24 Q. Do you know if they received training when they
25 started as detectives?

1 A. I do not know.

2 Q. Do you know of any other person who was promoted
3 to detective and didn't receive training up front?

4 A. Yes.

5 Q. And who was that person?

6 A. My understanding -- well, I don't know people's
7 individual training, but before recently, we
8 didn't have a detective training.

9 Q. Okay. So before recently, right?

10 A. Correct.

11 Q. And what do you mean by recently?

12 A. As of I would say the last couple years they've
13 been doing a detective school for the newly
14 promoted people.

15 Q. And that was across all precincts?

16 A. I believe so.

17 Q. Do you know before this detective school were
18 any of the precincts doing individual detective
19 schools of any kind?

20 A. I don't have that knowledge.

21 Q. Okay. So do you know why they started -- let me
22 start that over. Do you know why the Detroit
23 Police Department started offering the detective
24 school a couple years ago?

25 A. No.

1 Q. Okay. So when you started, were you told to get
2 any kind of training?

3 **A. No.**

4 Q. And so you were essentially just put on the job
5 from day one?

6 **A. Correct.**

7 Q. Okay. And there was, just to make sure I have
8 this right, there was nothing like the police
9 academy that you did when you started as a
10 patrol officer, right?

11 **A. Correct.**

12 Q. Okay. And so what did you do without training
13 on day one as far as learning how to do the job?

14 **A. Just asked co-workers.**

15 Q. Okay. And would you ask the co-workers as the
16 issues came up?

17 **A. Yes.**

18 Q. Was there a particular person you went to to ask
19 questions?

20 **A. No.**

21 Q. So you were asking anyone in the precinct?

22 **A. In the PDU.**

23 Q. In the detective unit?

24 **A. Yes.**

25 Q. And were you receiving the same answers to your

1 questions consistently as far as how to do things?

2 **A. No.**

3 Q. You were receiving differing answers?

4 **A. Yes.**

5 Q. And how did you process those conflicting answers?

6 **A. I would say I would use probably the knowledge**
7 **of the person that I trusted the most or the**
8 **most consistent between detectives.**

9 Q. Okay. And so if detective one were to give you
10 advice on how to do something and detective two
11 gave you a different piece of advice on how to
12 do the same thing, you would listen to the
13 detective that you trusted the most?

14 **A. Correct.**

15 Q. And how did you build that trust with those
16 detectives when you were new to the precinct?

17 **A. I'm not sure. Just based on your feeling with**
18 **that person.**

19 Q. And how often do these types of conversations
20 happen between you and another detective asking
21 for advice on how to do something?

22 **A. All the time.**

23 Q. All the time. Has that changed at all since
24 when you started up until now?

25 **A. No.**

1 Q. So you don't ask fewer questions now than you
2 did in 2019?

3 **A. I know more than I did, so yes, I ask less**
4 **questions.**

5 Q. Okay. Let's take that all the time back to
6 2019. On a day-to-day basis, roughly how many
7 times were you asking these questions of your
8 fellow detectives?

9 **A. I don't recall.**

10 Q. Okay. Was it a couple times a day or more than
11 that?

12 **A. Don't recall.**

13 Q. Okay. Was there -- what was the culture in the
14 PDU as far as asking questions and getting
15 advice from your fellow detectives?

16 **A. Common.**

17 Q. Sorry?

18 **A. Common.**

19 Q. Common?

20 **A. Yes.**

21 Q. Was it encouraged to ask questions and get advice?

22 **A. Yes. Everybody helped each other.**

23 Q. Everybody helped each other, got it. And do you
24 know how your fellow detectives knew how to do
25 the things they were giving you advice on?

- 1 **A. They had more time than me.**
- 2 Q. They had more time than you. Were they trained
3 at all?
- 4 **A. I do not know.**
- 5 Q. Okay. And so you received no training at all
6 when you became a detective, right?
- 7 **A. Correct.**
- 8 Q. So you didn't receive any training on eyewitness
9 identifications, right?
- 10 **A. No.**
- 11 Q. You didn't receive any training on photographic
12 show-ups, right?
- 13 **A. Correct.**
- 14 Q. You didn't receive any training on facial
15 recognition technology, right?
- 16 **A. Correct.**
- 17 Q. You didn't receive any training on investigative
18 techniques, right?
- 19 **A. Correct.**
- 20 Q. You didn't receive any training on determining
21 probable cause, right?
- 22 **A. I've had that since my time on the job as a
23 police officer.**
- 24 Q. But when you started as a detective, did you
25 receive any training?

- 1 **A. Additional training, no.**
- 2 Q. Okay. Did you receive any training when you first
3 started as a detective on requesting warrants?
- 4 **A. Official training, no.**
- 5 Q. Official training, but unofficial training you
6 received?
- 7 **A. Yeah, people would tell me how to submit a warrant.**
- 8 Q. Okay. And for any of the topics that I mentioned,
9 did you receive any training on them from before
10 you were a detective?
- 11 **A. I received probable cause training as I was a
12 police officer on patrol.**
- 13 Q. Okay. And what did that training look like?
- 14 **A. Using it through the academy, going over the law.**
- 15 Q. And would your supervisors in the third precinct
16 PDU have known that you received probable cause
17 training already?
- 18 **A. Yes.**
- 19 Q. They would have known that?
- 20 **A. Yes.**
- 21 Q. Because you took the academy?
- 22 **A. Yes.**
- 23 Q. And they know what happens in the academy?
- 24 **A. Yes.**
- 25 MR. WADOOD: Okay. I'm going to enter

1 Exhibit 1, and again this is just to make sure
2 we cover our bases.

3 (Marked Exhibit No. 1.)

4 Q. (Continuing, by Mr. Wadood) Now, this might be a
5 waste of paper based on what we just talked about,
6 but I want to make sure that we cover our bases.
7 This is a presentation that the Detroit Police
8 Department gives to detectives. You can flip
9 through it if you want. I've flagged a couple
10 sections for you that might be relevant. Did
11 you receive any trainings like this one when you
12 were a detective?

13 **A. No.**

14 Q. Okay. If you go to that first tab, this is the
15 first page, the introduction page. It says this
16 training was designed for members of the Detroit
17 Police Department who are assigned to
18 investigations. Does that describe you?

19 **A. Yes.**

20 Q. But was this training only given when they
21 started doing detective school?

22 **A. I don't know. I haven't seen this.**

23 Q. So you've never seen this training before?

24 **A. Correct.**

25 Q. And you haven't received any training like this?

1 A. Correct.

2 Q. Can you flip to the second tab? This is three
3 pages after that that is labeled What is Needed.
4 Do you see this list of documents?

5 A. Yes.

6 Q. Is this a list of documents that's needed for
7 preparing a warrant?

8 A. If they're applicable.

9 Q. Okay. Did you receive any list like this when
10 you started as a detective?

11 A. No.

12 Q. Did you receive any list as far as the required
13 documents for preparing a warrant?

14 A. I received a handout for what goes into our
15 warrant jacket.

16 Q. Okay. And who gave you that handout?

17 A. Supervisor.

18 Q. Supervisor which at the time was either Sergeant
19 Irving, Sergeant Jackson or Lieutenant
20 Chadwick-Bills?

21 A. Correct.

22 Q. Do you remember who, which one of them gave that
23 to you?

24 A. No, I do not.

25 Q. And what did that handout cover?

1 **A. What's included in a warrant jacket.**

2 Q. Do you remember what was included on that handout?

3 **A. No, not off-hand.**

4 Q. Okay. Have you received trainings on your job
5 as a detective since you began? So now I'm not
6 asking about when you first started, but up
7 until now have you received trainings?

8 **A. No.**

9 Q. No. Have your fellow detectives received any
10 trainings?

11 **A. I do not know.**

12 Q. Okay. Have any of your fellow detectives
13 started in the last two years?

14 **A. Yes.**

15 Q. So they likely would have gone through the
16 detective school?

17 **A. I don't know.**

18 Q. Okay. So up until this point, just to make sure
19 I have this right, up until this point you have
20 not received any trainings as a detective from
21 the DPD?

22 **A. Correct.**

23 Q. And does that differ from your fellow detectives
24 in any way?

25 **A. I don't know.**

1 Q. Have you had any conversations with your fellow
2 detectives about the trainings you have or
3 haven't received?

4 A. No.

5 Q. Okay. All right. Let's take a quick five-minute
6 break. I just want to talk to my team really
7 quickly and assess kind of where we are and how
8 much more we have to do. We are breezing through
9 these questions, so hopefully this won't last
10 more than a few hours, but let me just check in
11 with my team.

12 MR. WADOOD: So we can go off the record.

13 (Recess 10:34 a.m. to 10:48 a.m.)

14 MR. WADOOD: Back on the record.

15 Q. (Continuing, by Mr. Wadood) Okay. I want to
16 talk about some of the Detroit Police Department
17 policies, but before I get there, I just have a
18 few final questions about trainings. First and
19 foremost, my team informed me that I'm very bad
20 at counting, so let's quickly go back to the
21 jobs you held at the Detroit Police Department.
22 When you said you started in 2008 and worked for
23 nine years as a patrol officer, I put that at
24 2017 -- or 2015, but it should be 2017, right,
25 2008 plus nine years?

1 **A. Yes.**

2 Q. Okay. So you were a patrol officer from 2008
3 until 2017, right?

4 **A. Sounds correct.**

5 Q. And then in 2017 you did a one-year gig as a
6 crime analyst officer?

7 **A. About one year, yes.**

8 Q. About one year. And then from there you went
9 back on patrol for a year in downtown services?

10 **A. Yes.**

11 Q. And then in 2019 you were offered a role as a
12 detective in the 3rd Precinct, right?

13 **A. Correct.**

14 Q. Okay. Got it. Just a couple more questions
15 going back. So you had mentioned you had been
16 deposed once before, right?

17 **A. Correct.**

18 Q. Can you tell me a little bit more about that case?

19 **A. It was for another case of a person that claims
20 he was falsely arrested.**

21 Q. So it was for a false arrest case, right?

22 **A. Correct.**

23 Q. And did that case have to do with facial
24 recognition technology at all?

25 **A. Yes.**

1 Q. And were you deposed as a defendant in the case?

2 A. Yes.

3 Q. Okay. And how long ago was that?

4 A. Last week.

5 Q. Last week, okay.

6 A. It might be two weeks, recent.

7 Q. Okay. And was that the first time you've been
8 sued?

9 A. Yes.

10 Q. And so that case and this case are the only
11 times you've been sued before?

12 A. Correct.

13 Q. And those were both in your role as a 3rd Precinct
14 detective?

15 A. Correct.

16 Q. And they both involved false arrests?

17 A. Yes.

18 Q. Just a few questions about the police academy
19 and the court section and then we can get on to
20 policies. So let's start with the police
21 academy. You mentioned that you were in the
22 police academy when you first started back in
23 2008, right?

24 A. Correct.

25 Q. What did that police academy look like?

1 A. A lot of test taking and training, running around.

2 Q. What do you mean by running around?

3 A. It's a very physically demanding police academy,
4 push-ups, running, marching, tactics.

5 Q. Got it. So in addition to the physical
6 exercises and tests, was there any classroom time?

7 A. Yes.

8 Q. Okay. And how much of it was classroom versus
9 physical exercise?

10 A. Probably 70 percent classroom, 30 percent exercise.

11 Q. Okay. And then in the police academy classroom
12 what did you learn?

13 A. Laws, we had to take a law test, techniques,
14 police techniques, traffic stops. That's all I
15 can remember right now.

16 Q. Okay. Let's start with the law tests. What
17 were the laws about?

18 A. The amendments, probable cause, they went over some
19 case studies. That's all I can recall right now.

20 Q. Okay. And the probable cause training
21 specifically, what did that involve?

22 A. I don't recall.

23 Q. You don't recall? Do you recall what they
24 define probable cause as?

25 A. A preponderance of the evidence, 51 percent, 51

1 **percent role.**

2 Q. And is that the definition you still hold today?

3 **A. Yes.**

4 Q. And that was the definition that you came into
5 your job as a detective with?

6 **A. Yes.**

7 Q. Okay. Let's go to the police techniques. What
8 police techniques did you learn?

9 **A. Barricaded gunman, traffic stops, arrest techniques,
10 hand-to-hand combat, firearms training.**

11 Q. Anything else?

12 **A. Not that I can recall.**

13 Q. Okay. And so these were all police techniques
14 geared towards patrol officers?

15 **A. Yes.**

16 Q. There weren't any detective type investigative
17 trainings involved?

18 **A. We had a class -- well, we had holding a scene,
19 looking for evidence.**

20 Q. On a crime scene?

21 **A. Yes.**

22 Q. Okay. And as a patrol officer, were you
23 involved in putting together warrant packets?

24 **A. No.**

25 Q. Okay. Did you as a patrol officer think about

1 what would eventually go into a warrant packet
2 as you're doing your job?

3 **A. No.**

4 Q. Okay. Let me jump to when you were a detective.
5 You said that there were a couple of police
6 officers in the 3rd Precinct kind of acting as
7 place holders or detectives-in-training, right?

8 **A. Yes.**

9 Q. How common is that?

10 **A. Common.**

11 Q. Would you say that at any given time there is at
12 least one police officer as a place holder?

13 **A. There was more in the past. It's not so much
14 now, but there's still police officers working
15 in investigations.**

16 Q. Okay.

17 **A. I couldn't tell you how common it is, but --**

18 Q. Do you know the purpose of that position? Is it
19 to train police officers to become detectives or
20 is it a capacity issue where they need folks in
21 seats and they pull up police officers who have
22 applied?

23 **A. I do not know.**

24 Q. Final set of questions before I move on to
25 policies. You said you were in the court

1 section from roughly 2020 to 2022?

2 **A. Yes.**

3 Q. Do you remember the month that you started in
4 2020 in the court section?

5 **A. I don't recall. It was in the summer I believe.**

6 Q. So summer of 2020, right?

7 **A. Correct.**

8 Q. Up until two months ago?

9 **A. Correct.**

10 Q. So that would be August of 2022?

11 **A. Sounds right, yes.**

12 Q. Summer of 2022?

13 **A. What is it? Two months ago now, yes, about,**
14 **yes, summer of `22.**

15 Q. I had to count, too. So can you recall for me
16 what your job was in the court section?

17 **A. Entering warrants into our database.**

18 Q. And so was that after the warrant had already
19 been approved by a judge?

20 **A. Yes, by a prosecutor.**

21 Q. By a prosecutor, okay. So this was more or less
22 data management, making sure that everything is
23 in LEIN or whatever it is for whatever reason?

24 **A. Correct.**

25 Q. What did you learn on that job?

- 1 **A. How to enter the warrants into the system.**
- 2 Q. Anything else?
- 3 **A. No.**
- 4 Q. Did you learn anything about what goes into a
5 warrant packet?
- 6 **A. No, no.**
- 7 Q. So you would say that as far as your understanding
8 of what goes into a warrant packet, you have the
9 same understanding before your time on the court
10 section and after your time on the court section?
- 11 **A. Yes.**
- 12 Q. Would it have been helpful to have any training
13 during your time in the court section?
- 14 **A. For the court paperwork? No.**
- 15 Q. Would it have been helpful to have any training
16 during your time as a detective doing
17 investigations before the court section?
- 18 **A. Training is always helpful.**
- 19 Q. Training is always helpful. Are there any
20 particular trainings that you can think of that
21 would be especially helpful for a detective?
- 22 **A. Not off-hand, no.**
- 23 Q. Do you think the detective school that they
24 implemented more recently includes helpful
25 trainings?

1 **A. I do not know. I don't know what's involved in it.**

2 Q. Okay. All right. Let's move on to some
3 questions about DPD policy. So are you aware
4 that the DPD has official policies in place that
5 DPD personnel are required to follow?

6 **A. Yes.**

7 Q. So I'm going to ask you a few preliminary
8 questions about the types of DPD policies just
9 to make sure that you and I have the same
10 understanding of the types of policies. After
11 that, we'll get into some specific policies, okay?

12 **A. Okay.**

13 Q. Are you aware of the DPD manual?

14 **A. Yes.**

15 Q. Have you read that manual?

16 **A. Back when I first got on the job, yes.**

17 Q. So you read that manual in 2008 or 2019?

18 **A. '8.**

19 Q. 2008. Have you read that manual since?

20 **A. No.**

21 Q. Have you read any part of that manual since?

22 **A. No.**

23 Q. Are detectives required to read the DPD manual?

24 **A. No.**

25 Q. Are detectives required to stay up-to-date on

1 manual updates?

2 **A. We get as a department, not just detectives, we**
3 **get yearly updates on legal and then we get, we**
4 **get e-mails when there's department changes.**

5 Q. You get e-mails when there's what? Sorry.

6 **A. Department changes.**

7 Q. And what are department changes?

8 **A. Like policy changes.**

9 Q. Policy changes, okay. And so what do those
10 yearly updates look like? Are they presentations?
11 Are they e-mails?

12 **A. Presentation.**

13 Q. Presentation. Who gives the presentation?

14 **A. Normally a standing lawyer for the city.**

15 Q. And is that a department-wide presentation?

16 **A. Everyone has to take it, so yes.**

17 Q. Is the presentation live or is it pre-recorded?

18 **A. It's live.**

19 Q. Let's go back before COVID. In 2019 did you
20 attend that presentation in person?

21 **A. Yes.**

22 Q. Where was it?

23 **A. Police academy.**

24 Q. Police academy. And where is the police academy?

25 **A. Currently it's on Linwood.**

1 Q. Okay. And those e-mails that you received with
2 department changes, do you read those e-mails?

3 **A. I try to.**

4 Q. How consistently would you say you read those
5 e-mails?

6 **A. Pretty consistently.**

7 Q. Is there any specific notification you get about
8 policy changes or are they within the larger
9 department change e-mail?

10 **A. They're in the e-mail that the department policy,
11 gives you a policy number that was changed.**

12 Q. Okay. So if there's a given -- if there's a
13 department change e-mail that you didn't read
14 and that department change e-mail included a
15 policy change, you wouldn't have read that
16 policy change in any other way, right?

17 **A. More than likely, no.**

18 Q. Okay. And so as far as the DPD manual goes, you
19 haven't read it or any part of it since 2008,
20 right?

21 **A. Correct.**

22 Q. Okay. But you're aware that the DPD manual is
23 updated with new or revised policies from time
24 to time, right?

25 **A. Correct.**

1 Q. And you're notified of updates to the manual
2 through a more general e-mail about department
3 changes, right?

4 **A. Correct.**

5 Q. And you don't read the manual every time it's
6 updated?

7 **A. Correct.**

8 Q. Is there a policy or rule in place as to how
9 often you're supposed to read the manual?

10 **A. Not that I'm aware of.**

11 Q. Are you aware of the DPD's crime intelligence
12 unit, the CIU?

13 **A. Yes.**

14 Q. Are you aware that the crime intelligence unit
15 follows a set of standard operating procedures
16 or SOPs?

17 **A. I would assume so.**

18 Q. You would assume so, so don't know if there's an
19 actual SOP manual or anything like that?

20 **A. Correct.**

21 Q. So you haven't read those SOPs I'm guessing?

22 **A. Correct.**

23 Q. Do you know how SOPs differ from manual directives?

24 **A. No.**

25 Q. Does the 3rd Precinct have any SOPs?

1 A. Not that I'm aware of.

2 Q. Are you aware that the DPD occasionally issues
3 special orders?

4 A. How so?

5 Q. It's an official term. Special order could be a
6 temporary policy, could be an announcement?

7 A. Yes.

8 Q. Do you receive those special orders?

9 A. Through e-mail, correct.

10 Q. Is it through that same general department
11 change e-mail?

12 A. Yes.

13 Q. And you said that sometimes you read those
14 e-mails, sometimes you don't?

15 A. Correct.

16 Q. And you say that as far as you're aware, you're
17 not required to read those e-mails?

18 A. Correct.

19 Q. Okay. Do you know how special orders are
20 different from manual directives?

21 A. No.

22 Q. So so far I've mentioned the DPD manual, I've
23 mentioned the crime intelligence unit SOPs, and
24 I've mentioned DPD special orders. Are there
25 any other types of DPD policies that I haven't

1 already mentioned?

2 **A. Not that I'm aware of.**

3 Q. Are you aware of DPD training directives?

4 **A. Yes.**

5 Q. Would you consider a training directive a policy?

6 **A. No.**

7 Q. Okay. Can you tell me what training directives
8 are?

9 **A. Information on certain aspects of whatever the
10 policy is for, whatever the situation is for.**

11 **Like I said, traffic stops, that would be a
12 directive on the traffic stop.**

13 Q. And then how would you go about implementing
14 that training directive?

15 **A. You just read it.**

16 Q. And do you read all the training directives --
17 well, let me back up. Do you receive those
18 training directives?

19 **A. I would say yes.**

20 Q. How do you receive them?

21 **A. E-mail.**

22 Q. Is it in that same large department change e-mail?

23 **A. Correct. We get an e-mail every morning.**

24 Q. With all the department changes, whether or not
25 they're policies?

1 **A. Correct.**

2 Q. Okay. Do you recall reading any training
3 directives?

4 **A. Throughout my career, yes.**

5 Q. Since you started as a detective in 2019?

6 **A. Yes.**

7 Q. Can you tell me about some of those training
8 directives?

9 **A. I cannot.**

10 MR. WADOOD: I'm going to enter Exhibit 2.

11 (Marked Exhibit No. 2.)

12 Q. (Continuing, by Mr. Wadood) This one's for you.

13 Okay. Have you seen this document before?

14 **A. I don't recall.**

15 Q. Okay. As you see, it's labeled training
16 directive, right?

17 **A. Correct.**

18 Q. And that training number is 19-07, right?

19 **A. Correct.**

20 Q. And it's titled Use of Traffic Light Mounted
21 Cameras and Facial Recognition Technology, right?

22 **A. Yes.**

23 Q. Okay. Can you go to that orange tab, which is
24 on the last page for you guys. Just to be sure,
25 you haven't seen this document before, right?

1 **A. Not that I recall.**

2 Q. Can you look at the last section on that last
3 page titled Use of Facial Recognition Technology?

4 **A. Yes.**

5 Q. It says here that, "Criminal investigation
6 required DPD members will not use facial
7 recognition technology unless that technology is
8 in support of an active or ongoing criminal or
9 homeland security investigation." Did I read
10 that right?

11 **A. Correct.**

12 Q. So that policy doesn't limit facial recognition
13 technology used to specific crimes, right?

14 **A. Correct.**

15 Q. It just requires that there be an ongoing criminal
16 or homeland security investigation, right?

17 **A. Yes.**

18 Q. Okay. And then on that last paragraph it says,
19 "DPD members may not use facial recognition
20 technology on any person unless there is
21 reasonable suspicion that such use of facial
22 recognition technology will provide information
23 relevant to an active or ongoing criminal or
24 homeland security investigation." Did I read
25 that right?

1 **A. Yes.**

2 Q. Okay. And so according to this policy, you have
3 to have reasonable suspicion that using facial
4 recognition technology will provide relevant
5 information to an investigation, right?

6 **A. Correct.**

7 Q. Do you recall this policy at all?

8 **A. No.**

9 Q. Okay. So you've never seen this document or
10 this specific policy on facial recognition
11 technology, right?

12 **A. Correct.**

13 Q. Okay. The document itself is dated 4/9/2019 on
14 the top right, correct?

15 **A. Yes.**

16 Q. So this would have been in place as a training
17 directive during your work on the Shinola
18 investigation, which again is the October 2nd,
19 2018 alleged theft at the midtown Shinola, right?

20 **A. What was the date of this case?**

21 Q. So according to the documents we have, and you
22 can confirm if this is true or not, you were
23 assigned to that investigation in May of 2019,
24 is that right?

25 **A. Yes.**

1 Q. Okay. So this would have been in place -- this
2 training directive 19-07 would have been in
3 place at the time you were working on that
4 investigation, right?

5 **A. Yes.**

6 Q. You can put that one aside.

7 MR. WADOOD: I'm going to enter Exhibit 3.

8 (Marked Exhibit No. 3.)

9 Q. (Continuing, by Mr. Wadood) Okay. Have you seen
10 this document before?

11 **A. No.**

12 Q. Okay. On the cover sheet, the yellow cover
13 sheet that's labeled Transmittal of Written
14 Directive, right?

15 **A. Yes.**

16 Q. And the type of directive is Manual Directive
17 307.6, right?

18 **A. Correct.**

19 Q. And you'll see that it was approved on April 22nd,
20 2019 and received on April 23rd, 2019, right?

21 **A. Yes.**

22 Q. Okay. Can you go to the last page of the policy?

23 **A. (Witness complies.)**

24 Q. So that very last section 307.6-5 Use of Facial
25 Recognition Technology, can you give that

1 section a quick read for me and just let me know
2 when you're ready?

3 **A. Ready.**

4 Q. You're ready?

5 **A. Yes.**

6 Q. That policy is identical to the one we looked at
7 in the training directive, right?

8 **A. Yes.**

9 Q. Do you know why the department would implement
10 this DPD manual directive when it had an identical
11 training directive on the books already?

12 **A. No.**

13 Q. Okay. And so again this was approved on April 26
14 -- or 22nd, 2019 and received on April 23rd, 2019,
15 so that would have been in place at the time of
16 your work on the Shinola investigation, right?

17 **A. Yes.**

18 Q. You can put this one aside.

19 MR. WADOOD: I'm going to enter Exhibit 4.

20 (Marked Exhibit No. 4.)

21 Q. (Continuing, by Mr. Wadood) Okay. Same set of
22 questions. Have you seen this document before?

23 **A. No.**

24 Q. You'll see it's titled on the cover sheet
25 Transmittal of Written Directive, right?

1 A. Correct.

2 Q. The type of directive is Manual Directive 307.5,
3 correct?

4 A. Correct.

5 Q. And it was approved on July 25th, 2019, correct?

6 A. Yes.

7 Q. Received on July 25th, 2019 by the Board of
8 Police Commissioners, correct?

9 A. Yes.

10 Q. Okay. And on this yellow cover sheet you'll see
11 that under approvals or comments, it says, "The
12 above referenced directive is updated to reflect
13 the Board of Police Commissioners and internal
14 review," right?

15 A. Correct.

16 Q. Do you recall any of the Board of Police
17 Commissioners recommendations for this policy?

18 A. No.

19 Q. I want you to flip to the last page of the
20 policy again. At the very top, 307.5-4.2, it
21 says Criminal Investigation Required, right?

22 A. Correct.

23 Q. And it says, "Members shall not use facial
24 recognition technology unless that technology is
25 in support of an active or ongoing Part 1

1 Violent Crime Investigation (e.g., robbery,
2 sexual assault, or homicide) or a Home Invasion 1
3 investigation," right?

4 **A. Correct.**

5 Q. So based on this directive and the two previous
6 directives we looked at, it looks like the
7 department limited the crimes for which you can
8 use facial recognition technology, right?

9 **A. I don't know.**

10 Q. Well, we looked at in the previous directive, it
11 said for any criminal or homeland security
12 investigation, right?

13 **A. Correct.**

14 Q. And in this one it says, "Active or ongoing Part 1
15 Violent Crime investigation or Home Invasion 1
16 investigation," right?

17 **A. Correct.**

18 Q. Would you say this policy limited the circumstances
19 in which you can use facial recognition technology?

20 **A. Yes.**

21 Q. And you'll see two paragraphs down 307.5 - 4.4
22 Process for Requesting Facial Recognition. Do
23 you recall seeing this section of this policy?

24 **A. No.**

25 Q. Were you aware that there is a policy process

1 for requesting a facial recognition search?

2 **A. Correct.**

3 Q. You're aware of that?

4 **A. Now, yes.**

5 Q. Now you're aware of that?

6 **A. Well, after this came out, yes.**

7 Q. After this came out in 2019?

8 **A. Correct.**

9 Q. So you do recall receiving this policy?

10 **A. No, just people talking.**

11 Q. Just people talking about the policy?

12 **A. Correct, how we are required to present it to**
13 **someone before we can submit it.**

14 Q. And is that a new process since the first two
15 directives we looked at?

16 **A. Yes.**

17 Q. And what do you recall people saying about this
18 policy?

19 **A. That now we have to present it to a supervisor**
20 **to get it signed off before we can submit it.**

21 Q. Okay. And before this policy there wasn't a
22 process, an official process in place for
23 requesting facial recognition technology?

24 **A. Correct.**

25 Q. So since April 2019 until July 25th, 2019, you

1 didn't see any specific policies on facial
2 recognition, right?

3 **A. Correct.**

4 Q. You just heard it being talked about in the
5 precinct?

6 **A. Correct.**

7 Q. What else was talked about regarding facial
8 recognition technology in the precinct at that
9 time?

10 **A. That was it. It can only be used for part one
11 crimes and it has to be approved.**

12 Q. Okay. So the Shinola investigation that you
13 worked on had to do with retail fraud, right?

14 **A. Correct.**

15 Q. And according to this policy, you can only use
16 facial recognition technology for Part 1 Violent
17 Crimes or Home Invasion 1 crimes, right?

18 **A. Correct.**

19 Q. So that retail fraud case wouldn't have complied
20 with this policy, right?

21 **A. Correct.**

22 Q. But your work began on that case before the
23 policy came out, right?

24 **A. Correct.**

25 Q. And there was a facial recognition search run in

1 that case, right?

2 **A. Correct.**

3 Q. But it was requested before this policy came
4 out, right?

5 **A. Correct.**

6 Q. If it was requested after this policy came out,
7 it wouldn't have been able to be run because of
8 its limits, right?

9 **A. It would have to be approved through command.**

10 Q. So command can approve the use of facial
11 recognition in a case that departs from this
12 policy?

13 **A. I would think so.**

14 Q. Is there a process in place for requesting you
15 to depart from 307.5-4.2?

16 **A. No.**

17 Q. Do you recall any time in which a detective in
18 your precinct requested that they be able to use
19 facial recognition for a non-Part 1 Violent
20 Crime or a non-Home Invasion 1?

21 **A. Since this policy, no.**

22 Q. Since this policy?

23 **A. No.**

24 Q. And before that, you would still have to receive
25 a supervisor's approval to use facial recognition?

1 **A. No, but you can use it for a non-Part 1.**

2 Q. Okay. So you're just saying in theory you can
3 imagine a supervisor approving a request to use
4 facial recognition technology for a non-Part 1
5 Violent Crime or a non-Home Invasion 1 if the
6 circumstances required it?

7 **A. Correct.**

8 Q. And just to make sure I heard you right, there
9 was no official process before this July 25th
10 policy for requesting a facial recognition search?

11 **A. Correct.**

12 Q. Okay. But what was the unofficial process for
13 requesting it before July 25th?

14 **A. You just requested it.**

15 Q. From?

16 **A. You sent it to crime intel.**

17 Q. And crime intel is the crime intelligence unit?

18 **A. Correct.**

19 Q. Was that a consistent practice across detectives?

20 **A. Yes.**

21 Q. Okay. Was there any approval requirement,
22 unofficial or official, before July 25th?

23 **A. No.**

24 Q. So a detective kind of had the full authority to
25 request a facial recognition search in whatever

1 investigation they were working?

2 **A. Correct.**

3 Q. Was there any policy or practice, official or
4 unofficial, in place before July 25th as far as
5 how to use the result of that facial recognition
6 search?

7 **A. Not that I'm aware of.**

8 Q. Okay. Do you know if this July 25th policy that
9 came out limiting the use of facial recognition
10 technology, do you know if it was retroactive in
11 any way?

12 **A. I do not know.**

13 Q. Do you know if it applied to ongoing cases in
14 which there was already a facial recognition
15 search run?

16 **A. I don't know.**

17 Q. Do you recall any cases that you or a fellow
18 detective was working on in the 3rd Precinct
19 where a search had already been run, but a
20 warrant hadn't been requested during the time
21 this policy came out?

22 **A. Like if they had facial rec before the policy?**

23 Q. Right.

24 **A. If they had one, yes.**

25 Q. And do you recall anything changing in those

1 cases once this policy came out?

2 **A. No.**

3 Q. Okay. So as far as you know, cases in which a
4 facial recognition search was already run, those
5 detectives could still use that search result in
6 their cases even after this date?

7 **A. As far as I know.**

8 Q. Okay. So just as an example, if a detective
9 requested a facial recognition search in a
10 retail fraud case on July 24th and got a result
11 on that same day and then this policy came out
12 on July 25th, they could still use that result
13 on July 26th to support their warrant packet?

14 **A. I would think so.**

15 MR. WADOOD: Okay. Let me move on to
16 Exhibit 5.

17 (Marked Exhibit No. 5.)

18 Q. (Continuing, by Mr. Wadood) Have you seen this
19 document before?

20 **A. I can't recall.**

21 Q. Okay. Is this a DPD manual directive?

22 **A. Yes.**

23 Q. Okay. You'll see that the effective date is
24 September 19th, 2019, right?

25 **A. Correct.**

1 Q. Okay. And this is an updated directive 307.5,
2 right?

3 **A. Correct.**

4 Q. Do you recall if this policy was announced to
5 you when it was updated?

6 **A. I don't recall.**

7 Q. Okay. If you go to page three, which is where
8 for you the orange tab is, you'll see in 307.5-5.2,
9 Criminal Investigation Required, it says that,
10 "Members shall not use facial recognition
11 technology unless that technology is in support
12 of an active or ongoing Part 1 Violent Crime
13 investigation (e.g. robbery, sexual assault, or
14 homicide) or a Home Invasion 1 investigation."
15 Did I did read that right?

16 **A. Correct.**

17 Q. And so this is the same limit on facial recognition
18 technology as the July 25th policy, right?

19 **A. Yes.**

20 Q. Same question as before, do you know if this
21 policy applied to any prior or ongoing
22 investigations in which facial recognition had
23 already been used?

24 **A. I do not know.**

25 Q. Are you aware of any policy updates to this

1 facial recognition technology policy since
2 September 19, 2019?

3 **A. No.**

4 Q. So as far as you're aware as of now, the
5 effective policy is the September 19th, 2019
6 version of 307.5?

7 **A. Yes.**

8 Q. Okay. And that means as of now you can only use
9 facial recognition technology for active or
10 ongoing Part 1 Violent Crimes or active or
11 ongoing Home Invasion 1 crimes, right?

12 **A. Correct.**

13 Q. Okay. You can put that one aside. On to the
14 next one.

15 (Marked Exhibit No. 6.)

16 Q. (Continuing, by Mr. Wadood) This is Exhibit 6.
17 Have you seen this document before?

18 **A. Not that I recall.**

19 Q. Okay. You'll see that it is a DPD manual
20 directive, right?

21 **A. Correct.**

22 Q. Have you seen -- the effective date is October 1st,
23 2014, right?

24 **A. Correct.**

25 Q. And this manual directive has to do with

1 eyewitness identification in line-ups, right?

2 **A. Correct.**

3 Q. Directive number 203.11, right?

4 **A. Yes.**

5 Q. Okay. As far as you're aware, have there been
6 any updates to this policy since October 1st, 2014?

7 **A. Not that I'm aware of.**

8 Q. Okay. So as far as you're aware, this is the
9 current policy in place as far as eyewitness
10 line-ups or eyewitness identifications and
11 line-ups go, right?

12 **A. Correct.**

13 Q. And because this policy is dated October 1st, 2014,
14 this would have applied during your work on the
15 Shinola investigation, right?

16 **A. Yes.**

17 Q. Okay. Sticking to the first page, 203.11-1,
18 Purpose, "The purpose of this directive is to
19 establish the proper guidelines for obtaining
20 reliable eyewitness identification and for
21 conducting line-ups." Did I read that right?

22 **A. Correct.**

23 Q. So this policy applies to eyewitness
24 identifications, right?

25 **A. Yes.**

1 Q. And under the photographic show-up section, two
2 paragraphs down 203.11-3, it lays out the
3 process for conducting a photographic show-up
4 with an eyewitness, right?

5 **A. Correct.**

6 Q. And a photographic show up is what according to
7 your understanding?

8 **A. Our version of a six pack, where we show photos**
9 **to a victim for identification.**

10 Q. And is it to a victim only?

11 **A. Or a witness.**

12 Q. Or a witness. Is that an eyewitness?

13 **A. Or any witness.**

14 Q. Any witness. Is it common to give photographic
15 show-ups to non-eyewitnesses?

16 **A. Yes.**

17 Q. And in what circumstances would you do that?

18 **A. Retail fraud.**

19 Q. Retail fraud?

20 **A. Yes.**

21 Q. Is that the only crime in which you can use a
22 non-eyewitness?

23 **A. No.**

24 Q. What other crimes?

25 **A. Any crime. Any crime that they have knowledge**

1 or we think they have knowledge of the
2 individual involved.

3 Q. Okay. When you present a six-pack or a photo
4 show-up to a non-eyewitness, do you have this
5 policy in mind?

6 A. Yes.

7 Q. So you've seen this policy before?

8 A. No, I just have the idea of it.

9 Q. What do you mean the idea of it?

10 A. Presenting them, the process that goes with
11 presenting them with the photos.

12 Q. And how did you learn that process of presenting
13 them with photos?

14 A. Through other detectives.

15 Q. Through other detectives, but not through this
16 policy?

17 A. Correct.

18 Q. So you wouldn't have this specific policy in
19 mind when you're presenting a photo show-up to a
20 non-eyewitness, right?

21 A. Correct.

22 Q. And how often have you, or I guess I'll ask how
23 many times have you presented a photographic
24 show-up or a six-pack to a non-eyewitness?

25 A. I don't recall.

1 Q. Is it more than one?

2 A. **Yes.**

3 Q. Is it more than five?

4 A. **Yes.**

5 Q. More than ten?

6 A. **I don't know.**

7 Q. Okay. I'll make it easier. Is it more than 25?

8 A. **No.**

9 Q. Okay. So it's within five and 25, right?

10 A. **Yes.**

11 Q. What percentage of cases that you've worked on,
12 investigations that you've worked on would you
13 say that makes up?

14 A. **I handle a lot of retail fraud, so I would show
15 it quite often. I couldn't give you a percentage.**

16 Q. Okay. Is there a particular reason that you
17 mentioned retail fraud specifically for
18 non-eyewitness show-ups?

19 A. **Because of video footage and security teams.**

20 Q. Okay. So is it kind of a -- is it an official
21 or unofficial practice in your precinct to use
22 non-eyewitness photographic show-ups for retail
23 fraud specifically?

24 MR. CUNNINGHAM: I'm going to object to
25 the form of that question.

1 Q. (Continuing, by Mr. Wadood) Okay. You can still
2 answer it.

3 A. I don't know if it's official policy, but if you
4 were a security guard of a retail store and
5 you're watching videotape and found someone
6 stealing something, I would present you with a
7 photo line-up if I have I.D.

8 Q. So that was your personal practice?

9 A. Yes.

10 Q. So those five to 25 cases in which you used a
11 non-eyewitness show-up, were all of them retail
12 fraud?

13 A. I don't recall.

14 Q. Were most of them retail fraud?

15 A. Yes.

16 Q. Any other detectives in the 3rd Precinct do the
17 same thing?

18 A. I don't recall.

19 Q. Okay. And so did you develop this practice on
20 your own?

21 A. No.

22 Q. Was it with the help of other detectives?

23 A. Correct.

24 Q. Did someone tell you that for retail fraud you
25 can use a non-eyewitness for a show-up?

1 A. No.

2 Q. So no one told you. Then how did you develop
3 this practice with the help of other detectives?

4 A. No one told me I couldn't do it.

5 Q. No one told you you couldn't do it. Did you ask
6 someone can I do this?

7 A. No.

8 Q. And so in what circumstances would they have told
9 you anything about non-eyewitness photo show-ups?

10 A. I'm not sure. How do you mean?

11 Q. Can you describe the conversations you had with
12 other detectives about non-eyewitness show-ups?

13 A. I can't recall.

14 Q. But you've had conversations with other
15 detectives about non-eyewitness show-ups?

16 A. Yes.

17 Q. And whether or not you can or should do them?

18 A. I won't say whether I can or should.

19 MR. CUNNINGHAM: Object to the form of
20 that question.

21 Q. (Continuing, by Mr. Wadood) Whether or not you
22 can do them?

23 A. No.

24 Q. Whether or not you should do them?

25 A. No.

1 Q. Okay. But in any or all of those conversations,
2 did this policy or any official DPD policy on
3 eyewitness identification ever come up?

4 **A. No.**

5 Q. Okay. You can put this aside.

6 MR. WADOOD: I'm going to move on to
7 Exhibit 7.

8 (Marked Exhibit No. 7.)

9 Q. (Continuing, by Mr. Wadood) Have you seen this
10 policy before?

11 **A. Not that I recall.**

12 Q. Okay. You'll see it's a DPD policy directive,
13 right, manual directive, right?

14 **A. Correct.**

15 Q. And it is numbered 101.1, right?

16 **A. Correct.**

17 Q. It's labeled Written Directive System, right?

18 **A. Correct.**

19 Q. And the effective date of the policy is
20 September 23rd, 2014, right?

21 **A. Correct.**

22 Q. Are you aware of any updates to this policy that
23 have taken place since September 23rd, 2014?

24 **A. I am not.**

25 Q. So as far as you're aware, this is the effective

1 policy on the written directive system, right?

2 **A. Yes.**

3 Q. And because it's dated from 2014, it would have
4 been in place during your whole time as a
5 detective, right?

6 **A. Correct.**

7 Q. On the policy section of the first page, so
8 that's 101.1-2 it says in the final few
9 sentences, "The provisions of the department's
10 directives govern all personnel of the Detroit
11 Police Department. Each individual member is
12 responsible for knowing and abiding by these
13 provisions. Failure to abide by the provisions
14 in this manual shall be cause for appropriate
15 disciplinary action." Did I read that right?

16 **A. Correct.**

17 Q. And you don't recall reading or knowing about
18 this policy, right?

19 **A. Correct.**

20 Q. But that includes you, right? It says all
21 personnel of the Detroit Police Department?

22 **A. Yes.**

23 Q. Okay. Let's go to page five. The very last
24 paragraph 101.1-4.8 Member Responsibility. Do
25 you see that?

1 **A. Yes.**

2 Q. It says, "Every department member is responsible
3 for reading any updates to the Manual of which
4 he/she has been made aware. Department members
5 are responsible for knowing and adhering to all
6 of the provisions of the Manual." Did I read
7 that right?

8 **A. Correct.**

9 Q. And you would be included in department member,
10 right?

11 **A. Yes.**

12 Q. And so according to this directive, you were
13 responsible for knowing and adhering to all
14 provisions of the DPD policy manual, including
15 any updates that might be issued, right?

16 **A. Correct.**

17 Q. The next sentence, "The department shall make
18 all reasonable efforts to ensure that each
19 member is made aware of changes and additions to
20 the manual." Did I read that right?

21 **A. Yes.**

22 Q. In your opinion as a detective, do you think the
23 department makes all reasonable efforts to
24 ensure that each member is made aware of changes
25 and additions to the manual?

1 A. No.

2 Q. What could they do better?

3 A. They can go over updates in our yearly training.

4 They can give ample time for coverage to read
5 the new policies.

6 Q. Okay. But what do they do currently?

7 A. They send an e-mail that says the policy has
8 been changed.

9 Q. And that's that same larger department change
10 e-mail that you mentioned before?

11 A. Yes.

12 Q. And that could include other things that aren't
13 policy updates, correct?

14 A. Correct.

15 Q. If you look at the last sentence, "Violations of
16 a directive will not be excused by the claim
17 that the directive was not received." Did I
18 read that right?

19 A. Correct.

20 Q. So according to this last sentence, you couldn't
21 excuse yourself by saying, oh, I didn't receive
22 this policy or I didn't read this policy, right?

23 A. Correct.

24 Q. And if there's a violation of the directive, you
25 can't defend that action by saying I never

1 received this directive, right?

2 **A. You can try.**

3 Q. You can try, but according to this policy, you
4 can't, right?

5 **A. Correct.**

6 Q. Okay. You can put this one aside. Okay. This
7 next one I'm afraid I killed a lot of trees for
8 no reason based on your prior answers, but I
9 will introduce it just to make sure I cover all
10 our bases. This is Exhibit 8.

11 (Marked Exhibit No. 8.)

12 Q. (Continuing, by Mr. Wadood) Have you seen this
13 document before?

14 **A. I have not.**

15 Q. Okay. According to the cover page, it says
16 Crime Intelligence Unit Standard Operating
17 Procedures (SOP), right?

18 **A. Yes.**

19 Q. And so these are the standard operating
20 procedures for crime intel, right?

21 **A. Okay.**

22 Q. According to the cover sheet?

23 **A. Yes.**

24 Q. And you'll see the revised date is 4/1/2019,
25 April 1st, 2019, is that right?

1 A. Correct.

2 Q. Okay. And so these policies would have been in
3 place during your time working on the Shinola
4 investigation, right?

5 A. Yes.

6 Q. Let's jump to section eight. That's going to
7 be, for you it will be that first tab. For the
8 others without tabs it will be on the Defendants'
9 initial disclosures 00134. Do you recognize
10 this policy or, sorry, do you recognize this
11 standard operating procedure?

12 A. No.

13 Q. You'll see that it's standard operating
14 procedure section eight, right?

15 A. Correct.

16 Q. For the crime intelligence unit, correct?

17 A. Yes.

18 Q. Revised date April 1st, 2019, right?

19 A. Correct.

20 Q. And the subject is facial recognition, right?

21 A. Yes.

22 Q. And you've never read this policy?

23 A. No.

24 Q. You've never seen this policy?

25 A. No.

1 Q. If you move down a couple pages, it will be on
2 that second tab for you, on 141 for the others.
3 Last section 8.11 Training, it says, "DPD's face
4 recognition policy training program will cover
5 elements of the operation of the face recognition
6 program including," and it goes on to mention
7 various facets. You didn't participate in this
8 training, did you?

9 **A. No.**

10 Q. In fact, you didn't receive any training on
11 facial recognition, right?

12 **A. Correct.**

13 Q. Okay. And you didn't know about this policy or
14 this training that the policy mentions at all?

15 **A. Correct.**

16 Q. Okay. You can put this one aside. I'm happy to
17 say those are all the policies that I have
18 questions about. So let's talk about your
19 experience with these policies in general. When
20 you became a detective, were you provided with
21 any of these policies or with any of DPD's other
22 policies or directives?

23 **A. We have them online.**

24 Q. Were you provided them in paper or electronic
25 form specifically?

- 1 **A. No.**
- 2 Q. And in what form do you have them online?
- 3 **A. Our DPD home page. There is a drop-down box for**
4 **the manual and training directives.**
- 5 Q. Is that the written directive system that we
6 looked at a policy for?
- 7 **A. Yes.**
- 8 Q. Did you look at that written directive system
9 when you started as a detective?
- 10 **A. No.**
- 11 Q. Okay. Do you do anything to ensure that DPD
12 policies and procedures are followed?
- 13 **A. Just ask questions if I have questions about it.**
- 14 Q. Okay. But do you ask questions about specific
15 policies and procedures or about actions you're
16 taking in your investigation?
- 17 **A. Actions I'm taking. Not policy, no.**
- 18 Q. Do you know what happens if you violate or fail
19 to abide by a department policy?
- 20 **A. No.**
- 21 Q. Okay. Do your supervisors, whether it's your
22 sergeant or your lieutenant or another
23 supervisory officer, do they do anything to
24 ensure policies are followed?
- 25 **A. I don't know.**

1 Q. In your experience, have they done anything with
2 you to ensure that policies are followed?

3 **A. They look over our work.**

4 Q. Do they look over your work to see if policies
5 have been followed?

6 **A. I don't know.**

7 Q. Have your supervisors talked to you about
8 department policies at all?

9 **A. No.**

10 Q. They haven't provided any training or
11 information about current policies?

12 **A. No.**

13 Q. Okay. Let's take another quick break for just a
14 couple minutes. I think that's all I have on
15 policies. I just want to make sure.

16 (Recess 11:35 a.m. to 11:46 a.m.)

17 Q. (Continuing, by Mr. Wadood) Okay. I think we
18 are ready to get back on the record. Okay.
19 Detective Bussa, I just have a couple final
20 questions on policies and practices and then
21 we'll get into some facial recognition technology
22 content. So I want to go back to your practice
23 of using non-eyewitnesses for photo show-ups.

24 **A. Mm-hmm.**

25 Q. And so can you remind me again in what

1 circumstances you would use a non-eyewitness for
2 a photographic show-up?

3 **A. An example would be if your house was broken**
4 **into and you had a ring doorbell, we would use**
5 **that video to get a witness I.D. and I'll present**
6 **you with that to see if you knew the person.**

7 Q. So it would primarily be for things like larceny
8 or retail fraud?

9 **A. Yes.**

10 Q. And you said that your practice of using
11 non-eyewitness line-ups isn't an official policy
12 or official practice at the DPD or in your
13 precinct, right?

14 **A. Not that I'm aware of.**

15 Q. Would you consider it an unofficial practice
16 that detectives in your precinct followed?

17 **A. Back then, yes.**

18 Q. So there was more than just you who was using
19 non-eyewitnesses for photographic show-ups?

20 **A. Yes.**

21 Q. How many detectives -- you said previously I
22 think that you have nine detectives in your
23 precinct. Of those nine, how many would be
24 doing non-eyewitness show-ups?

25 **A. I don't know.**

- 1 Q. Is it more than two?
- 2 **A. I couldn't tell you a number.**
- 3 Q. But there are others who do it?
- 4 **A. Yes.**
- 5 Q. And how did you find out that there are others
6 who do it?
- 7 **A. Just seeing people do it.**
- 8 Q. So you learned from others doing it?
- 9 **A. Correct.**
- 10 Q. Okay. And you said earlier that no one told you
11 not to do it, right?
- 12 **A. Correct.**
- 13 Q. Okay. Did others know, others in your precinct
14 know that you were using non-eyewitnesses for
15 photographic show-ups?
- 16 **A. For those cases, yes.**
- 17 Q. So others knew about the practice of
18 using non-eyewitnesses?
- 19 **A. Yes.**
- 20 Q. Did your supervisors know about your practice of
21 using non-eyewitnesses for show-ups?
- 22 **A. Yes.**
- 23 Q. Which supervisors knew about that?
- 24 **A. I would assume all my supervisors.**
- 25 Q. So that includes Sergeant Irving?

1 **A. Correct.**

2 Q. That includes Sergeant Jackson?

3 **A. Yes.**

4 Q. That includes Lieutenant Chadwick-Bills?

5 **A. Yes.**

6 Q. That includes Sergeant Kleinsorge?

7 **A. I did not work under them at that time.**

8 Q. Okay. But is your current practice still to use
9 non-eyewitnesses for show-ups?

10 **A. I have not done it since then.**

11 Q. Were you told not to do it since then?

12 **A. No.**

13 Q. And then your current lieutenant after
14 Chadwick-Bills, whose name I am not recalling,
15 did that lieutenant know about your practice?

16 **A. I didn't work for her during that time either.
17 They're new to me just coming back.**

18 Q. And so Lieutenant Chadwick-Bills, Sergeant Irving,
19 Sergeant Jackson, those three knew about your
20 practice of using non-eyewitnesses for your
21 photographic show-ups, right?

22 **A. Yes.**

23 Q. Did any of them specifically approve your practice?

24 **A. Approve of it? They didn't say I couldn't do it.**

25 Q. Did they say that you can do it?

1 **A. They didn't say either way.**

2 Q. So then how did you know they were aware of your
3 practice?

4 **A. They would sign our warrants.**

5 Q. And when they were signing the warrants for
6 those investigations, they knew that the show-up
7 was done by a non-eyewitness?

8 **A. It would be stated in the warrant, yes.**

9 Q. But you didn't tell them specifically this was a
10 non-eyewitness?

11 **A. No.**

12 Q. And so also I just want to understand who these
13 non-eyewitnesses are in these investigations.
14 You said you would do photographic show-ups with
15 anyone who has knowledge of the incident, right?

16 **A. Correct.**

17 Q. How far does that go? Can you define for me who
18 a non-eyewitness could be in a retail fraud, for
19 example?

20 **A. In my personal use, I would use it for security.**
21 **If they were there at the time, if they were**
22 **working or they review video and they have an**
23 **I.D. We also use them with other agencies, like**
24 **Wayne State Police Department, and then victims,**
25 **whether they were, like I said, I've used it for**

1 a ring doorbell as far as a B and E, those
2 situations.

3 Q. And so in the victim ring doorbell example, you
4 would show the victim a screen shot of the ring
5 doorbell and have them identify who it was or
6 how would you do that?

7 A. So they generally provided us with their video,
8 their ring doorbell and I would, if during the
9 investigation I get an I.D., then I would
10 present them with a six-pack or whatever, or if
11 I find out they know the person, it would be a
12 single photo line-up and present it to them.

13 Q. And how would you get that I.D.?

14 A. Through different means. Through either other
15 officers, people, other witnesses, neighbors,
16 Wayne State, we use them a lot because they deal
17 with a lot of people that we deal with, other
18 detectives.

19 Q. Would facial recognition be a way to get those
20 I.D.s as well?

21 A. Yes.

22 Q. And so you said that you could have a security
23 officer review security footage and then
24 participate in the show-up based on the review,
25 right?

1 **A. Yes.**

2 Q. What makes that different than having any random
3 individual review the security footage and then
4 make an I.D. based on that?

5 **A. I don't know of a difference.**

6 Q. So you could pull any random person off the
7 street, have them review security footage, and
8 then let them participate as a non-eyewitness in
9 a show-up in an investigation?

10 **A. I would not.**

11 Q. In theory would that be any different than a
12 security officer?

13 **A. In theory, no.**

14 Q. That wouldn't be any different than an employee
15 of the DPD reviewing the security footage and
16 participating in the show-up for you?

17 **A. That's not how we used other officers. Officers**
18 **would be personal knowledge if they have**
19 **interacted with them, if they had a case with**
20 **that person, with all of our officers that**
21 **review, well, from mine. I can't speak for**
22 **other people, but I didn't show like ring**
23 **doorbell and have them do an I.D.**

24 Q. So you would never use DPD officers in a photo
25 show-up even if they were on the scene?

1 **A.** They wouldn't be in a photo show-up. They would
2 just be -- they would write their report that
3 they I.D. this person and how they do it.

4 Q. Right. So instead of a show-up, you would just
5 write a report. You wouldn't use them in a
6 show-up?

7 **A.** For an officer, correct.

8 Q. Would you use Wayne State police officers in
9 photo show-ups?

10 **A.** Yes, same thing as a DPD officer.

11 Q. Even if they were not an eyewitness?

12 **A.** Yes.

13 Q. Okay. And so are there any -- so I'm trying to
14 understand the limits of what a non-eyewitness
15 could be. Would they have to be physically on
16 the scene, whether or not they saw the crime?

17 **A.** I don't know what other people would use. I can
18 just tell you what I would do and that people
19 were involved, whether they were a witness, or a
20 victim or an agency.

21 Q. Would they have to be physically on the scene?

22 **A.** No.

23 Q. Physically around the scene?

24 **A.** No.

25 Q. Okay. So in what circumstances would you use

1 someone who is not physically on or around the
2 scene?

3 **A. Another agency, I would use them if they had**
4 **knowledge of the person.**

5 Q. By another agency, you mean another police agency?

6 **A. Wayne State or other police officers. I personally**
7 **don't go out to MSP, but some might. Neighbors,**
8 **they're not on the scene, but we can use them or**
9 **I have used them, and that's how it was.**

10 Q. Can you give me an example of when you would use
11 a member of another police agency who wasn't on
12 the scene or around the scene?

13 **A. Excuse me. I would send them a video. I would**
14 **send them the video or they would see a photo**
15 **that we have, a screen shot, and they would say**
16 **if they know this person or not.**

17 MR. CUNNINGHAM: Let's take a break.

18 MR. WADOOD: Yeah, we can take a break.

19 MR. CUNNINGHAM: Five minutes.

20 (Recess 11:56 a.m. to 12:05 p.m.)

21 MR. CUNNINGHAM: Mr. Bussa has been
22 experiencing some illness today and as we've
23 gone through the deposition, his condition has
24 deteriorated a little bit and I think for
25 Mr. Bussa's health and the safety of everybody

1 else in the room, we're going to postpone the
2 rest of his deposition until he's feeling better.

3 MR. WADOOD: And we're fine with that.

4 (Deposition adjourned at 12:05 p.m.)

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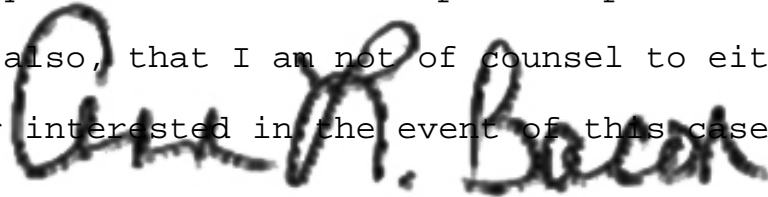
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25

1 STATE OF MICHIGAN)
)
2 COUNTY OF MACOMB)

3 I, Ann L. Bacon, a Notary Public in and for
4 the above county and state, do hereby certify
5 that the witness, whose attached deposition was
6 taken before me in the entitled cause on the
7 date, time and place hereinbefore set forth, was
8 first duly sworn to testify to the truth, and
9 nothing but the truth; that the testimony
10 contained in said deposition was reduced to
11 writing in the presence of said witness by means
12 of stenography; that said testimony was
13 thereafter reduced to written form by mechanical
14 means; and that the deposition is, to the best
15 of my knowledge and belief, a true and correct
16 transcript of my stenographic notes so taken.

17 I further certify that the signature to and
18 the reading of the deposition by the witness was
19 waived by counsel for the respective parties
20 hereto; also, that I am not of counsel to either
21 party or interested in the event of this case.



22
23 Ann L. Bacon, Notary Public, Macomb County
24 Acting in Wayne County

25 My commission expires: 6/29/23

Detective Donald Bussa

10/24/2022

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Det. Donald Bussa
11/03/2022

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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT JULIAN-BORCHAK WILLIAMS,
Plaintiff,

vs.

Civil Action
No. 21-10827
LAURIE J. MICHELSON

CITY OF DETROIT, a municipal
corporation, DETROIT POLICE CHIEF
JAMES CRAIG, in his official capacity
and DETECTIVE DONALD BUSSA, in his
individual capacity,
Defendants,

_____ /

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The Continued Deposition of DET. DONALD G. BUSSA,
Taken at 2 Woodward Avenue, Suite 500,
Detroit, Michigan,
Commencing at 10:08 a.m.,
Thursday, November 3, 2022,
Before Dale E. Rose, CSR-0087.

1 APPEARANCES:

2

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22 MR. BENJAMIN MORDECHAI-STRONGIN

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25

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25

1 Detroit, Michigan
2 Thursday, November 3, 2022
3 About 10:08 a.m.

4 DET. DONALD G. BUSSA,
5 having again been duly sworn, was examined
6 further and testified further on his oath as
7 follows:

8 EXAMINATION

9 BY MR. WADOOD:

10 Q. Good morning. Again, my name is Ramis Wadood,
11 I'm an attorney for Robert Williams. Along with
12 me here is Phil Mayor, Ben Mordechai-Strongin and
13 Will Ellis.

14 I am glad we could reconvene, I'm glad
15 you're feeling better. And so today is going to
16 be a continuation of last Monday's deposition.

17 Essentially we're going to be acting
18 like we're just continuing where we left off on
19 Monday, do you understand that?

20 **A. Yes.**

21 Q. And so I just have a few questions to start off
22 with just so we can connect the dots and make
23 sure that we remember everything from Monday and
24 then we can slide right into the discussions we
25 were having back then.

1 **A.** **Okay.**

2 **Q.** Great, first things first. Because of your
3 sickness I have to ask, have you taken any
4 medication, drugs or alcohol that would impair
5 your ability to answer questions truthfully or
6 completely today?

7 **A.** **No.**

8 **Q.** So do you recall that you participated in a
9 deposition in this case with me last Monday?

10 **A.** **Yes.**

11 **Q.** And do you recall everything we discussed during
12 that deposition?

13 **A.** **Yes.**

14 **Q.** So you recall that we discussed your educational
15 and work background?

16 **A.** **Yes.**

17 **Q.** And you recall that we discussed the training you
18 did or did not receive at the DPD?

19 **A.** **Yes.**

20 **Q.** And you recall that we discussed various DPD
21 policies?

22 **A.** **Yes.**

23 **Q.** And since our last deposition on Monday have you
24 done any additional preparation for this
25 deposition?

1 **A. No.**

2 Q. So you haven't reviewed any additional documents
3 since last Monday?

4 **A. No.**

5 Q. And without telling me what you talked about, you
6 haven't talked to your lawyer about this
7 deposition today?

8 **A. I have talked to him, yes.**

9 Q. Did you do any preparations with your lawyer for
10 your deposition today?

11 **A. Well, we just went over my case notes again, my**
12 **investigator report.**

13 Q. And that's part of the warrant packet, right?

14 **A. Yes, the warrant packet.**

15 Q. And so last Monday do you also recall that we
16 went over some ground rules to make sure that we
17 can communicate effectively?

18 **A. Yes.**

19 Q. And do you remember those ground rules?

20 **A. Not offhand.**

21 Q. So let me just go them really quickly so we can
22 just make sure we're playing by the same ground
23 rules today.

24 So let's agree on the following.

25 First, we won't interrupt each other and so if I

1 ask a question, wait until I finish. If you're
2 answering, I'll wait until you're finished, is
3 that okay?

4 **A. Yes.**

5 Q. You should give verbal answers only, so no
6 nodding your head or giving me a thumbs up, say
7 yes or no, etc, is that okay?

8 **A. Yes.**

9 Q. If you don't understand my question, you should
10 feel free to ask for clarification, whatever you
11 need, is that cool?

12 **A. Yes.**

13 Q. And then your lawyer, Mr. Cunningham may object
14 to a question that I ask. Unless he specifically
15 instructs you not to answer you should still
16 answer the question and we'll deal with the
17 objection later.

18 **A. Okay.**

19 Q. And then finally just a reminder about some of
20 the definitions of the acronyms I was using last
21 week. DPD, when I say that I mean Detroit Police
22 Department, is that okay?

23 **A. Yes.**

24 Q. And when I say MSP, I mean Michigan State Police?

25 **A. Yes.**

1 Q. And then I say the Shinola investigation, I mean
2 the investigation into the October 2, 2018
3 alleged theft at the Midtown Shinola store.

4 A. Yes.

5 Q. And anything else that comes up I'll try to
6 define as I go along.

7 A. Okay.

8 Q. And then finally if you need to take a break,
9 just say that you need to take a break and we can
10 take one. I'd just ask that you finish answering
11 my question that's on the table before you ask
12 for a break.

13 A. Okay.

14 Q. And I'm also planning on taking a few breaks here
15 and there and depending on how long we go we'll
16 try to break for lunch at around 1 o'clock, is
17 that okay?

18 A. Yes.

19 Q. So let's jump into the substance. So we left off
20 last week talking about DPD policies, right?

21 A. Yes.

22 Q. And I showed you a number of specific policies,
23 right?

24 A. Yes.

25 Q. And you don't recall seeing any of those

1 policies?

2 **A. Correct.**

3 Q. And so I just have two -- just a couple of
4 additional questions to wrap up that
5 conversation.

6 Are you aware of any official
7 department policies on obtaining warrants?

8 **A. No.**

9 Q. So if you're not aware of any of the policies on
10 warrants how did you learn to prepare your
11 warrant packets and submit warrant requests?

12 **A. Through other detectives.**

13 Q. So you'd say that when you're preparing a warrant
14 to submit to the prosecutor or to the judge
15 you're not implementing any official policy,
16 right?

17 **A. That I officially read, no.**

18 Q. You're just following what you learned from your
19 fellow detectives?

20 **A. Correct.**

21 Q. And you never double-checked if what you learned
22 from your fellow detectives lines up with
23 official department policy?

24 **A. In a way because I turn them in to a supervisor.**

25 Q. And by "turn them in to a supervisor" you mean

1 you submit the warrant for approval?

2 **A. Correct.**

3 Q. And in your opinion it's the supervisor's
4 responsibility to ensure that your warrant packet
5 is up to department standards?

6 **A. Yes.**

7 Q. And so on that note recall that we discussed that
8 your general practice is that to learn anything
9 on the job you learn from your fellow detectives
10 instead of official policy or any training,
11 right?

12 **A. Most times.**

13 Q. In what cases would you not learn from your
14 fellow detectives?

15 **A. I learned things when I was in the police
16 academy.**

17 Q. So specifically about your job as a detective in
18 the 3rd Precinct when you started that job in
19 2019 pretty much everything you on-the-job
20 learned from your fellow detectives, right?

21 **A. Yes.**

22 Q. And so because you didn't get any training from
23 the department or your supervisors, am I correct
24 that your supervisors told you it was okay to
25 learn from your fellow detectives?

1 A. Yes.

2 Q. And what did your supervisors tell you about
3 that?

4 A. To -- if I have questions, to ask.

5 Q. To ask them or to ask your fellow detectives?

6 A. Both.

7 Q. And so were there situations where you asked your
8 supervisor instead of your detectives?

9 A. Yes.

10 Q. And what situations would that be?

11 A. I don't have a specific one. If another
12 detective wasn't available.

13 Q. And so your supervisors told you that the
14 appropriate approach to learning on the job is to
15 ask your fellow detectives, right?

16 A. Yes.

17 Q. And was that something they told other detectives
18 in your precinct?

19 A. I don't know.

20 Q. Did other detectives in your precinct tell you
21 that they learned by asking their fellow
22 detectives?

23 A. Yes.

24 Q. Did that mean that your fellow detectives told
25 you that they learned by going through training?

1 **A. No.**

2 Q. Did any of your fellow detectives tell you that
3 they learned how to do their job by reading
4 official policies?

5 **A. No.**

6 Q. So primarily you would say that the practice in
7 your precinct for detectives was to ask your
8 fellow detectives whenever you needed to learn
9 something?

10 **A. That's the way -- what I was told, yes.**

11 Q. And that goes for your other detectives as well
12 in the 3rd Precinct?

13 **A. I don't know all of their training background.**

14 Q. But you would say that your supervisors
15 encouraged you to learn by asking?

16 **A. Yes.**

17 Q. So now we're going to talk about facial
18 recognition technology and then just go through
19 some of the warrants you have either submitted or
20 worked toward submitting.

21 And then we'll get into the
22 department's use of the technology as well. So
23 just to start from the top you're aware that the
24 DPD uses facial recognition technology, right?

25 **A. Yes.**

1 Q. So in your own words can you explain to me what
2 facial recognition technology is?

3 **A. A computer system that analyzes facial features**
4 **and matches it up to other individuals with the**
5 **same facial features.**

6 Q. Is there anything else about facial recognition
7 technology that you know?

8 **A. No.**

9 Q. And so when the computer that you mentioned is
10 matching up faces, what are they matching up
11 against?

12 **A. I don't know.**

13 Q. So let's start from the beginning of the process
14 then. Do you know what a probe image or an input
15 image is?

16 **A. The image I submit or I would submit.**

17 Q. And you're aware that the probe image is the
18 image that you submit for a facial recognition
19 search, correct?

20 **A. Right.**

21 Q. And are you aware that the quality of the probe
22 image that you submit can affect how accurate the
23 facial recognition match is?

24 **A. Yes.**

25 Q. Were you aware of that fact when you were working

1 on the Shinola investigation?

2 **A. Yes.**

3 Q. So let's talk about quality. Do you know what
4 characteristics make for a high quality probe
5 image?

6 **A. No.**

7 Q. So then how can you discern whether a probe image
8 is a high quality or low quality when you're
9 submitting it?

10 **A. I would personally determine if its facial
11 features are recognizable.**

12 Q. What do you mean by "recognizable"?

13 **A. Like if you have large cheekbones or a high
14 forehead or large nose, small nose.**

15 Q. Got it, so you would say that -- just to make
16 sure I have this right, you're saying that in
17 your understanding facial recognition technology
18 works best when there's something unique about
19 the probe image's face?

20 **A. Yes.**

21 Q. Let's talk about some other characteristics. Do
22 you know whether lighting, the lighting of a
23 photo, affects the accuracy of the facial
24 recognition match?

25 **A. I do not know for sure.**

1 Q. Hypothetically let me give you two photos. Photo
2 1 is a very well-lit bright photo of someone's
3 face and Photo 2 is a very poorly-lit dark photo
4 of someone's face.

5 Which photo would you say would be more
6 likely to produce an accurate facial recognition
7 match?

8 **A. The high-lit one.**

9 Q. Were you aware of that difference -- were you
10 aware of the impact of lighting on a photo when
11 you were working on the Shinola investigation?

12 **A. Yes.**

13 Q. Do you know -- let's talk about angles. So
14 do you know that an input photo where someone is
15 looking directly at the camera would produce a
16 higher accuracy facial recognition match than an
17 input photo where a person is facing away from
18 the camera?

19 **A. No -- well, talking about backwards or just**
20 **facing like looking off like this (indicating).**

21 Q. Let's say that Photo 1 I'm looking directly into
22 the camera lens, and Photo 2 I'm looking to the
23 side, maybe a 45 degree angle.

24 Would you say there would be any
25 difference between the two photos as far as the

1 accuracy of the match that they produce?

2 **A. Not that I'm aware.**

3 Q. So you weren't aware when you were working on the
4 Shinola investigation that the angle of a
5 person's face vis-a-vis the camera lens affects
6 the quality of the match?

7 **A. Correct.**

8 Q. Let's talk about resolution. Do you know that a
9 low-resolution grainy probe photo is less likely
10 to produce an accurate facial recognition match
11 than a high quality clear photo?

12 **A. Yes.**

13 Q. And you were aware of that fact when you worked
14 on the Shinola investigation?

15 **A. Yes.**

16 Q. And then let's talk about obstructions. Do you
17 know that a person whose face is partially
18 covered by a hat or a mask would produce a less
19 accurate facial recognition match than a photo of
20 a face that's not obstructed by a hat or a mask
21 or anything else?

22 **A. I would say yes to a mask.**

23 Q. How about a hat?

24 **A. No.**

25 Q. So you would say that Photo 1 where someone's

1 face is fully present, no hat, versus Photo 2 was
2 wearing a hat covering everything up to their
3 eyebrows, you would say that both photos have an
4 equal chance of producing an accurate match?

5 **A. I would think so.**

6 Q. And why did you think that the photo with the hat
7 would be just as likely to produce a match than
8 the photo without a hat?

9 **A. Because of all the facial features from the eyes**
10 **down.**

11 Q. So you're saying that the facial recognition
12 technology primarily analyzes eyes down?

13 **A. I don't know.**

14 Q. But that's your understanding as far as the
15 accuracy of the match goes?

16 **A. Yes.**

17 Q. Are there any other characteristics of a probe
18 photo that you can think of that would affect the
19 accuracy of the facial recognition match?

20 **A. No.**

21 Q. So we talked about lighting, right?

22 **A. Yes.**

23 Q. We talked about angles, right?

24 **A. Yes.**

25 Q. We talked about resolution, right?

1 A. Yes.

2 Q. And we talked about obstructions to the face,
3 right?

4 A. Yes.

5 Q. Anything else you can think of that would affect
6 the quality of the probe photo?

7 A. No.

8 DEPOSITION EXHIBIT 9
9 still shot from Shinola video
10 WAS MARKED FOR IDENTIFICATION.

11 Q. So I want to introduce Exhibit 9. We're starting
12 with the numbers that we left off with last week.

13 So for the sake of the court reporter
14 I'm going to label and enter just this
15 placeholder that is going to be entered into the
16 record, but the actual exhibit is digital and so
17 I'm going to be showing you a digital photo and
18 submitting this to the court reporter afterwards.

19 So again --

20 MR. CUNNINGHAM: I can't see that.

21 BY MR. WADOOD:

22 Q. I'm sorry. This is Exhibit 9. I'm going to be
23 going to Page 3. So do you recognize this image?

24 A. Yes.

25 Q. Can you tell me what it is?

1 **A. A still shot from Shinola's video.**

2 Q. And how did you come to see this image for the
3 first time?

4 **A. It was given to me by the store.**

5 Q. Is this the image that you reviewed once you were
6 assigned to the Shinola investigation?

7 **A. It was the image given to me from the store,
8 correct.**

9 Q. But this was the image that the detective before
10 you ran through facial recognition?

11 **A. I don't know.**

12 Q. Well, let's take a look at this image and just
13 remember the characteristics of the quality of
14 the probe photo that we just discussed.

15 And so let's talk about whether this
16 photo -- or how this photo lines up with those
17 characteristics. Would you say that the photo
18 that you're looking at is well lit?

19 **A. Yes.**

20 Q. And why would you say that?

21 **A. I can distinguish things in the photo.**

22 Q. And let me take a step back and ask you. You
23 said that your understanding of facial
24 recognition technology is that it works best when
25 the facial features of the probe photo are

1 recognizable, right?

2 **A. Correct.**

3 Q. Would you say that the individual's face in this
4 photo, his features are recognizable?

5 **A. Yes.**

6 Q. What features of his face can you recognize from
7 this photo?

8 **A. I see chubby cheeks, in-seated eyes (sp) and a
9 wide nose.**

10 Q. Would you say that the individual you're looking
11 at is facing directly at the camera?

12 **A. No.**

13 Q. In your opinion would him facing at the camera,
14 would that have produced a higher quality or
15 higher accuracy facial recognition match?

16 **A. It may have.**

17 Q. Do you think this is a high resolution photo?

18 **A. Yeah.**

19 Q. And what about this makes you think this is a
20 high resolution photo?

21 **A. I don't see any graininess or snow.**

22 Q. So you would say that security camera footage,
23 generally speaking, is of a high resolution?

24 **A. This one, yes.**

25 Q. So Shinola's security camera footage is of a high

1 resolution?

2 **A. Well, the picture that you're showing me is.**

3 Q. Would you say that the person that you're looking
4 at's face is obstructed by anything?

5 **A. His face, no, but he's wearing a hat.**

6 Q. So would you say that the fact that he's wearing
7 a hat covering up to his eyebrows affected --
8 would have affected the facial recognition search
9 in any way?

10 **A. No.**

11 Q. So would you have felt comfortable if you were
12 the one submitting this image for a facial
13 recognition search?

14 **A. Yes.**

15 Q. And why is that?

16 **A. Because I can clearly make out facial features.**

17 Q. And would you have felt comfortable using the
18 results of that facial recognition match in your
19 investigation?

20 **A. As an identification?**

21 Q. In any way.

22 **A. Yes.**

23 Q. In what way would you have used the results of
24 this facial recognition match?

25 **A. As a name, to get a name on the person.**

1 Q. And how would you have used the name of that
2 person to further your investigation?

3 **A. I would use it to do a facial lineup.**

4 Q. Going back to characteristics, are you aware that
5 the darker someone's skin color is, the less
6 accurate a facial recognition match is?

7 **A. No.**

8 Q. Have you heard conversations about skin color and
9 facial recognition technology before?

10 **A. On the news.**

11 Q. But never in the department?

12 **A. No.**

13 Q. So when you became a detective there was no
14 conversation about the effect of darkness of
15 someone's skin color on facial recognition?

16 **A. No.**

17 Q. And in your opinion a photo of someone with
18 darker skin is just as likely to produce an
19 accurate facial recognition match than a photo of
20 someone with lighter skin?

21 **A. Yes.**

22 Q. And that continues to be your opinion in your
23 current detective work?

24 **A. Yes.**

25 Q. When you say you heard about that conversation on

1 the news can you tell me more about that?

2 **A. The news article was saying -- well, there was**
3 **activist groups claiming that it was racial**
4 **profiling or inaccurate for people of darker**
5 **skin.**

6 Q. And was any research on academic studies
7 discussed on the news?

8 **A. Not that I recall.**

9 Q. So it was just people on the news accusing facial
10 recognition technology of not working as well on
11 darker skin people?

12 **A. Yes.**

13 Q. So let's talk about how facial recognition
14 technology is used at the department in general.

15 Can you explain to me in your own words
16 how DPD uses facial recognition technology?

17 **A. We use that as an investigative lead.**

18 Q. And can you explain to me what an investigative
19 lead is?

20 **A. It is a way for us to identify an individual that**
21 **is part of a crime to use -- to help us ID the**
22 **actual person committing the crime.**

23 Q. And that refers to the facial recognition match,
24 right?

25 **A. Correct.**

1 Q. How does the department use the technology itself
2 though before it's a match, for you to get to a
3 match?

4 **A. At my level currently we submit on Part 1 violent**
5 **crimes to Crime Intel.**

6 Q. And that's the Crime Intelligence Unit?

7 **A. Correct.**

8 Q. Is that the same practice that you followed when
9 you first became a detective?

10 **A. No.**

11 Q. Can you explain what was different?

12 **A. We were able to use it on all types of crime.**

13 Q. What changed?

14 **A. Policy changed.**

15 Q. Was that one of the policies that we looked at
16 last week?

17 **A. Yes.**

18 Q. And you said that detectives send facial
19 recognition requests to Crime Intel, right?

20 **A. Correct.**

21 Q. Do they ever send it to another department within
22 the DPD?

23 **A. I have not.**

24 Q. Do you know if any other detectives have sent
25 them to other departments within DPD?

1 A. Yes.

2 Q. Which departments have they sent it to?

3 A. Michigan State Police.

4 Q. So let's move to the Michigan State Police. Do
5 you know why those other detectives have sent
6 facial recognition requests to the Michigan State
7 Police?

8 A. I do not.

9 Q. Do you know if that's currently anyone's practice
10 in the DPD?

11 A. I do not.

12 Q. Do you know if DPD has any policies on whether or
13 not detectives can send requests for facial
14 recognition out to MSP?

15 A. My understanding of the policy we submit to Crime
16 Intel and they can submit it to other agencies.

17 Q. Are there any other agencies Crime Intel sends
18 requests out to other than MSP?

19 A. I do not know.

20 Q. So the only one you know about is Crime Intel
21 sending requests to MSP?

22 A. Yes.

23 Q. Do you know why they send the requests to MSP?

24 A. I do not.

25 Q. But they also process requests themselves, right?

1 A. Yes.

2 Q. And some requests are sent to MSP, right?

3 A. Yes.

4 Q. But you don't know why they process some of the
5 requests and other requests they send to MSP?

6 A. Correct.

7 Q. Would you say that the DPD has ever been
8 enthusiastic about the use of facial recognition
9 technology?

10 A. How so?

11 Q. Would you say that the department has been eager
12 to use the technology?

13 A. I do not know.

14 Q. When the department -- well, let me ask this
15 first. Were you a detective when the department
16 first adopted facial recognition technology?

17 A. What year was it?

18 Q. It was, I believe, 2016.

19 A. No.

20 Q. When you became a detective in 2019 would you say
21 that your precinct used facial recognition
22 technology often?

23 A. Yes.

24 Q. Was that encouraged by your supervisors in any
25 way?

1 **A. Yes.**

2 Q. And what did your supervisors say about
3 encouraging the use of facial recognition
4 technology?

5 **A. When you have a photo or video to submit it to
6 Crime Intel to see if there's a match.**

7 Q. So that was the general practice, if you have a
8 photo of a potential suspect, submit it to Crime
9 Intel?

10 **A. Yes.**

11 Q. Did you follow that advice in all of your cases?

12 **A. Yes.**

13 Q. So whenever a photo come up in one of your
14 investigations you would submit that photo to
15 Crime Intel?

16 **A. If I felt it was a recognizable picture.**

17 Q. And that goes back to recognizable facial
18 features?

19 **A. Yes.**

20 Q. Can you describe a situation in which you looked
21 at a probe photo -- or let me ask it again.

22 Can you describe a situation where you
23 looked at a picture and determined that you
24 didn't feel comfortable submitting it to Crime
25 Intel?

1 **A.** I can't think of a particular, but I know in dark
2 areas where I can't make out his facial features
3 or her facial features or if the picture was
4 blurry or distorted somehow.

5 **Q.** And so then from the perspective of a detective
6 what are your thoughts on facial recognition
7 technology?

8 **A.** I think it's a good tool.

9 **Q.** So you would say that it's generally helpful for
10 your investigation?

11 **A.** Yes.

12 **Q.** Do you think it's ever unhelpful?

13 **A.** No.

14 **Q.** Do you think it introduces any risks into the
15 investigation process?

16 **A.** No.

17 **Q.** So it's always a good thing to use?

18 **A.** Yes.

19 **Q.** And you've used facial recognition technology in
20 your cases before, right?

21 **A.** Yes.

22 **Q.** Have you requested a facial recognition search to
23 be run in any of your cases?

24 **A.** Is that different than submitting the photo?

25 **Q.** No. I'll ask it in your terms. Have you ever

1 submitted a photo to Crime Intel for a facial
2 recognition search?

3 **A. Yes.**

4 Q. And when you use facial recognition technology in
5 your cases what role does that usually play in
6 your investigation?

7 **A. It is an information of ID'ing the person.**

8 Q. And when you receive that information of an ID of
9 a person, what do you usually do with it?

10 **A. Generally put it in a photo lineup.**

11 Q. Do you ever do anything different?

12 **A. Sometimes we don't put it in the photo lineup.**
13 **Sometimes if we determine that it's not a**
14 **particular useful, then no.**

15 Q. And how do you determine whether or not the
16 facial recognition match is useful?

17 **A. I don't know. I've always used mine.**
18 **Personally, I've always used mine. I know other**
19 **people have not used theirs and I cannot -- I**
20 **don't know why they have not.**

21 Q. But for the ones that you've used which again you
22 said is all of the facial recognition matches
23 you've received, correct?

24 **A. Correct.**

25 Q. So for those facial recognition matches do you

1 ever look at the match and make a determination
2 of whether or not you should use this in your
3 investigation?

4 **A. No.**

5 Q. You just automatically use the match?

6 **A. Correct.**

7 Q. So there's no discussion or consideration about
8 whether or not it's a good match?

9 **A. Sometimes we talk amongst each other about our
10 match, yes.**

11 Q. So you talk to other detectives about a match you
12 receive?

13 **A. Sometimes, yes.**

14 Q. Can you explain some of those situations in which
15 you would?

16 **A. I can't think of anything special. It would just
17 be like a match will come back and I would show
18 it to somebody like, "Does this look good?" Yes,
19 no, and present it.**

20 Q. What do you mean by, "Does this look good?"

21 **A. If they feel it's a good match.**

22 Q. So you're essentially asking other detectives do
23 you think this is the same person?

24 **A. Sometimes, yes.**

25 Q. And in which situations -- how do you decide

1 whether or not to ask a fellow detective about
2 whether or not this is the right match?

3 **A. Just do it. I don't have a particular -- when it**
4 **comes back sometimes I will show it to the**
5 **detective next to me. I can't recall an actual**
6 **reason for doing it, no.**

7 Q. But if you're looking at the match and you feel
8 pretty confident that this is the same person, do
9 you ever ask a fellow detective to double-check
10 you?

11 **A. Yes.**

12 Q. And if you look at the match and think this might
13 not be the same person, is that when you would
14 ask a fellow detective to take another look?

15 **A. That is a time I would also do it, yes.**

16 Q. But you're looking at the match and determining
17 for yourself whether or not you think it's the
18 right match?

19 **A. Yes.**

20 Q. And do you do that for all of your matches?

21 **A. Yes.**

22 Q. And in none of those matches have you ever
23 determined no, this is not a right match, I'm not
24 going to use this in my investigation?

25 **A. Correct.**

1 Q. So speaking of your other cases, I'm going to
2 move on shortly to showing you a few
3 investigation documents from various cases you've
4 worked on and we're going to talk about kind of
5 your investigative process in those cases.

6 And we'll talk about what you've
7 discussed with me already as to what your general
8 practice is and we'll line those up with some
9 investigations you've worked on.

10 But just before I get to that first
11 warrant packet would you say that in every case
12 that you've worked on where you've gotten a
13 facial recognition match your next step was to
14 generate a photo lineup?

15 A. That I can recall, yes.

16 DEPOSITION EXHIBIT 10
17 case management tracking documents
18 WAS MARKED FOR IDENTIFICATION.

19 Q. So let's look at Exhibit 10.

20 MR. CUNNINGHAM: Let's take a break for
21 a minute.

22 (A recess was taken.)

23 BY MR. WADOOD:

24 Q. So just to wrap up one conversation before I move
25 on to the warrant packet that I was discussing,

1 going back to the characteristics of a good probe
2 photo that we talked about, do you recall that we
3 talked about lighting, right?

4 **A. Yes.**

5 Q. And angle?

6 **A. Yes.**

7 Q. And resolution?

8 **A. Yes.**

9 Q. And obstructions?

10 **A. Yes.**

11 Q. And then you mentioned recognizable facial
12 features as well?

13 **A. Yes.**

14 Q. So how did you learn that all or some of these
15 were factors that go into a quality probe photo?

16 **A. Other detectives.**

17 Q. You weren't trained on that in any way?

18 **A. No.**

19 Q. And the department didn't provide you with or
20 your other detectives any training on the quality
21 of facial recognition probe photos?

22 **A. I did not. I don't know about them.**

23 Q. But you didn't receive any training from the
24 department on the quality of facial recognition
25 probe photos?

1 A. Correct.

2 Q. And did you receive any training on the accuracy
3 of facial recognition matches?

4 A. No.

5 Q. So this next section we're going to be talking
6 about some of the investigations you worked on?

7 A. Okay.

8 Q. Before the break I introduced Exhibit 10 which
9 you're looking at. Some of these investigations
10 are going to have warrant packets and case
11 tracking documents and everything that's in the
12 investigative file, some of these are just going
13 to have case tracking documents.

14 Feel free to spend the time you need to
15 re-acquaint yourself with the case. I'm not
16 going to be detailed as long as you recall the
17 investigation that we're talking about.

18 I am mostly going to be focusing on the
19 case management tracking documents in these files
20 so as long as you recall the case which is what
21 the other documents are for, we can have a
22 conversation about those case tracking documents,
23 does that sound good for you?

24 A. Yeah.

25 Q. So do you recall this investigation?

1 A. Yes.

2 Q. And this investigation was about an assault
3 outside a bar where the assailant allegedly used
4 brass knuckles, right?

5 A. Correct.

6 Q. So let's take a look at the case management
7 tracking document, which just for the sake of
8 ease I'll just call the case tracking document
9 from now on.

10 So it looks like this case tracking
11 document goes in reverse chronological order
12 where the most recent thing happens up top and
13 the oldest thing happens at the bottom.

14 So let's go six lines down to May 8,
15 2019, 9:14 AM. It looks like you spoke with
16 Mr. (REDACTED) who was able to give you a
17 Facebook page for the suspect, is that right?

18 A. Correct.

19 Q. And then one line up it looks like you sent that
20 photo and the Facebook account to Crime Intel,
21 right?

22 A. Correct.

23 Q. That was for a facial recognition search?

24 A. Yes.

25 Q. And so why do you choose to request a facial

1 recognition search in this case when you already
2 had the photo and a Facebook account for the
3 alleged suspect?

4 **A. To get his correct name.**

5 Q. Okay, to get his correct name. And so does this
6 fall in your general practice of when you have a
7 photo that's recognizable you submit it to facial
8 recognition?

9 **A. Previously, correct.**

10 Q. And so one lineup it says the ID came back from
11 Crime Intel, right?

12 **A. Correct.**

13 Q. And that means that Crime Intel was able to find
14 a match?

15 **A. Yes.**

16 Q. And it looks like you conducted a single photo
17 lineup and called the victim to come in for that
18 lineup, is that right?

19 **A. Correct.**

20 Q. So why would you use a single photo lineup in
21 this case?

22 **A. Because that is a known Defendant to the
23 Complainant.**

24 Q. So because the Complainant knew the suspect?

25 **A. Correct.**

1 Q. And a single photo lineup is a lineup where you
2 just show the single photo to the victim?

3 A. Correct.

4 Q. And so is that a general practice, if the victim
5 knows the suspect you would only show them the
6 photo of the suspect?

7 A. If they know them, like I believe in this case
8 they were intimate partners, so he knew him
9 intimately, so we used a single photo lineup for
10 a known suspect just to confirm that we're
11 dealing with the same person that they had and
12 that we have.

13 Q. Fair enough. So after the victim participated in
14 the photo lineup you submitted a warrant request
15 for that person, right?

16 A. Correct.

17 Q. So did you do any other investigative work before
18 submitting that warrant other than the facial
19 recognition search and the photo lineup?

20 A. I would have to read my notes. I would assume
21 that I pulled video or attempted to pull video
22 for this incident.

23 Q. And what would you have used that video for?

24 A. As evidence of a crime.

25 Q. Did you review the video as a part of your

1 investigation into who it could be or was that
2 evidence for further support that the person that
3 you selected out of this photo lineup was the
4 right person?

5 **A. It would be evidence of a crime actually**
6 **happening. I believe if I remember correctly**
7 **this happened into a parking lot and I was trying**
8 **to see if there was a weapon involved.**

9 Q. But as far as ID'ing the right person and
10 submitting an arrest warrant for them.

11 You ran a facial recognition search and
12 then used that match for a single photo lineup,
13 is that correct?

14 **A. Correct.**

15 Q. And then you used those two pieces to support
16 your warrant request?

17 **A. Correct.**

18 Q. So in your opinion a facial recognition search
19 plus a photo showup was enough to support a
20 warrant request in this case?

21 **A. Yes.**

22 **DEPOSITION EXHIBIT 11**
23 **investigation report re Oliver case**
24 **WAS MARKED FOR IDENTIFICATION.**

25 Q. We can put that one aside, let's move on to

1 Exhibit 11. Okay, and I'm going to refer to a
2 few pages in this document, so you'll see for you
3 I have put some orange tabs and I'll refer to the
4 page numbers for everyone else in the room.

5 Do you recall this investigation?

6 **A. Yes.**

7 Q. And this investigation had to do with a larceny
8 of personal property, right, a damage to iPhone?

9 **A. Correct.**

10 Q. And this is the investigation that led to the
11 arrest of Michael Oliver, right?

12 **A. Correct.**

13 Q. Let's move to the case tracking document in this
14 case which would be the first tab for you. So
15 this one goes in chronological order, so old is
16 on the top, new is on the bottom.

17 So let's go to the second entry. It
18 looks like you spoke with the victim who stated
19 that he would get you the video he recorded on
20 the phone and stated that the subject is in the
21 video, is that right?

22 **A. Correct.**

23 Q. And then that next line, you got the video from
24 the victim's photo. Do you mean you got the
25 photo from the victim's video?

1 A. It was -- sure, I got the video from the victim's
2 phone because this is what he said, it was on his
3 phone.

4 Q. So you got the video from the victim and then you
5 took a photo out of that video, is that right?

6 A. A still shot, correct.

7 Q. And then in the next line it says you sent that
8 photo in for facial recognition?

9 A. Correct.

10 Q. So why did you send this photo in for facial
11 recognition in this case?

12 A. To ID the suspect.

13 Q. And did you look at the still photo from the
14 video to determine if it was a good probe photo
15 or did you simply submit the probe photo for
16 facial recognition?

17 A. I looked at it.

18 Q. And we'll look at the probe photo in a second,
19 but let me just get through the case tracking
20 document. And so looks like the ID came back
21 from Crime Intel, right?

22 A. Correct.

23 Q. And the Crime Intel identified Mr. Oliver, is
24 that right?

25 A. Yes.

1 Q. So let's look at the second tab that you have
2 there which is near the end of the document, so
3 looking at the inquiry image did you see any
4 issues in the input photo along the
5 characteristics that we discussed earlier?

6 A. No.

7 Q. Do you think that the facial features of this
8 inquiry image are easily recognizable?

9 A. Yes.

10 Q. And you feel confident that the investigative
11 lead that was produced is valuable for the
12 investigation?

13 A. Yes.

14 Q. So looking back at the investigator's report
15 which is the third page in the packet, that will
16 be the other tab, did it give you any pause that,
17 as it says in the report, the victim stated that
18 the suspect is a previous student possibly named
19 Terry?

20 A. No.

21 Q. So reading that and seeing that Crime Intel
22 returned Michael Oliver, you didn't have any
23 doubt that Michael Oliver was the right person at
24 that point?

25 A. Correct.

1 Q. And so you would trust Crime Intel's facial
2 recognition match more than the victim's
3 statement?

4 **A. No, I trusted the ID from the victim.**

5 Q. You trusted the ID from the victim. And so it
6 means that going back to the case tracking
7 document, you did a six-pack with the victim?

8 **A. Yes.**

9 Q. And in that six-pack Mr. Oliver's picture was
10 included?

11 **A. Yes.**

12 Q. And once the victim -- and the victim positively
13 ID'd Mr. Oliver?

14 **A. Yes.**

15 Q. So once the victim positively ID'd Mr. Oliver you
16 submitted a warrant request for Mr. Oliver, is
17 that right?

18 **A. Correct.**

19 Q. So just like the case before this one, you
20 requested facial recognition and then used that
21 match to run a photo showup, is that right?

22 **A. Correct.**

23 Q. And those two pieces supported your warrant
24 request, right?

25 **A. Yes.**

1 Q. Did you do any additional investigation after the
2 photo lineup?

3 **A. After a photo lineup, no, not that I recall.**

4 Q. So it went from facial recognition to photo
5 lineup to submitting a warrant?

6 **A. Correct.**

7 Q. And in that six-pack for this case how did you
8 select the other five photos in this six-pack?

9 **A. Through our database of photos that we have.**

10 Q. Can you walk me through the process of how you
11 select those five photos?

12 **A. We have a -- do we have a picture of a six-pack
13 in here so I can see where the photos came from?**

14 Q. Yeah, it's going to be the page right before your
15 final tab. So looking at the six-pack, taking
16 Mr. Oliver No. 5, out of the equation, how did
17 you pick those other five photos?

18 **A. Through matching up facial features.**

19 Q. So this is a manual process?

20 **A. Correct.**

21 Q. So you're looking through the database and what
22 database is that?

23 **A. We have our -- some detectives including myself,
24 we have our own -- everyone we've ever
25 investigated is a suspect. If we had a photo we**

1 save it in the database and we also have our
2 database through Detroit Detention Center when
3 someone is arrested.

4 Q. So the pool -- the database that you look at is
5 only former people you've investigated?

6 A. Correct.

7 Q. So these five photos, other than Mr. Oliver, were
8 manually selected by you, right?

9 A. That's correct.

10 Q. From a database that contains only former
11 suspects?

12 A. Correct.

13 Q. And you selected these five photos manually by
14 looking for similar facial features to
15 Mr. Oliver?

16 A. Correct.

17 Q. So not to the photo or the video of the incident,
18 but to Mr. Oliver?

19 A. Correct.

20 Q. And so you essentially built the six-pack around
21 Mr. Oliver?

22 A. Correct.

23 Q. And, again, that was an entirely manual process?

24 A. Yes.

25 Q. How long does it take you to run through that

1 database to look for photos that look similar to
2 this?

3 **A. It varies.**

4 Q. Is there any way to search through the database
5 to look -- to maybe limit things by skin color or
6 by another facial feature?

7 **A. If you use a prison database, yes, but if you use
8 the departmental or investigation database, no.**

9 Q. And by the prison database, do you mean the
10 Detroit Detention Center database?

11 **A. Correct.**

12 Q. And so for this specific six-pack you took
13 Mr. Oliver's face and just ran through the
14 database until you found someone that looks
15 similar to him?

16 **A. Correct.**

17 Q. And you don't recall how long that took?

18 **A. No.**

19 Q. And this case just involved damage to personal
20 property, right, a cracked iPhone?

21 **A. Correct.**

22 Q. So department policy allowed the use of facial
23 recognition technology for minor damage property
24 at this time?

25 **A. Yes.**

1 Q. It allowed facial recognition technology used for
2 any potential crime at the time?

3 A. Yes.

4 Q. There was no limit to the use of facial
5 recognition technology at the time?

6 A. Not to my understanding.

7 Q. Let's set that one aside and move on to the next
8 exhibit, Exhibit 12.

9 DEPOSITION EXHIBIT 12
10 investigation report
11 WAS MARKED FOR IDENTIFICATION.

12 Q. Do you recall this investigation?

13 A. Not immediately offhand.

14 Q. According to the investigation report on Page 2
15 of the packet it looks like this had to do with
16 an assault at a gym, right?

17 A. Yes.

18 Q. And moving on to the case tracking document which
19 is the tabbed page for you, the last two pages
20 for everyone else.

21 Let's focus on the second entry, the
22 long one on the first page. It looks like you
23 got a statement and a photo from a Mr.(REDACTED),
24 right?

25 A. Correct.

1 Q. And you sent the photo you received from
2 Mr. (REDACTED) to Crime Intel?

3 **A. Correct.**

4 Q. Do you recall why you submitted the facial
5 recognition search in this case?

6 **A. To get a positive ID.**

7 Q. Do you recall looking at the photo to see if it
8 was a sufficient quality before submitting it?

9 **A. I do not recall, I --**

10 Q. And that's because you don't recall this
11 investigation at all?

12 **A. Correct.**

13 Q. And so it looks like Crime Intel was able to ID a
14 suspect, is that right?

15 **A. Yes.**

16 Q. And then you used that ID to prepare a six-pack
17 photo lineup, is that correct?

18 **A. Correct.**

19 Q. And you set an appointment with someone and they
20 did not show or call, right?

21 **A. Correct.**

22 Q. And you continued to try to get that person to
23 show up for a six-pack, but he never showed you,
24 is that right?

25 **A. Correct.**

1 Q. So do you recall at all how this case ended?

2 **A. The case was made inactive.**

3 Q. And it was made inactive because the witness you
4 had planned to show up for the photo lineup never
5 showed up?

6 **A. Correct.**

7 Q. So just like the last two cases, this went from a
8 facial recognition search to a six-pack, right?

9 **A. Correct.**

10 Q. But in this case the six-pack was never completed
11 by the witness, right?

12 **A. Correct.**

13 Q. So did you do any other investigation after the
14 victim didn't show up to the photo lineup?

15 **A. Not that I recall.**

16 Q. So was it your practice to close a case or to
17 render a case inactive if someone doesn't show up
18 for a photo lineup?

19 **A. If they refused to cooperate.**

20 Q. And you don't do any other investigation to see
21 if there's another way to positively ID the
22 suspect?

23 **A. No.**

24 Q. So this is a case where you ran a facial
25 recognition search, got a match, used that match

1 to prepare a photo lineup, but essentially closed
2 the case because the witness didn't show up for
3 the photo lineup?

4 **A. Because he didn't respond back at all, not just**
5 **the photo lineup, there was no other contact that**
6 **I see I've made with the person afterwards.**

7 Q. Are there other cases you work on where you don't
8 have an eyewitness to work with, but you
9 continued to do other types of investigation?

10 **A. No. If you were a victim of a crime and you did**
11 **not cooperate with us, we would make your case**
12 **inactive.**

13 Q. And so that's a general policy of the DPD?

14 **A. I'm not sure if it's policy, but it's general**
15 **practice.**

16 Q. That's your general practice or the general
17 practice of the precinct?

18 **A. My general practice.**

19 **DEPOSITION EXHIBIT 13**
20 **case management tracking documents**
21 **WAS MARKED FOR IDENTIFICATION.**

22 Q. You can set this one aside. Let's move on to the
23 next investigation, this is Exhibit 13.

24 Do you recall this investigation?

25 **A. I do not.**

1 Q. Well, let's focus on that first entry on the case
2 tracking document.

3 It said the victim stated that his
4 credit card number was used at the CVS on Warren
5 Avenue in Detroit. Do you recall the
6 investigation having read that?

7 **A. No.**

8 Q. Moving on to the next couple of sentences it says
9 the transaction was for \$7.98. Did I read that
10 right?

11 **A. Correct.**

12 Q. And that you were unable to get a photo of the
13 transaction or that you were able to get a photo
14 of the transaction, but unable to get a video
15 from CVS, is that right?

16 **A. Correct.**

17 Q. Two sentences down you said photos were submitted
18 to Crime Intel with negative results.

19 Does that mean that Crime Intel
20 couldn't find a positive ID?

21 **A. Correct.**

22 Q. And you don't recall how this case ended, do you?

23 **A. It says it was inactive.**

24 Q. So you essentially closed the case because the
25 facial recognition search came up with nothing?

1 **A. The case was made inactive upon -- until a**
2 **further lead was developed.**

3 Q. Did you do anything else to develop that further
4 lead?

5 **A. Not that I recall.**

6 Q. And so once you received a negative from Crime
7 Intel you made the case inactive, is that right?

8 **A. It appears like that in this case.**

9 Q. Similar question to a couple of cases ago.
10 Department policy allowed you to use facial
11 recognition for a case involving \$7.98?

12 **A. Yes.**

13 Q. And that was because the department at the time
14 allowed facial recognition for any potential
15 crime?

16 **A. Correct.**

17 **DEPOSITION EXHIBIT 14**
18 **investigation report**
19 **WAS MARKED FOR IDENTIFICATION.**

20 Q. You can put this one aside. I'm going to show you
21 Exhibit 14. Do you recall this investigation?

22 **A. I do not.**

23 Q. But for this investigation and for all the other
24 investigations we've looked at where you don't
25 remember, is it your general practice that you

1 take notes contemporaneously while working on the
2 investigation?

3 **A. Yes.**

4 Q. And narratives in these investigation reports,
5 these case tracking documents, they all reflect
6 your work at the time of the investigation?

7 **A. Generally. Sometimes you do other things that
8 you forget to add.**

9 Q. Right, but --

10 **A. Phone calls.**

11 Q. -- everything that are in these documents are
12 accurate and your work at the time of the
13 investigation?

14 **A. If it was entered by me, correct.**

15 Q. And your name is listed in the case tracking
16 document. Does that mean it was entered by you?

17 **A. Yes.**

18 Q. So for everything that's entered by you we can
19 assume it's accurate and contemporaneous?

20 **A. I would say so, yes.**

21 Q. And for this case and for the other case we
22 looked at that you don't remember?

23 **A. Correct.**

24 Q. So it looks like from the investigation report on
25 Page 2 this case had to do with a burglary of a

1 business at a Family Dollar, is that right?

2 **A. Correct.**

3 Q. And according to the case tracking documents just
4 like the last case we looked at -- the last few
5 cases we looked at, on the first entry, second
6 full paragraph it says the response team was able
7 to get video and photos from this incident. I
8 submitted both the video and stills to Crime
9 Intel for facial recognition, is that right?

10 **A. Correct.**

11 Q. But Crime Intel was unable to ID the suspect in
12 this case, is that right?

13 **A. Correct.**

14 Q. Do you recall how this case ended then?

15 **A. It was made inactive.**

16 Q. And it was made inactive after Crime Intel was
17 unable to ID?

18 **A. Correct.**

19 Q. And you didn't do any other investigation after
20 you received the negative ID from Crime Intel?

21 **A. Not that I recall.**

22 Q. So this case, just like the previous case, once
23 Crime Intel says no match, you flip the switch to
24 inactive?

25 **A. Well, I had no other leads.**

1 **DEPOSITION EXHIBIT 15**
2 **case management tracking documents**
3 **WAS MARKED FOR IDENTIFICATION.**

4 Q. You can put this one aside. Only a few more of
5 these. This is Exhibit 15.

6 Do you recall this investigation?

7 **A. I do not.**

8 Q. But you would say that the investigator report
9 narrative and the case tracking document are
10 accurate reflections of your work at the time of
11 the investigation?

12 **A. Yes.**

13 Q. Looks like according to the investigation report
14 which is a few pages in this also had to do with
15 a larceny at a Family Dollar, right?

16 **A. Correct.**

17 Q. Let's look at the case tracking document, focus
18 on the first entry, first full paragraph. It
19 says, "The response team was able to get video
20 and photos from this incident. I submitted both
21 the video and stills to Crime Intel for facial
22 recognition", is that right?

23 **A. Correct.**

24 Q. And, "Crime Intel was unable to ID the unknown
25 white male", is that right?

1 A. Correct.

2 Q. And just like the case we looked at right before
3 this and the case before that, you flipped the
4 switch to inactive after Crime ID [sic] wasn't
5 able to ID?

6 A. Because I had no other leads.

7 Q. But you turned it as inactive after you heard
8 back from Crime Intel?

9 A. Correct.

10 DEPOSITION EXHIBIT 16
11 investigative report
12 WAS MARKED FOR IDENTIFICATION.

13 Q. You can put this one aside -- two more. This is
14 Exhibit 16. Do you recall this investigation?

15 A. I do not.

16 Q. But the narrative and the investigator's report
17 and the case tracking documents are reflections
18 -- accurate reflections of your work at the time
19 of the investigation?

20 A. Correct. This investigation report is not mine.

21 Q. This investigation report is not yours?

22 A. Right.

23 Q. So sorry. The case tracking document is an
24 accurate reflection of your -

25 A. Yes.

1 Q. So according to the investigation report it looks
2 like this had to do with someone stealing a Ring
3 doorbell, is that right?

4 **A. Yes.**

5 Q. And let's look at the case tracking document,
6 first entry. Looks like you spoke with the
7 victim and took a written statement and the
8 victim was able to provide video of the suspect
9 from the Ring doorbell, is that right?

10 **A. Correct.**

11 Q. And you submitted the video and the still photo
12 from the Ring doorbell to Crime Intel for facial
13 recognition, is that right?

14 **A. Correct.**

15 Q. And Crime Intel came back with negative results
16 on the ID, is that correct?

17 **A. Correct.**

18 Q. Do you recall how this case ended?

19 **A. It looks like it was placed inactive.**

20 Q. And did you place it inactive after hearing back
21 from Crime Intel that the facial recognition
22 search was negative?

23 **A. Yes.**

24 Q. Did you do any other investigative work after you
25 heard back from Crime Intel?

1 A. I provided a photo to our 30 Series, our Special
2 Operations Unit called 30 Series.

3 Q. So the 30 Series is a Special Operations Unit?

4 A. Correct.

5 Q. What do they do?

6 A. They go out and look for individuals or proactive
7 crime.

8 Q. Did you use 30 Series in any of other cases that
9 we looked at?

10 A. Not that I recall.

11 Q. Why did you use 30 Series in this case?

12 A. I do not recall.

13 Q. You can put this one aside.

14 Final warrant packet other than the
15 Shinola investigation one that we'll look at
16 shortly. This is Exhibit 17. Do you recall this
17 investigation.

18 DEPOSITION EXHIBIT 17

19 investigation report

20 WAS MARKED FOR IDENTIFICATION?

21 A. I do not.

22 Q. According to the investigation report -- well,
23 before I ask that, you would say that the case
24 tracking document is an accurate reflection of
25 your work at the time?

1 A. Yes.

2 Q. According to the investigation report this is yet
3 another larceny at a Family Dollar, is that
4 right?

5 A. Correct.

6 Q. Looking specifically at the case tracking
7 document first entry it says the suspect is on
8 video for this incident, right?

9 A. Correct.

10 Q. Photos submitted to Crime Intel, right?

11 A. Correct.

12 Q. Did you get the photos from the video?

13 A. I don't recall.

14 Q. It says Crime Intel told you they are not unable
15 to run any subject. I'm guessing you meant "not
16 able to run", right?

17 A. Correct.

18 Q. So Crime Intel was told they are not able to run
19 any subject through facial rec that is not of a
20 Part 1 crime. Did I read that right?

21 A. Correct.

22 Q. Did you know that facial recognition -- or did
23 you know that Crime Intel was not able to run
24 non-Part 1 crimes through facial recognition when
25 you submitted the photo?

- 1 **A. No.**
- 2 Q. So this was the first time -- the response from
3 Crime Intel was the first time you heard that
4 facial recognition is now limited to Part 1
5 crimes?
- 6 **A. I don't recall.**
- 7 Q. But did you receive any other notifications or
8 announcements that facial recognition is now
9 limited to Part 1 crimes?
- 10 **A. Not that I recall.**
- 11 Q. And if you look at the date it says July 28, 2019
12 for that first entry, right?
- 13 **A. Correct.**
- 14 Q. Did you think --
- 15 **A. Well -- yeah.**
- 16 Q. Do you think Crime Intel's response reflects the
17 updated DPD facial recognition policy that we
18 looked at last Monday from July 25, 2019?
- 19 **A. Yes.**
- 20 Q. And you don't recall if this was the first time
21 you heard of that policy change?
- 22 **A. Correct.**
- 23 Q. Do you recall how this case ended?
- 24 **A. It was placed inactive.**
- 25 Q. And it was placed inactive after Crime Intel --

1 just like the other cases, after Crime Intel said
2 that they didn't have any match?

3 **A. Correct.**

4 Q. You can set that one aside.

5 Let's talk about these cases generally.
6 So for the cases that ultimately led to a facial
7 recognition match it seems like your general
8 investigative practice was to take that
9 investigative lead, that facial recognition
10 match, and run a photo showup with it, right?

11 **A. Correct.**

12 Q. And taking one step back, even for the cases that
13 didn't -- even the cases that didn't have a
14 match, your general practice was whenever you
15 have a photo or a video of the incident you
16 submit a request to Crime Intel for facial
17 recognition, is that right?

18 **A. Back then, correct.**

19 Q. Back then. Has your practice changed since then?

20 **A. Correct, now we only do Part 1 crimes.**

21 Q. But generally speaking regardless of whether it's
22 a Part 1 crime or another crime, when you had a
23 photo at that time your practice was to submit it
24 for facial recognition?

25 **A. Correct.**

1 Q. And then once you got a match if you got a match
2 you would use that match in a photo showup?

3 **A. Correct.**

4 Q. And did you ever get a facial recognition match
5 back and choose not to use it in the photo
6 showup?

7 **A. Not that I recall.**

8 Q. And from the cases where you switched them to
9 inactive it seems like when Crime Intel isn't
10 able to provide a facial recognition match your
11 general practice was to turn that case inactive,
12 is that right?

13 **A. If there was no other leads.**

14 Q. If there's no other leads, okay. And from the
15 cases in which you submitted a warrant request it
16 seems like your general practice was to - your
17 general practice was that a facial recognition
18 match plus a photo showup was enough to support a
19 warrant request?

20 **A. With a witness identification.**

21 Q. Yeah, a facial recognition match, plus a witness
22 ID through a photo showup?

23 **A. Correct.**

24 Q. And that wasn't how you were trained, right?
25 That wasn't how you were trained by the

1 department, right?

2 **A. Correct.**

3 Q. And that's because you didn't receive any
4 training from the department when you became a
5 detective, right?

6 **A. Correct.**

7 Q. And you learned this practice from your fellow
8 detectives?

9 **A. Yes.**

10 Q. So do you know if your fellow detectives did the
11 same thing when it came to facial recognition,
12 they ran it through a photo showup and if they
13 got a positive ID they would request a warrant?

14 **A. I do not know.**

15 Q. So recall from last week that the department
16 policies governing the use of facial recognition
17 technology have changed a few times, right?

18 **A. Correct.**

19 Q. And primarily you recall the policy changed from
20 it being applied to any crime at all to
21 specifically Part 1 violent crimes and Home
22 Invasion 1 crimes, right?

23 **A. Correct.**

24 Q. Do you remember being informed about any of those
25 changes when they were made in April, 2019; July,

1 2019 or September, 2019?

2 **A. Not that I recall.**

3 Q. Do you recall when you learned of the switch to
4 just Part 1 crimes?

5 **A. Not that I recall.**

6 Q. Do you recall these changes affecting your work
7 in any way?

8 **A. Not that I recall.**

9 Q. Once you heard back from thinking about one of
10 the cases we just looked at, once you heard back
11 from Crime Intel that they could only do facial
12 recognition for Part 1 crimes, after that was it
13 your practice not to submit photos if they
14 weren't for Part 1 crimes?

15 **A. Correct.**

16 Q. So when Crime Intel told you Part 1 crimes only,
17 that's when you changed your practice?

18 **A. I don't recall. I would assume so, but I don't
19 recall that exact time.**

20 Q. But your practice is now to only submit photos
21 for facial recognition if you're investigating a
22 Part 1 violent crime?

23 **A. Correct.**

24 Q. So what do you do or what did you do after the
25 policy changed regarding non-Part 1 crimes in

1 which you had a photo that could have been run
2 through facial recognition?

3 **A. For like -- talking about I got these cases now**
4 **with the current policy?**

5 Q. Yeah, let's say you got these cases on August 1,
6 2019 after the July 25 policy was implemented.

7 What would you have done to investigate
8 them?

9 **A. I would use the photo and ask other officers if**
10 **they knew the person or try to find someone that**
11 **knew them personally or had interaction.**

12 Q. Would you do anything else?

13 **A. Depends on the case, what leads I had.**

14 Q. Would you say that for these cases or for any of
15 your other non-Part 1 cases not having facial
16 recognition technology has been a set-back in
17 your investigation?

18 **A. Yeah.**

19 Q. Do you think facial recognition technology played
20 a pretty large role in your investigations for
21 non-Part 1 crimes?

22 **A. Yes.**

23 Q. So now thinking back to when you were working on
24 the Shinola investigation in 2019 based on what
25 we talked about in these other investigations you

1 thought it was -- did you think it was an
2 acceptable investigative technique in the Shinola
3 investigation to confirm that facial recognition
4 match with the photo lineup?

5 **A. Yes.**

6 Q. And you thought it was appropriate to seek a
7 warrant based only on that facial recognition
8 match and the photo showup ID?

9 **A. Yes.**

10 Q. And that wasn't what you were trained to do,
11 right?

12 **A. Not by the department, no.**

13 Q. And you developed that practice on the job?

14 **A. Yes.**

15 Q. And that was based on what you saw other
16 detectives in your precinct doing?

17 **A. Yes.**

18 Q. And asking those detectives?

19 **A. Yes.**

20 Q. And your supervisors knew how you conducted your
21 investigations in this case?

22 **A. Yes.**

23 Q. And that's because they signed off on your
24 warrant requests?

25 **A. Yes.**

1 Q. Was it because of anything else you mentioned to
2 them?

3 **A. I don't recall.**

4 Q. Is there any other way they could have known that
5 your practice was to submit a request for a
6 warrant with a facial recognition match and a
7 photo showup ID only other than signing off on
8 your warrant?

9 **A. By telling them if they asked for an update on
10 the case.**

11 Q. And so you would tell them that I submitted a
12 warrant after getting a match and running a photo
13 showup?

14 **A. Yes.**

15 MR. WADOOD: Okay, let's take a quick
16 break. I think I'm done with the facial
17 recognition questions. I just want to make sure
18 I cover my bases, so let's take five minutes.

19 (A recess was taken.)

20 BY MR. WADOOD:

21 Q. Okay, I just have a couple of questions to wrap
22 the facial recognition technology line of
23 questioning and then we'll move on to the Shinola
24 investigation.

25 Do you recall how many times you've

1 used facial recognition technology in your
2 investigations as a detective?

3 **A. I do not.**

4 Q. You think it's more than 10?

5 **A. Yes.**

6 Q. More than 20?

7 **A. No.**

8 Q. More than 15?

9 **A. I don't know.**

10 Q. So somewhere in-between 10 and 20?

11 **A. Sounds right.**

12 Q. And how many investigations have you worked on as
13 a detective, whether or not facial recognition
14 technology is involved?

15 **A. Thousands.**

16 Q. And that's since 2019?

17 **A. Correct.**

18 Q. So facial recognition technology you used in 10
19 to 20 cases out of thousands of cases?

20 **A. Correct.**

21 Q. And of those thousands of cases how many cases
22 include -- get to a point where you are running a
23 photo showup?

24 **A. I don't recall.**

25 Q. Do you remember how many warrants you've

1 submitted as a detective?

2 **A. I don't.**

3 Q. You think it's more than 100?

4 **A. I have no number.**

5 Q. That's fine. One question going back to Exhibit
6 11 which is the case document No. 190515 which is
7 this one.

8 If you can flip to the document labeled
9 Detroit Police Request for Warrant, looks like
10 this.

11 **A. The investigator's report?**

12 Q. Yep, the investigator's report, that's right.
13 You drafted this report, right?

14 **A. Correct.**

15 Q. Do you recall that in the reporting officer's
16 narrative the victim stated that the suspect is a
17 previous student possibly named Terry, right?

18 **A. Correct.**

19 Q. And in our previous conversation we established
20 that you trusted the positive ID of the victim
21 during the photo showup more than you did the
22 victim's statement that the suspect's name was
23 Terry, right?

24 **A. Correct, he said he was unsure.**

25 Q. And so that information about the suspect

1 possibly being named Terry didn't make its way
2 into the warrant request, did it?

3 **A. No.**

4 Q. And you didn't feel a need to include information
5 that it could possibly be someone else?

6 **A. Not when he wasn't sure on the name.**

7 Q. And you didn't receive any training on whether to
8 include information about other possible suspects
9 in your warrants, any training from the
10 department?

11 **A. Official training, no.**

12 Q. Did any of your fellow detectives tell you that
13 it would be a good or bad idea to include
14 information about other possible suspects in your
15 warrant request?

16 **A. Not that I recall.**

17 Q. Did anyone reviewing this warrant, whether it was
18 your supervisor, a prosecutor, a magistrate
19 judge, did anyone ask you about the statement
20 that the suspect is possibly named Terry?

21 **A. Not that I recall.**

22 Q. But it wasn't in your investigator's report,
23 right?

24 **A. No.**

25 Q. You can put that one aside.

1 Since July 25, 2019 when the policy
2 changed to Part 1 crimes have you used facial
3 recognition technology?

4 **A. No.**

5 Q. Is that because you only investigate non-Part 1
6 crimes?

7 **A. Correct.**

8 Q. Is that what you continue to do as a detective
9 now?

10 **A. Correct.**

11 Q. And what kind of crimes do you investigate?

12 **A. Larcenies, assaults generally.**

13 Q. Is that a limit that was placed on you by the
14 department?

15 **A. No. We work in groups. I'm considered general**
16 **assignment, and you have people that work**
17 **felonies, you have people that work generally**
18 **stolen vehicles and casinos.**

19 Q. And how were you assigned to that group?

20 **A. I picked it.**

21 Q. And are you ever given an opportunity to switch
22 groups?

23 **A. Yes.**

24 Q. And you choose to stay in your current general
25 assignment group?

1 A. Correct.

2 DEPOSITION EXHIBIT 18

3 warrant packet from Shinola case

4 WAS MARKED FOR IDENTIFICATION.

5 Q. Let's talk about the Shinola investigation. What
6 I'm going to do is I'm going to hand you the
7 warrant packet from that case as Exhibit 18 and
8 I'm introducing this exhibit up front.

9 And then we're going to refer to it
10 from time to time. I just figured I'd hand it
11 over to you now so you can review it, although
12 you had mentioned before that you've reviewed
13 this warrant packet before you came into the
14 room, right?

15 A. Yes.

16 Q. I will try to take this as chronologically as
17 possible just so we can remain on the same page
18 about when and where we are. So what was your
19 role in DPD's investigation into the theft that
20 occurred at the Midtown Shinola on October 2
21 which again I'm going to call the Shinola
22 investigation?

23 A. I was to submit the warrant.

24 Q. You were assigned to submit the warrant?

25 A. Correct.

1 Q. And that was an assignment you were given by a
2 supervisor?

3 **A. Correct.**

4 Q. So a supervisor told you you're being assigned to
5 this case to submit a warrant?

6 **A. Correct.**

7 Q. Was that more of an administrative task?

8 **A. It's part of our job.**

9 Q. And so you weren't assigned to the case to
10 investigate the case?

11 **A. Correct.**

12 Q. And were you told at the time that the
13 investigation had already been completed?

14 **A. Yes.**

15 Q. And so your only job when you were assigned to
16 the case was to write up the warrant packet and
17 submit it to the prosecutor?

18 **A. Initially, yes.**

19 Q. Initially, but what changed?

20 **A. There was no information on the case.**

21 Q. So let's take a couple of steps back to get us
22 there. Who was the detective on the case before
23 you?

24 **A. Det. Adams.**

25 Q. Do you remember Det. Adams' first name?

1 A. **Levan I believe.**

2 Q. So Det. Levan Adams. And so do you know why the
3 case was transferred from Det. Adams to you?

4 A. **He was transferred out.**

5 Q. He was transferred out of the precinct?

6 A. **Correct.**

7 Q. And so how long were you on the job as a 3rd
8 Precinct detective before the case was
9 transferred to you?

10 A. **Maybe a few weeks. Can I look at the notes, I**
11 **would have had the date?**

12 **DEPOSITION EXHIBIT 19**

13 **case tracking document Shinola case**

14 **WAS MARKED FOR IDENTIFICATION.**

15 Q. Sure. If you flip to the case tracking --
16 actually, you know what, for your sake and for
17 everyone's sake I'm going to also introduce
18 Exhibit 19 so we have everything in front of us.

19 If you ever need to refer it, this is
20 the case tracking document for the Shinola
21 investigation. So take a look at the timeline on
22 that and let me know when you were -- how long
23 you had been at the precinct before you were
24 assigned to this case?

25 A. **About four weeks.**

1 Q. And, again, you were assigned the case with the
2 instruction that the investigation was done, all
3 you needed to do was submit a warrant?

4 **A. Correct.**

5 Q. But you said you opened the case file and saw
6 that there was nothing there?

7 **A. It was a answer key for the six-pack and facial**
8 **rec ID from MSP.**

9 Q. So all that was in the case file was an answer
10 key for a six-pack that was conducted and a
11 facial recognition match from Crime Intel?

12 **A. I don't know if it was conducted, but yes.**

13 Q. So can you explain to me what an answer key is?

14 **A. We make two copies, one with the answers of the**
15 **individual's use and one without.**

16 Q. And the individual using it is the witness who
17 ID's the suspect?

18 **A. No, the suspects.**

19 Q. The suspects, okay. So the answer key would
20 include the names of the suspects?

21 **A. Correct.**

22 Q. And the other version would include just the
23 pictures?

24 **A. Correct.**

25 Q. Okay, got it. So to make sure I have this right,

1 the case file included the facial recognition
2 match and an answer key for a six-pack that
3 included the facial recognition match?

4 **A. Yes.**

5 Q. And so you looked at that case file and you
6 thought that it wasn't enough to submit a
7 warrant, is that right?

8 **A. Correct.**

9 Q. And where did you -- how did you come to that
10 understanding that this isn't enough for a
11 warrant?

12 **A. There's no information on the case. I had
13 nothing to go on.**

14 Q. But you weren't trained on warrants, right, from
15 the department?

16 **A. Correct.**

17 Q. And this is only a few weeks into your job as a
18 detective, right?

19 **A. Correct.**

20 Q. And so how did you as a detective come to the
21 determination if you had no training on it that
22 this was not enough for a warrant?

23 **A. The training I received from other detectives
24 allow me the fact that I had nothing to write in
25 the warrant for what took place or what happened.**

- 1 Q. And so then what did you do when you realized
2 that you didn't have enough to write a warrant?
- 3 A. I believe I went back to the supervisor and told
4 him I didn't have anything.
- 5 Q. And who was the supervisor at that time?
- 6 A. Sgt. Jackson.
- 7 Q. And so you told Sgt. Jackson you don't have
8 enough to submit a warrant, right?
- 9 A. Correct.
- 10 Q. And what did Sgt. Jackson tell you?
- 11 A. He said that he would get me a copy of the
12 statements from Shinola and the video.
- 13 Q. And did he end up doing that?
- 14 A. No.
- 15 Q. And did you ever get those documents?
- 16 A. Yes.
- 17 Q. How did you do that?
- 18 A. I went to Shinola myself to get them.
- 19 Q. And was that after you realized Sgt. Jackson
20 wasn't going to give you the information?
- 21 A. Yes.
- 22 Q. How long did you wait, do you recall?
- 23 A. I will refer to my case notes at that time.
24 Approximately two weeks.
- 25 Q. So just to ensure that we are on the same page,

1 if you can take a look at the warrant packet
2 which is Exhibit 18, if you go to that first tab,
3 that orange tab, which for everyone else in the
4 room is the investigative lead report, that's a
5 few pages from the end.

6 Was this document in the case file when
7 you first received the case?

8 **A. Yes.**

9 Q. And the other document in the case file was an
10 answer key for a six-pack, right?

11 **A. Correct.**

12 Q. If you flip a few pages, two pages before this
13 one, do you recall if this was the answer key?

14 **A. No.**

15 MR. CUNNINGHAM: No, you don't
16 remember.

17 BY MR. WADOOD:

18 Q. Yeah, you don't remember or this is not the --

19 **A. It was not the answer key.**

20 Q. This was not the answer key?

21 **A. No.**

22 Q. So it was a different six-pack that was in the
23 case file at the time?

24 **A. Correct.**

25 Q. So what I want to do is focus on the case

1 tracking document and let's run chronologically
2 through what happened.

3 So it looks like the first entry from
4 you is on May 20, 2019, says you just received
5 the case folder on that same day, right?

6 **A. Correct.**

7 Q. "Info for video, receipt and statements were not
8 in file. Requested from Shinola per St. Jackson,
9 that security with the information. Will not be
10 back to work until 5-22-2019", is that right?

11 **A. Correct.**

12 Q. And that's what we just talked about, right, that
13 there was nothing other than the investigative
14 lead and an answer key in the file?

15 **A. Yes.**

16 Q. And so moving on to the next line it says, "On
17 5-30-2019 telephone call, left VM" -- I'm
18 guessing a voicemail --

19 **A. Correct.**

20 Q. " with PRO", what is PRO?

21 **A. Person reporting offense.**

22 Q. And so that was an employee of Shinola?

23 **A. Correct.**

24 Q. And so this is essentially saying you called the
25 Shinola store --

1 A. Yes.

2 Q. -- and left a voicemail, okay. Do you remember
3 what the voicemail entailed?

4 A. It would have been my name and number and for
5 them to contact me about this case.

6 Q. Moving on to the next one, it says, the next
7 line, it says you talked with the person
8 reporting the offense and set up to pick up
9 reports, statements and video on June 3, 2019,
10 right?

11 A. Correct.

12 Q. And then the next line on June 3, 2019 you went
13 to the store location, spoke with PRO Scott
14 Ratkowski -- I'm guessing that's an employee of
15 Shinola?

16 A. Manager.

17 Q. Who was able to provide a video and statements
18 for the incident. Mr. Ratkowski stated that they
19 did not want to send someone in place of the
20 store to court and would have to get it cleared
21 with corporate and would contact me when he finds
22 out, to move forward.

23 Can you explain that to me about
24 sending someone in place of the store?

25 A. For retail fraud it was my understanding that

1 individuals can represent the company so the
2 company, the corporation, doesn't have to come
3 down themselves.

4 Q. And so this was as far as the victim or the
5 person reporting the offense, an individual
6 couldn't represent the company?

7 A. Correct.

8 Q. And what role would they play in court as an
9 individual representing the company?

10 A. As -- it would depend on the case. In this cases
11 he would be the witness/representative of
12 Shinola.

13 Q. Moving to the next line, June 9, 2019 it says,
14 "Return call to Kathlyn Johnson".

15 A. Correct.

16 Q. "No answer, left voicemail", right?

17 A. Correct.

18 Q. Who is that person?

19 A. She is, I believe, the head manager of Mackinac
20 Group Security.

21 Q. What is Mackinac Group Security?

22 A. It is a loss prevention team Shinola hires for
23 their stores.

24 Q. And could Katherine Johnston be her correct name?

25 A. It could be.

1 Q. We'll look at some documents that might clear
2 that up later on. So it looks like you were
3 returning a call to Ms. Johnston?

4 **A. Correct.**

5 Q. Did she call you first?

6 **A. Yes.**

7 Q. And did -- in your conversation with Shinola on
8 the 3rd did they mention that someone from their
9 loss prevention group would be reaching out?

10 **A. Not from the group. That they would get back to
11 me after they spoke with corporate.**

12 Q. So when you got a call from Ms. Johnston, that
13 was the first that you learned that they had a
14 loss prevention group?

15 **A. Yes.**

16 Q. And it looks like on June 10, 2019 you spoke with
17 Ms. Johnston who stated that the store staff will
18 contact me to set up an appointment, right?

19 **A. Yes.**

20 Q. Do you recall anything else you talked to
21 Ms. Johnston about in that call?

22 **A. I do not.**

23 Q. And what do you mean by "set up an appointment"?

24 **A. For them to come down to the station to do a
25 six-pack.**

1 Q. To do a six-pack, okay. So in that next line it
2 looks like you set an appointment for that
3 six-pack on June 18, 2019, right?

4 **A. Correct.**

5 Q. And it says in the next line six-pack photo
6 lineup PO Atkinson?

7 **A. Correct.**

8 Q. If you've look past all these lines to some
9 handwritten notes further down it says, "June 18,
10 2019 photo lineup conducted with one Omari
11 Jackson", is that right?

12 **A. That's what's written there, correct.**

13 Q. And do you know who Omari Jackson is?

14 **A. He was the person they were originally sending
15 down is my understanding.**

16 Q. So he's an employee of Shinola?

17 **A. That's my understanding, yes.**

18 Q. And so it looks like a six-pack photo lineup with
19 PO Atkinson was conducted with Mr. Jackson, is
20 that right?

21 **A. It was not.**

22 Q. It was not, so what happened?

23 **A. The individual -- I was not there -- came down
24 and presented video additional or the same video
25 that we already had and did not do a six-pack.**

- 1 Q. So Mr. Jackson presented the video to you?
- 2 A. No.
- 3 Q. Or you presented the video to Mr. Jackson?
- 4 A. **Neither. I believe he left the stuff at the**
- 5 **station and then left.**
- 6 Q. So he didn't participate in the six-pack?
- 7 A. **Correct.**
- 8 Q. Is there a reason he didn't participate?
- 9 A. **I do not know.**
- 10 Q. But you had a six-pack ready for him to take?
- 11 A. **Yes.**
- 12 Q. And did you put that six-pack together?
- 13 A. **Yes.**
- 14 Q. How did you put that six-pack together?
- 15 A. **Manually like we talked about with the other**
- 16 **case, go through the files.**
- 17 Q. Okay, same way?
- 18 A. **Yes.**
- 19 Q. And did that six-pack include a photo of -- a
- 20 photo from the investigative lead from the
- 21 Michigan State Police?
- 22 A. **I believe I used his driver's license photo.**
- 23 Q. If you look at that warrant packet, this document
- 24 that says investigative report, this is in
- 25 Exhibit 18, is this the photo you used in that

1 six-pack?

2 **A. I believe so.**

3 Q. And you understand what this document is, right,
4 this investigative lead report?

5 **A. Yes.**

6 Q. Had you seen this type of document before this
7 case?

8 **A. No.**

9 Q. So this is the first time --

10 **A. I've never seen it from Michigan State Police**
11 **before.**

12 Q. So this is the first time you saw a Michigan
13 State Police investigative lead report?

14 **A. Yes.**

15 Q. And it says at the very top under the title,
16 "This document is not a positive identification,
17 it is an investigative lead only and is not
18 probable cause to arrest" with the word "not"
19 underlined.

20 "Further investigation is needed to
21 develop probable cause to arrest". Did I read
22 that right?

23 **A. Yes.**

24 Q. Do you recall reading that statement, that
25 warning, when you first received the document?

1 A. I don't recall.

2 Q. What does this statement mean to you?

3 A. That I cannot use this as probable cause to
4 arrest a person.

5 Q. Does that mean you cannot rely on this only for a
6 warrant request?

7 A. Yes.

8 Q. And so in your opinion did using this in a
9 six-pack constitute the further investigation
10 that is needed?

11 A. Yes.

12 Q. So you created the six-pack with this photo and
13 five other photos from the two databases you
14 mentioned before, right?

15 A. Yes.

16 Q. And that's the DPD suspect database and the DDC
17 database, right?

18 A. Yes.

19 MR. CUNNINGHAM: I want to take a break
20 for one minute.

21 MR. WADOOD: Sure.

22 (A recess was taken).

23 BY MR. WADOOD:

24 Q. Back on the record. So we're talking about that
25 first six-pack that you created that you were

1 supposed to conduct with Omari Jackson from
2 Shinola, right?

3 **A. I don't know if it was supposed to be with him.**
4 **They were sending someone.**

5 Q. They were sending someone?

6 **A. And he showed up.**

7 Q. But there is a first six-pack that you created
8 back in June of 2019?

9 **A. Yes.**

10 Q. And there is a six-pack in your warrant packet,
11 right?

12 **A. Yes.**

13 Q. That's not the first six-pack that you created,
14 right, in June of 2019? This is a different
15 six-pack?

16 **A. This would be the six-pack I used, correct.**

17 Q. Is this the one you used in June of 2019 when you
18 were waiting for someone from Shinola, could have
19 been Omari Jackson?

20 **A. I didn't -- I would have used. I didn't use it.**
21 **A six-pack was not performed at the time.**

22 Q. But when you -- if you look back at the case
23 tracking document further down it says that you
24 did another -- Det. Posey and you did another
25 six-pack photo lineup on July 30, 2019 right?

1 A. Correct.

2 Q. Would that have been using the same six-pack that
3 you created back in June of 2019?

4 A. Yes.

5 Q. So this six-pack in the warrant packet that we're
6 looking at, that's the one that you were
7 intending to use in June of 2019 and that you
8 ultimately did use in July of 2019?

9 A. Yes.

10 Q. So you didn't go back and create a new six-pack
11 for the July lineup?

12 A. I created this one from the original that was in
13 the folder.

14 Q. Can you explain that to me?

15 A. Because the one that I got from -- that was in
16 folder when the case was handed to me, I did not
17 use that one, so I created this one.

18 Q. But the same six individuals from that first
19 six-pack are on this six-pack?

20 A. No.

21 Q. So this is a totally new six-pack?

22 A. Correct.

23 Q. The only thing that's the same is the photo of
24 Mr. Williams, is that right?

25 A. This is a photo I pulled from Secretary of State.

1 Q. Do you recall if it's the same photo that was in
2 the first six-pack or was it a different photo?

3 **A. I don't recall.**

4 Q. So just to make sure I have it clear, the
5 six-pack that you used in June of 2019 was
6 already in the case file -- of -- that you tried
7 to use in June, 2019 was already in the case file
8 developed by someone else and that in July of
9 2019 you created a new six-pack to use in that
10 lineup?

11 **A. No, I created this -- I didn't use the original**
12 **one at all. All I had was the answers and I**
13 **can't reproduce these pictures, so I created a**
14 **whole new six-pack.**

15 Q. But that first one was created by someone else?

16 **A. Correct.**

17 Q. That answer key?

18 **A. Correct.**

19 Q. And you didn't ultimately use that one?

20 **A. Correct.**

21 Q. Instead you created a new six-pack, right?

22 **A. Yes.**

23 Q. With different faces?

24 **A. Yes.**

25 Q. So let's go back to the case tracking document

1 and make our way to that second six-pack just so
2 that we can connect the dots before we get there.

3 It says, "On June 19, 2019 warrant
4 submitted." That was a mistake, right?

5 **A. Not a mistake. It was -- the only way we can**
6 **submit in our tracking system when we pull the**
7 **warrant jacket from our file system.**

8 Q. But you didn't actually submit a warrant to any
9 outside party, did you?

10 **A. Correct, I did not.**

11 Q. And so you -- you next on July 19, 2019 set an
12 appointment for July 23, 2019 at 1300. Can you
13 explain what that appointment was for?

14 **A. That was for a meeting with the Mackinac Group**
15 **and Shinola CEO.**

16 Q. And that next line says that on July 23, 2019 you
17 met with CEO of Shinola and director of Mackinac
18 Partners, right?

19 **A. Correct.**

20 Q. And director of Mackinac Partners, was that
21 Katherine Johnston?

22 **A. Yes.**

23 Q. And do you recall the name of the CEO of Shinola?

24 **A. I do not.**

25 Q. And then it looks like on the 25th of July you

1 got a corrected incident report from Shinola,
2 right?

3 **A. Correct.**

4 Q. And then you need to redo a photo six-pack,
5 right?

6 **A. Correct.**

7 Q. Why did you determine that you needed to redo a
8 photo six-pack?

9 **A. Well, that was re-presenting the six-pack. I**
10 **used the same six-pack.**

11 Q. You used the same six-pack as what?

12 **A. This six-pack is what I used to present it.**
13 **Re-do was presenting -- as re-present it, redoing**
14 **the whole six-pack process.**

15 Q. And the six-pack you're referring to is the one
16 in the warrant packet?

17 **A. Yes.**

18 Q. But that's not the one that you had in the case
19 file back in June?

20 **A. Back when I got the case?**

21 Q. Back when you got the case.

22 **A. Yes.**

23 Q. In May and June, right?

24 **A. Yes, May.**

25 MR. WADOOD: Let's take a quick break,

1 just three minutes.

2 (A recess was taken.)

3 BY MR. WADOOD:

4 Q. Just to clean up some confusion which is mostly
5 on my part, let's quickly talk about those
6 six-packs again just to make sure that everybody,
7 again mostly me, is on the same page.

8 So when you joined the case in May of
9 2019 there was already a six-pack in your case
10 file, right?

11 **A. An answer key for a six-pack.**

12 Q. But when it came to June of 2019 when you were
13 trying to conduct a six-pack with someone from
14 Shinola you created a new six-pack, right?

15 **A. Correct.**

16 Q. And that six-pack is the six-pack reflected in
17 the warrant packet, Exhibit 18, right?

18 **A. Yes.**

19 Q. And then when it came to doing a six-pack again
20 on July 30, 2019 it was this same six-pack that
21 you created for the June 18 six-pack that never
22 happened, right?

23 **A. Correct.**

24 Q. Okay, got it. And so speaking of this six-pack,
25 if you take a look at it there's a picture of

1 Mr. Williams at No. 3, right?

2 **A. Correct.**

3 Q. And that picture is different than the picture of
4 Mr. Williams on the investigative lead, right?

5 **A. Correct.**

6 Q. Is there a reason you used a different picture?

7 **A. Because I didn't feel that picture was truly**
8 **suggestive with his head cocked. I couldn't**
9 **match -- we have no pictures of anyone with their**
10 **head cocked smiling like that.**

11 Q. So you thought it was too different from the
12 photos in the database --

13 **A. Yes.**

14 Q. -- for you to run a six-pack?

15 **A. Yes. I believe it would stand out.**

16 Q. And is that something you do in other cases where
17 someone's head is tilted where you would use a
18 different photo of them?

19 **A. Yes.**

20 Q. Where did you get this photo from that you used
21 in the six-pack?

22 **A. I believe it was his Secretary of State photo,**
23 **driver's license.**

24 Q. And you didn't have any reason to believe that
25 you using a different photo from the one in the

1 investigative lead would affect the six-pack in
2 any way?

3 **A. No. To my knowledge this was never shown to**
4 **anybody at their level.**

5 Q. So let's talk about the six-pack that actually
6 did happen on July 30 of 2019, right. It says in
7 the case tracking document Exhibit 19 with Det.
8 Posey did a six-pack photo lineup, right?

9 **A. Correct.**

10 Q. And Katherine Johnston from the loss prevention
11 group Mackinac Partners is the one who
12 participated in that photo lineup, right?

13 **A. Correct.**

14 Q. And, again, Katherine Johnston is the loss
15 prevention representative for Shinola?

16 **A. Yes.**

17 Q. Was Katherine Johnston an eyewitness to this
18 theft that you were investigating?

19 **A. No.**

20 Q. So she wasn't an eyewitness, right?

21 **A. Correct.**

22 Q. And she only -- her only understanding of what
23 happened was based on the security footage?

24 **A. Yes.**

25 Q. And so the only way that she could identify

1 someone is by reviewing the security camera
2 footage, right?

3 **A. To my knowledge she did not have any interaction**
4 **with this person.**

5 Q. So why did you pick Katherine Johnston to
6 participate in this lineup if she wasn't an
7 eyewitness to the theft?

8 **A. At the request of Shinola they asked if their**
9 **security team can be their witness/PRO person**
10 **reporting offense, for court. So then I told**
11 **them I would have to ask my supervision.**

12 Q. And did you ask your supervision?

13 **A. I asked Lt. Chadwick-Bills if I could. She**
14 **advised me to call the Prosecutor's Office which**
15 **I did and they said it was fine.**

16 Q. So it was Shinola's idea to use Katherine
17 Johnston as a witness?

18 **A. Yeah, they requested it for all their cases going**
19 **forward.**

20 Q. Was that Katherine Johnston requesting it or the
21 Shinola employee that was in the room?

22 **A. The CEO.**

23 Q. And so they requested that you use a Shinola loss
24 prevention representative as a witness for all
25 thefts regarding Shinola stores?

1 A. Yes.

2 Q. And then you felt the need to ask your supervisor
3 if that was okay?

4 A. Yes.

5 Q. Why did you feel the need to ask your supervisor
6 if it was okay?

7 A. Because that was my first time coming across
8 that.

9 Q. Did it strike you as odd in any way to use a loss
10 prevention officer who wasn't at the crime scene
11 as a witness?

12 A. No.

13 Q. So the only reason you were asking your
14 supervisor was because you had never done it
15 before?

16 A. Correct.

17 Q. In other situations do you ask your fellow
18 detectives or your supervisor if there's
19 something new that you're doing?

20 A. Either, both.

21 Q. So in this case you just happened to ask your
22 supervisor instead of the fellow detectives?

23 A. I asked Chadwick-Bills because she had other
24 interactions with this case.

25 Q. What were those interactions?

1 **A. She says that she received a complaint because**
2 **the case was not moving along.**

3 Q. A complaint from --

4 **A. Shinola.**

5 Q. Was it from Katherine Johnston or the CEO?

6 **A. I don't know.**

7 Q. So Lt. Chadwick-Bills received a complaint from
8 Shinola that this specific case wasn't moving
9 along?

10 **A. I don't know if it was just this case or all**
11 **Shinola cases, but when she referred to me, this**
12 **was the case I had.**

13 Q. How did you know that Lt. Chadwick-Bills received
14 the complaint?

15 **A. She told me.**

16 Q. When did she tell you?

17 **A. I don't recall the exact date.**

18 Q. Was it before you asked her about using Katherine
19 Johnston as a witness?

20 **A. Yes.**

21 Q. Did you ask about any complaints or did she tell
22 you unprompted?

23 **A. She told me, I didn't ask.**

24 Q. And do you recall if it was early in your work on
25 this case, May or June, or if it was in July?

- 1 A. It was earlier. I don't know the date.
- 2 Q. And in what context did she tell you unprompted?
- 3 A. She asked about the case and said that we need to
- 4 act on the case because a complaint was filed.
- 5 Q. And what did you respond to her?
- 6 A. I don't recall.
- 7 Q. And so it was because she mentioned the complaint
- 8 to you that you asked her if it was okay to use
- 9 Katherine Johnston as a witness?
- 10 A. Yes.
- 11 Q. In all Shinola cases?
- 12 A. Well, I asked her because I've never done it, but
- 13 I asked her because she was the one that was
- 14 dealing with the case.
- 15 Q. Instead of a different detective?
- 16 A. Correct.
- 17 Q. And then Lt. Chadwick-Bills asked you to ask a
- 18 prosecutor, right?
- 19 A. Correct.
- 20 Q. Was that the first time you had called a
- 21 prosecutor to see if something in your
- 22 investigation was okay?
- 23 A. Yes.
- 24 Q. And so who did you reach out to?
- 25 A. I called the general number. We have a general

1 number that we call for questions.

2 Q. And what did the prosecutor tell you?

3 A. That it would be fine.

4 Q. And is that all the prosecutor said, "It's fine"?

5 A. Yep, I asked her if I could do it, she said yeah.

6 It was a female. I don't recall the name, and

7 that's it.

8 Q. What did you tell her that she responded to you,

9 "Yes, it's fine"?

10 A. The same thing, Shinola is requesting that their

11 security team be the one to do everything for the

12 cases.

13 Q. Everything for the cases. Did you specifically

14 mention that they wanted to be a witness in a

15 photographic showup even though they weren't an

16 eyewitness?

17 A. I don't know if I use the words "for the showup",

18 but I did say as the ID'er and Complainant.

19 Q. Did you mention to the prosecutor that Katherine

20 Johnston wasn't an eyewitness?

21 A. I don't recall, but I believe I would have.

22 Q. Do you recall any conversation about eyewitnesses

23 with the prosecutor?

24 A. Not that I recall, no.

25 Q. So the prosecutor -- to make sure I have it right

1 -- the prosecutor said it was fine to use
2 Shinola's loss prevention team for any piece of
3 the investigation in the Shinola thefts?

4 **A. I asked them for the ID and complaint.**

5 Q. And by "the ID" you mean use in lineups?

6 **A. Correct.**

7 Q. And so a prosecutor told you that it's fine to
8 use a loss prevention representative in a
9 photographic lineup?

10 **A. Yes.**

11 Q. But there was no conversation within that about
12 whether or not they were an eyewitness?

13 **A. I don't recall the exact conversation.**

14 Q. And so it was Shinola's idea to use Katherine
15 Johnston as the ID witness, right?

16 **A. Correct.**

17 Q. And it was Lt. Chadwick-Bills' idea to ask a
18 prosecutor, right?

19 **A. Correct.**

20 Q. Did you go back to Lt. Chadwick-Bills about the
21 prosecutor's answer?

22 **A. Yes.**

23 Q. What did you tell her?

24 **A. I told her that she said it was okay and that's**
25 **when I made an appointment for the six-pack.**

1 Q. Did Lt. Chadwick-Bills say anything about that
2 response from the prosecutor?

3 A. No.

4 Q. And so do you recall that we looked at a policy
5 regarding eyewitness identifications last Monday?

6 A. Yes.

7 Q. And you don't ever recall seeing that policy,
8 right?

9 A. I don't recall, no.

10 Q. And so you didn't check whether what the
11 prosecutor said or what Shinola requested was in
12 line with DPD policy, did you?

13 A. I did not.

14 Q. So let's talk about the showup or the six-pack.
15 So it looks like Det. Posey, Steve Posey,
16 conducted that showup with Ms. Johnston?

17 A. Correct.

18 Q. Were you there as well?

19 A. Yes.

20 Q. Where in the room were you?

21 A. I was on the opposite end of the room. It's a
22 large like 20 by 20 big conference table. I was
23 on the opposite side from them.

24 Q. So could you see Ms. Johnston?

25 A. Yes.

- 1 Q. Could she see you?
- 2 **A. If she turned her head, yes.**
- 3 Q. Did she know you were in the room?
- 4 **A. Yes, I brought her into the room, introduced her**
5 **to Det. Posey.**
- 6 Q. So you talked to Ms. Johnston during this whole
7 process?
- 8 **A. No.**
- 9 Q. Did you talk to her before she came into the
10 room?
- 11 **A. Yes.**
- 12 Q. What did you talk about?
- 13 **A. I don't recall.**
- 14 Q. Was it more than just pleasantries and
15 introducing each other?
- 16 **A. No.**
- 17 Q. Did you talk to Ms. Johnston during the showup in
18 any way?
- 19 **A. No.**
- 20 Q. You stayed silent the entire time the showup was
21 being done?
- 22 **A. Correct.**
- 23 Q. Did you talk to Ms. Johnston after the showup?
- 24 **A. Not more than I'll let her know the next process,**
25 **next step.**

1 Q. Did you at any point discuss whether she could
2 look at any documents or her phone during the
3 showup?

4 **A. No, I didn't handle the showup at all.**

5 Q. But you were in the room though?

6 **A. Yes.**

7 Q. Did you recall her looking at any documents or
8 her phone during the showup?

9 **A. I do not recall that.**

10 Q. Do you recall her reviewing any footage of the
11 incident during the showup?

12 **A. No.**

13 Q. Was the showup recorded in any way?

14 **A. No.**

15 Q. So there's no video of the showup?

16 **A. No.**

17 Q. There's no audio of the showup?

18 **A. No.**

19 Q. And is that the general practice for showups at
20 DPD?

21 **A. Back then. Now we have to record it.**

22 Q. What caused the change?

23 **A. I don't know.**

24 Q. When did the charge occur?

25 **A. I don't have the exact date.**

1 Q. But now showups are -- or all showups are
2 recorded?

3 A. Yes.

4 Q. On video?

5 A. Yes.

6 Q. Audio recorded as well?

7 A. If able, yes.

8 Q. And so Ms. Johnston ended up ID'ing Mr. Williams,
9 No. 3, as a part of the six-pack, right?

10 A. Correct.

11 Q. What did you do once Ms. Johnston identified
12 Mr. Williams as the likely suspect?

13 A. I typed a search warrant -- or not a search
14 warrant, but the warrant and submitted it.

15 Q. And who did you submit it to?

16 A. Well, I gave it to our No. 2 and they submit it
17 to the Prosecutor's Office.

18 Q. What do you mean by "our No. 2"?

19 A. Our Precinct 2. We take our warrants there, give
20 it to our court liaison officers, they take it
21 further.

22 Q. Is that liaison officer in the Court Section that
23 we talked about last week?

24 A. Yes.

25 Q. So there was a Court Section liaison officer who

1 dealt with this warrant, right?

2 **A. Yes.**

3 Q. And the prosecutor submitting a warrant, to make
4 sure I have it right, do you go to the prosecutor
5 first?

6 **A. No -- we go to our Court Section, then I believe**
7 **they go to the prosecutor and then the**
8 **magistrate.**

9 Q. So you take a warrant to the Court Section,
10 right?

11 **A. Correct.**

12 Q. Court Section takes the warrant to the
13 Prosecutor's Office?

14 **A. Yes.**

15 Q. The Wayne County Prosecutor's Office?

16 **A. Yes.**

17 Q. And then the Wayne County Prosecutor's Office
18 returns that to Court Section, that warrant?

19 **A. Yes.**

20 Q. And then the Court Section takes the approved --
21 the prosecutor approves the warrant to a
22 magistrate judge?

23 **A. Correct.**

24 Q. Do you recall the name of the liaison officer in
25 the Court Section that worked on this case?

- 1 **A. No.**
- 2 Q. Would you have known at the time?
- 3 **A. No, we're not told. There's a group of them and**
4 **we put them in a drop box or a bin.**
- 5 Q. And is this Court Section in the 3rd Precinct or
6 somewhere else?
- 7 **A. 2nd Precinct.**
- 8 Q. And so do you physically drive over to the 2nd
9 Precinct and drop the warrant in the box?
- 10 **A. Yes.**
- 11 Q. And that's the general practice at the 3rd
12 Precinct?
- 13 **A. Yep, all precincts.**
- 14 Q. Is that still the practice?
- 15 **A. Yes.**
- 16 Q. And so Court Section, a liaison officer of Court
17 Section, was the one who submitted the
18 investigator's report to the Wayne County
19 Prosecutor's Office, right?
- 20 **A. Correct.**
- 21 Q. And is this, Exhibit 18, what you submitted to
22 Court Section for them to submit to the
23 prosecutor?
- 24 **A. Yes.**
- 25 Q. And you submitted this to Court Section the same

1 day as the eyewitness lineup, right, according to
2 this case tracking document?

3 **A. Yes -- well, I submitted it on the 30th, so I**
4 **believe so, yes, yes.**

5 Q. What prompted you to submit this warrant to Court
6 Section just a few hours after the showup?

7 **A. The ID of the suspect from Shinola.**

8 Q. So just like all the other cases we looked at
9 where you submitted a warrant in this case facial
10 recognition matched plus ID was all you needed
11 for a person getting a warrant in your
12 understanding?

13 **A. In this case I also submitted the video and the**
14 **still photos.**

15 Q. So you submitted the video and the still photos
16 along with this warrant packet to Court Section?

17 **A. Correct.**

18 Q. Do you know if Court Section forwarded the video
19 and the stills to the prosecutor?

20 **A. I would believe so.**

21 Q. Is that generally what they do?

22 **A. Yes.**

23 Q. And do you know if that video ultimately made its
24 way to the magistrate judge?

25 **A. I don't know. Generally if they don't receive**

1 it, they contact us and ask for it. So -- I was
2 not contacted so I'm assuming it made it.

3 Q. And you're speaking specifically all video of the
4 incident, correct?

5 A. **Video and the photos that I have, this photo.**

6 Q. Is that only -- well, so who's asking and if they
7 don't have a video or photos, is it the
8 prosecutor who is asking for it?

9 A. **Yes.**

10 Q. Does the magistrate judge ever reach out and ask
11 for it?

12 A. **No, it gets stopped at the prosecutor level if
13 they don't have the information they need.**

14 Q. Is that only for cases in which a facial
15 recognition match is part of the warrant packet?

16 A. **All cases.**

17 Q. So if there's no footage or photos of the
18 incident, a prosecutor is not going to approve a
19 warrant?

20 A. **If there are photos available and we didn't
21 submit it, correct.**

22 Q. And so because you submitted this to Court
23 Section with the photo and video you never heard
24 back from the prosecutor about needing it?

25 A. **Correct.**

1 Q. But once -- a few hours after the showup was
2 conducted you felt you had what you needed to
3 submit a warrant, right?

4 A. Yes.

5 Q. And so after you submitted the warrant to Court
6 Section to go to the prosecutor what happened?

7 A. Nothing until a week before the case came to
8 court. The prosecutor reached out and said that
9 she wanted to get a statement from the sales
10 associate from the Shinola.

11 Q. Before we get there, the prosecutor would have
12 approved the warrant, right, or would have
13 approved --

14 A. Yes, it says warrant was obtained.

15 Q. On September 2 according to the case tracking
16 document?

17 A. Yes.

18 Q. And so does "warrant obtained" mean the Wayne
19 County Prosecutor's Office approved the warrant
20 or does "warrant obtained" mean that it went
21 to the magistrate judge and the magistrate judge
22 signed off on it?

23 A. My understanding it went through the prosecutor
24 and judge or magistrate.

25 DEPOSITION EXHIBIT 20

1 DPD request for warrant (Williams)

2 **WAS MARKED FOR IDENTIFICATION.**

3 Q. And so I'm going to introduce Exhibit 20. Is
4 this document the -- well, this is a document
5 that the Wayne County Prosecutor's Office
6 approved, right?

7 This is that document, the approved
8 one?

9 **A. I don't know.**

10 Q. Well, you see on the first page it's stamped
11 "PRE-EXAM" and it's signed by a reviewing
12 attorney and bar number. Are those things that
13 typically happen when the Wayne County
14 Prosecutor's Office approves a warrant?

15 **A. Yes.**

16 Q. If you go two pages in, the third page, Wayne
17 County Prosecuting Attorney's Recommendation, do
18 you see that?

19 **A. Yes.**

20 Q. It says "RF 1st", right?

21 **A. Yes.**

22 Q. And is that 1st degree retail fraud?

23 **A. Yes.**

24 Q. And it's signed by some assistant prosecuting
25 attorney, right?

- 1 **A. Correct.**
- 2 Q. Stamped "PRE-EXAM"?
- 3 **A. Yes.**
- 4 Q. And so based on those indications is it your
5 understanding that this is the warrant packet
6 that the Prosecutor's Office approved?
- 7 **A. Yes.**
- 8 Q. And it looks like from that same third page it
9 was approved August 24, 2019, is that right?
- 10 **A. Correct.**
- 11 Q. And that is almost a whole month after you
12 submitted the warrant, right?
- 13 **A. Yes.**
- 14 Q. Do you know what happened in that month?
- 15 **A. I do not.**
- 16 Q. So from your perspective you were just waiting
17 for the warrant to come back?
- 18 **A. Yeah, we don't even wait, we wait until the court
19 date. If it's been submitted and approved we
20 just wait until we get the subpoena from court.**
- 21 Q. So in-between July 30 and August 24 the
22 Prosecuting Office didn't reach out to you at all
23 about the warrant?
- 24 **A. Not that I'm aware of.**
- 25 Q. You didn't hear anything about the warrant during

1 that time?

2 **A. Not that I'm aware of.**

3 Q. So it looks like August 24, 2019 the Prosecutor's
4 Office approved the warrant and then according to
5 the case tracking document the warrant was
6 obtained, that is signed by the magistrate judge,
7 on September 2, 2019, is that right?

8 **A. Yes.**

9 Q. So in this warrant packet that you submitted to
10 the Court Section, made its way to the
11 prosecutor, made its way to the magistrate judge,
12 what information about the investigation did you
13 include?

14 **A. I submitted the statement from Shinola, my**
15 **investigator's report, report of the case, video,**
16 **facial recognition, LEIN printout, the photo**
17 **lineup.**

18 **I believe that's it that I can recall.**

19 Q. And as far as any narrative or notes or report
20 that you typed up, is that just on the first page
21 of this warrant packet, this Exhibit 18?

22 **A. Correct.**

23 Q. And so your contribution to the warrant packet,
24 it didn't mention anything about the quality of
25 the surveillance camera footage that was used to

1 run the facial recognition search, did it?

2 **A. No.**

3 Q. It didn't include anything about the reliability
4 or accuracy of the facial recognition technology
5 that DPD was using, right?

6 **A. No.**

7 Q. Or the accuracy or reliability of the facial
8 recognition match that you received, right?

9 **A. No.**

10 Q. And the warrant request didn't mention that
11 Katherine Johnston was not an eyewitness to the
12 alleged theft, right?

13 **A. It did.**

14 Q. It did? Can you show me where it did?

15 **A. Paragraph 2, "Videos were reviewed by Katherine
16 Johnston from loss prevention company of Shinola
17 where she seen the suspect take five watches from
18 the displays and then exit the location".**

19 Q. Could an eyewitness not have also reviewed video
20 footage?

21 **A. They could have, if the store allowed them.**

22 Q. And so there was no indication in this paragraph
23 that Katherine Johnston didn't actually see the
24 suspect with her own eyes in the moment take the
25 five watches from Shinola?

1 **A. Well, it states that she seen it on video.**

2 Q. Well, it states that Ms. Johnston seen the
3 suspect, Mr. Williams, in the watch area take
4 five watches?

5 **A. After reviewing the video. "Video was reviewed
6 by Katherine Johnston where she seen suspect in
7 the watch area take five watches".**

8 Q. Let's assume hypothetically that Ms. Johnston was
9 actually there, that she was an eyewitness.

10 **A. Okay.**

11 Q. Wouldn't this paragraph also accurately describe
12 what she did? She could have reviewed footage of
13 the crime that she eyewitnessed and she did see
14 the suspect take five watches from the watch area
15 at Shinola?

16 **A. Yes.**

17 Q. So there's nothing indicating here in this
18 paragraph that it was not an eyewitness and that
19 it was a non-eyewitness?

20 **A. The actual words, no.**

21 Q. And so there was no question from the supervising
22 officer who signed off on the warrant, the
23 prosecutor, the magistrate judge, about whether
24 or not based on this paragraph or anything else
25 in this report whether or not Ms. Johnston was an

1 eyewitness?

2 **A. My understanding was they all knew that she**
3 **reviewed a video and made the ID.**

4 Q. And why was that your understanding?

5 **A. Because that's what I have written down.**

6 Q. Is this how you usually describe a non-eyewitness
7 in your warrant request, that video was reviewed
8 by X, non-eyewitness?

9 **A. I don't use the word "witness" or "eyewitness" in**
10 **my cases.**

11 Q. So going back to what we've discussed last week,
12 you told me that your supervisors know that you
13 have a practice of using non-eyewitnesses in
14 retail fraud cases because they're the ones who
15 are approving your warrants, right?

16 **A. Correct.**

17 Q. So they would have understood that you're using a
18 non-eyewitness because they're reviewing your
19 warrants, right?

20 **A. In this particular case my supervisors knew**
21 **because they knew the case. I asked them before**
22 **this was done.**

23 Q. Is the -- and by that you mean because you
24 discussed this case with Chadwick-Bills?

25 **A. Yes.**

1 Q. But was Lt. Chadwick-Bills the one who signed off
2 on this warrant?

3 A. No.

4 Q. Who did sign off on the warrant?

5 A. Sgt. Soty (sp).

6 Q. Did you ever have a conversation with Sgt. Soty
7 about who Katherine Johnston was, whether or not
8 she was actually at the scene?

9 A. No.

10 Q. And so the only way for Sgt. Soty to know whether
11 or not Katherine Johnston was an eyewitness was
12 to review this warrant packet, right?

13 A. Yes, my writing and Katherine Johnston's writing.
14 She states it in her writing too.

15 Q. Can you show me where she states it in her
16 writing too?

17 A. In Paragraph 1, Line 2, "I, Katherine Johnston,
18 security advisor for Shinola witnessed this --"

19 Q. Sorry to interrupt. Can you tell me what page
20 you're on?

21 A. Page 2 of the Shinola report, incident report.
22 That she "-- witnessed the theft occur on CCTV
23 once the store reported the theft to our team".

24 Q. And then if you move on to the six-pack that Det.
25 Posey presented to Katherine Johnston where she

1 identified Mr. Williams --

2 **A. Okay.**

3 Q. -- you see that the third question, "Where do you
4 recognize him from?" The answer is "10/2/18,
5 October 2, 2018 shoplifting at Shinola's Canfield
6 store." Do you see that?

7 **A. Correct.**

8 Q. Do you see any indication on this page that
9 Katherine Johnston was not there on October 2,
10 2018 at the Shinola Canfield store?

11 **A. No.**

12 Q. So let's talk about your decision again, let's go
13 back to your decision to submit a warrant
14 request.

15 You said that when you submitted the
16 warrant request you felt that you had enough
17 evidence that Mr. Williams was the right suspect,
18 right?

19 **A. Correct.**

20 Q. And that was based on the facial recognition
21 match and the positive ID at the photo showup,
22 right?

23 **A. Correct.**

24 Q. In submitting a warrant, which again was a few
25 hours after the photo showup concluded, did you

1 feel pressured by any of your supervisors or any
2 of your fellow detectives to submit the warrant
3 in this case?

4 **A. During this time, no.**

5 Q. Did you ever feel pressured, any pressure
6 whatsoever from any of your supervisors to submit
7 a warrant in this case?

8 **A. Yes.**

9 Q. Who did you feel pressured by to submit the
10 warrant?

11 **A. My captain.**

12 Q. Who was your captain?

13 **A. Capt. Cox.**

14 Q. What did Capt. Cox say or do to make you feel
15 pressured to submit the warrant?

16 **A. He said that since we have a facial ID with
17 Shinola being the witness to submit the warrant
18 to the prosecutor and they would kick it back if
19 it wasn't enough.**

20 Q. So your captain, Capt. Cox, was telling you let
21 the prosecutor decide if this is enough?

22 **A. Yes.**

23 Q. But you felt it was enough anyway?

24 **A. Yes.**

25 Q. So at what point did Capt. Cox tell you that?

1 A. He came down -- it was sometime before this and
2 asked the status of the case and why I haven't
3 submitted so we had an ID.

4 Q. By "ID", you mean the facial recognition ID?

5 A. Correct.

6 Q. So he was asking you to submit the request with
7 just the facial recognition ID?

8 A. Well, at that time I had not done the facial
9 lineup, a photo lineup at that time, so yes, he
10 was saying this can be submitted with the ID.

11 Q. And then let the prosecutor decide if the ID --
12 the facial recognition ID is enough?

13 A. No, he didn't ask the particulars of the case.
14 He asked why I haven't submitted. Told him what
15 I had and he said submit it and the prosecutor
16 will kick it back if it's not enough.

17 Q. And at that point you just had the facial
18 recognition ID and not the photo showup ID?

19 A. I did not have a photo showup ID.

20 Q. And so what did you feel or say in response to
21 your captain telling you to submit the warrant
22 with just the facial recognition match?

23 A. I don't recall exactly what was said.

24 Q. Did you submit the warrant?

25 A. No.

1 Q. Why didn't you listen to your captain and submit
2 the warrant?

3 A. Because I didn't have a facial ID yet -- I mean
4 the photo lineup, a witness -- I mean not a
5 witness statement, but a witness ID.

6 Q. And when you did submit the warrant you didn't
7 seek approval from your regular supervisor,
8 right?

9 A. She was not there.

10 Q. But you didn't seek it from her, right?

11 A. No.

12 Q. And that's because she wasn't there?

13 A. Correct.

14 Q. So who did you seek approval from?

15 A. Sgt. Soty.

16 Q. Why did you ask Sgt. Soty to sign off on your
17 warrant?

18 A. Because he was the only sergeant there.

19 Q. By "there" you mean in the precinct?

20 A. Correct.

21 Q. And so why didn't you wait for your regular
22 supervisor to sign the warrant?

23 A. Because I was trying to get the warrant in. When
24 I completed it it was already dated, so I dated
25 it for the 30th.

1 I believe I didn't get done until after
2 my sergeant and lieutenants were gone and Sgt.
3 Soty was the only one there at the time.

4 Q. But you didn't feel any -- you didn't think it
5 was okay to wait until the next day so that your
6 supervisor who's been working on the case with
7 you could review it?

8 A. I didn't think it would matter.

9 Q. And was Ray Soty, Sgt. Soty, involved in the case
10 at all?

11 A. No.

12 Q. Did he know about the case before you handed him
13 the warrant?

14 A. No.

15 Q. How much time did he take to review the warrant
16 packet before he signed off on it?

17 A. I don't recall.

18 Q. Was it less than five minutes?

19 A. I would probably say so.

20 Q. Did you tell Sgt. Soty anything about the case
21 when you asked him to sign off on it?

22 A. I don't recall our conversation at the time.

23 Q. Have you ever done this before where you asked
24 someone other than your regular supervisor to
25 sign off on a warrant?

1 **A. Yes.**

2 Q. In those situations, including this one, is it
3 usually the case that you just hand over the
4 warrant and ask for a signature or do you have to
5 present the case to them in any way?

6 **A. I give them the packet and they review it and
7 sign it.**

8 Q. But you don't have any conversation about the
9 case itself, it's all in the packet?

10 **A. Only if they ask.**

11 Q. Do you recall if Sgt. Soty asked you anything
12 about the case?

13 **A. I don't recall the conversation.**

14 Q. And so you didn't point out that Ms. Johnston
15 wasn't an eyewitness to Sgt. Soty?

16 **A. Not that I recall.**

17 Q. And that was your regular practice, right, not to
18 point it out specifically?

19 **A. To what?**

20 Q. Not to not point out specifically that someone
21 you're using is not an eyewitness, it would have
22 just been in the warrant packet?

23 **A. Correct.**

24 Q. So just to restate that question, that was your
25 regular practice not to point out specifically

1 that someone is not an eyewitness?

2 **A. Not unless it was asked.**

3 Q. You don't recall him asking you any questions
4 about the case?

5 **A. I don't recall our conversation.**

6 Q. And so on September 2, 2019 the magistrate judge
7 approved the warrant, right?

8 **A. That's what I have down, yes.**

9 Q. But Mr. Williams was arrested based on that
10 warrant on January 9, 2020, is that right?

11 **A. I don't have -- do I have his arrest report?**

12 Q. Well, do you recall when Mr. Williams was
13 arrested?

14 **A. He was arrested when I was not there, so I don't
15 know the exact date offhand.**

16 Q. Do you remember what month it was?

17 **A. Not offhand.**

18 Q. Do you recall how much time passed between the
19 warrant being obtained on September 2 and
20 Mr. Williams being arrested?

21 **A. It was a while, I don't have the exact time.**

22 Q. What happened in-between the issuance of the
23 warrant and his arrest?

24 **A. Nothing.**

25 Q. So why did it take a while for him to be

1 arrested?

2 **A. Generally our warrants -- we end up picking them**
3 **up if they get stopped for traffic, someone sees**
4 **they have an active warrant and they would be**
5 **taken at that time.**

6 Q. So you don't actively go out and execute your
7 warrants?

8 **A. We don't. Sometimes we use units to do that, but**
9 **that's generally at the discretion of command or**
10 **they're out doing a warrant blitz or things of**
11 **that nature.**

12 Q. So would you say that once the warrant is
13 obtained, that is once the magistrate judge
14 approves a warrant, the case is out of your hands
15 with command as to whether or not to execute the
16 warrant?

17 **A. Correct. We can request it to be done.**

18 Q. But you didn't request that the warrant be
19 executed in this case?

20 **A. No.**

21 Q. Why didn't you do that?

22 **A. I generally don't do that.**

23 Q. Why not?

24 **A. I don't see -- I really don't have an answer for**
25 **that. I don't -- I generally use the principle**

1 if they -- if they get a warrant and they get
2 stopped, they will get charged with a warrant.

3 I don't send people out to get their
4 warrants.

5 Q. Do other detectives in your precinct send people
6 out?

7 A. They have.

8 Q. How often do they do that in their cases?

9 A. I don't recall.

10 Q. And so you're not sure why it took a few months
11 to arrest Mr. Williams, right?

12 A. I'm assuming he wasn't stopped.

13 Q. But if he was stopped, you would assume that he
14 would be picked up on the warrant?

15 A. Correct.

16 Q. So once Mr. Williams was arrested in January of
17 2020 did you ever express any doubt that he was
18 the right suspect in the case?

19 A. Afterwards.

20 Q. After he was arrested?

21 A. Correct.

22 Q. When did you have those doubts after he was
23 arrested?

24 A. After I reviewed the interrogation video.

25 Q. And when did you review the interrogation video?

- 1 **A. I believe it was on the 13th.**
- 2 Q. Of?
- 3 **A. Well, I would have to see the date.**
- 4 Q. Sure. How long after Mr. Williams was arrested
5 did you review the custodial interview?
- 6 **A. I believe it was two days.**
- 7 Q. Is that your general practice to review custodial
8 interview footage of anyone that's arrested in
9 your investigations?
- 10 **A. No.**
- 11 Q. So why did you choose to review the footage in
12 this case?
- 13 **A. Because another officer or detective stated that
14 when they interviewed him that they didn't feel
15 like he was the correct person.**
- 16 Q. So someone had reached out to you and said, "I
17 don't think this is a right guy" and that
18 prompted you to review the footage?
- 19 **A. Correct.**
- 20 Q. And who was that someone who reached out to you?
- 21 **A. PO Atkinson who is now Det. Atkinson.**
- 22 Q. Ow Det., then PO Atkinson reached out to you and
23 said, "I just did an interview with this guy and
24 I don't think he's the right guy"?
- 25 **A. Yes.**

1 Q. What did you respond to that?

2 A. I asked him for his interrogation video.

3 Q. And he sent you the interrogation video?

4 A. He gave it to me. We were a couple of cubicles
5 over.

6 Q. Did he say anything else during that conversation
7 about the interview?

8 A. Not that I recall.

9 Q. So it was just he came up to you and said, "I
10 just interviewed your suspect and I don't think
11 he's the right guy "?

12 A. Yes.

13 Q. And then you said you would review the footage?

14 A. Yep.

15 Q. And so the only reason you reviewed the footage
16 was because PO Atkinson pointed out that it might
17 not be the right guy?

18 A. Correct.

19 Q. You didn't have any doubts that Mr. Williams
20 wasn't the right suspect or you didn't have any
21 doubts that Mr. Williams was the right suspect
22 before PO Atkinson pointed it out?

23 A. Correct.

24 DEPOSITION EXHIBIT 21

25 video of Williams custodial interview

1 **WAS MARKED FOR IDENTIFICATION.**

2 Q. I'm going to do the same thing as before and
3 introduce a digital exhibit. For the court
4 reporter I'm going to enter a place holder
5 document as Exhibit 21 and then for the rest of
6 us it is going to be a video of Mr. Williams'
7 custodial interview.

8 So this is Mr. Williams' custodial
9 interview. Do you recall at what point in this
10 video -- well, let me ask this first. At any
11 point in this video did you agree with
12 Mr. Atkinson that this may not have been the
13 right suspect?

14 **A. Yes.**

15 Q. Do you recall at what point of the video you came
16 to that realization?

17 **A. I do not.**

18 Q. I'm going to show you a few clips from this
19 video. This is 1 minute 35 seconds in. This is
20 Mr. Williams entering the interview.

21 (VIDEO PLAYED).

22 Q. Going to pause it at 1 minute 51 seconds.
23 Did you come to that realization that
24 Mr. Williams may not have been the right guy as
25 soon as he walked in in the clip we just looked

1 at?

2 **A. I don't recall when I did. I would have watched**
3 **the whole video.**

4 Q. Move on to 6 minutes.

5 (VIDEO PLAYED).

6 Q. I'm going to pause it at 6 minutes, 40 seconds.
7 Do you recall if that exchange where Mr. Williams
8 said, "Why am I here?" gave you any doubt as to
9 whether he was the right suspect?

10 **A. I don't recall.**

11 Q. I'm going to move on to 8 minutes and 33 seconds.
12 I'll start at 8 minutes 32 seconds.

13 (VIDEO PLAYED).

14 Q. Do you recall if that portion of the footage
15 where Mr. Williams is shown pictures of the
16 incident, of multiple incidents, and reiterated
17 that it wasn't him, do you recall if this section
18 of the footage gave you any doubt about whether
19 Mr. Williams was the right suspect?

20 **A. I don't recall.**

21 MR. CUNNINGHAM: Could you give me the
22 end time there?

23 MR. WOOD: I'm sorry, that's 9
24 minutes 39 seconds.

25 BY MR. WOOD:

1 Q. Final section, I'm going to go 19 minutes and 10
2 seconds.

3 (VIDEO PLAYED).

4 Q. I'm going to stop at 19 minutes and 35 seconds.
5 So the officers interviewing Mr. Williams
6 mentioned that they would ask the detective who
7 typed out the warrant to reach out to
8 Mr. Williams.

9 I'm guessing that detective who typed
10 out the warrant is you?

11 **A. Correct.**

12 Q. Did either of these officers ever ask you to
13 reach out to Mr. Williams?

14 **A. No.**

15 Q. And was one of these officers Mr. Atkinson?

16 **A. Correct, the first one.**

17 Q. The one on the left?

18 **A. Closest to us, yes.**

19 Q. Did he ever mention that you should probably
20 reach out to this guy?

21 **A. No, not that I recall.**

22 Q. All that he said was this might not be the right
23 guy?

24 **A. Yeah, he said I interviewed your guy it was**
25 **locked up while I was off and he doesn't think**

1 **it's the same guy.**

2 Q. And who is the other officer?

3 **A. That's Det. Ronan.**

4 Q. Did you ever talk to Det. Ronan about the
5 interview?

6 **A. Just the same, they were both there.**

7 Q. So they both came up to you and said, "We don't
8 think this is the right guy"?

9 **A. Yes.**

10 Q. And they came up to you at the same time or
11 separate?

12 **A. We're one cubicle over, so we're just standing
13 talking probably this far apart.**

14 Q. And so both PO Atkinson, now Det. Atkinson, and
15 Det. Ronan came up to you, came up to your
16 cubicle, and said, "We don't think this is the
17 right guy, you should look at the footage"?

18 **A. No, they were both there, we were standing up
19 just over a cubicle and Det. Atkinson said, "We
20 just interviewed your guy", referring to him and
21 Ronan, "We don't think it's him".**

22 Q. Did Det. Ronan say anything in addition to that?

23 **A. I don't recall.**

24 Q. I'm going to close this exhibit.

25 So after you reviewed the custodial

1 interview regardless of at what point you started
2 to agree with Officer Ronan or -- Officer
3 Atkinson and Det. Ronan, did you come away from
4 that interview agreeing with Det. Ronan or
5 Atkinson that this may not be the right you?

6 **A. Yes.**

7 Q. So what did you do with that doubt? Did you tell
8 anyone?

9 **A. I attempted to call the Prosecutor's Office to**
10 **inform her.**

11 Q. Anyone else?

12 **A. I also told my supervisor.**

13 Q. And by your supervisor do you mean Capt. Cox or
14 Lt. Chadwick-Bills?

15 **A. I believe it was Lt. Chadwick-Bills.**

16 Q. So you told Lt. Chadwick-Bills that this might
17 not be the right guy?

18 **A. Correct. Not at that time. In the process I**
19 **called the Prosecutor's Office first and then**
20 **wasn't able to get ahold of them, e-mailed the**
21 **prosecutor, and notified my supervision that --**
22 **what I did and how I e-mailed the prosecutor also**
23 **stating it.**

24 Q. Let's take this step by step then. You said you
25 e-mailed the prosecutor or you said you called

1 the prosecutor, right?

2 **A. Correct.**

3 Q. And the prosecutor didn't answer?

4 **A. Correct.**

5 Q. Was that the general prosecutor line?

6 **A. Yes, I believe so.**

7 Q. And then you said you e-mailed the prosecutor as
8 a follow-up, right?

9 **A. Correct.**

10 **DEPOSITION EXHIBIT 22**
11 **screenshot of text message**
12 **WAS MARKED FOR IDENTIFICATION.**

13 Q. I'm going to enter Exhibit 22. Is this the
14 e-mail that you're referring to notifying the
15 prosecuting attorney that this is probably not
16 the right guy?

17 **A. Correct.**

18 Q. Do you know what the -- do you remember if the
19 prosecutor responded to this e-mail?

20 **A. I don't remember getting a response.**

21 Q. So in this e-mail you said now the PRO, which is
22 the person --

23 **A. Reporting offense.**

24 Q. -- reporting the offense, did pick the same
25 person that facial recognition picked up on, but

1 when Mr. Williams was picked up I don't feel like
2 these are the same people (from looking at him
3 and the video)?

4 **A. Correct.**

5 Q. So the e-mail says from looking at him and the
6 video. I'm trying to understand that sentence so
7 let's take it piece by piece.

8 When you said from looking at him what
9 were you looking at?

10 **A. Him on the video.**

11 Q. You were looking at him on the video. Were you
12 comparing that video to anything else?

13 **A. I don't recall if I was or not.**

14 Q. So how did you come to the conclusion that who
15 you were looking at on the video may not be the
16 right guy?

17 **A. He did not look like the person that -- it wasn't
18 the same person on the photo lineup.**

19 Q. So you're saying that the person on the video
20 didn't look like the same person that Katherine
21 Johnston picked out of the photo lineup?

22 **A. Correct.**

23 Q. And going back to that --

24 **A. No, no, the person in the video of their --**

25 MR. CUNNINGHAM: Which video?

1 **A. This person did not look like the person in the**
2 **video taking the watches.**

3 BY MR. WADOOD:

4 Q. So you looked at -- so by "the video", you're
5 referring to in this e-mail you're referring to
6 the Shinola security footage video, right?

7 **A. Yes.**

8 Q. So you looked at that video and you looked at the
9 photo in the lineup and you thought this might
10 not be the same person?

11 **A. No. I looked at the interrogation of him that's**
12 **a live current and then the match for video for**
13 **this, maybe not being the same person.**

14 Q. So you were comparing two videos, the custodial
15 interview video and the Shinola security footage,
16 and that comparison made you come to the
17 conclusion that they're not the same guy?

18 **A. Correct.**

19 Q. So when you were saying I don't feel like these
20 are the same people from looking at him and the
21 video, you're referring to that comparison
22 between the two videos?

23 **A. Correct, looking -- yeah, at --**

24 Q. So let's go back to Lt. Chadwick-Bills then. You
25 said you told Lt. Chadwick-Bills after you told

1 the prosecutor, right?

2 **A. Correct.**

3 Q. How did you tell Lt. Chadwick-Bills?

4 **A. I believe I just went to her office and told her**
5 **the status of the case.**

6 Q. So you didn't e-mail her in any way?

7 **A. No.**

8 Q. You didn't give her a phone call?

9 **A. No.**

10 Q. And what did you tell her?

11 **A. That I notified the Prosecutor's Office that I**
12 **didn't feel like the same guy that was picked up**
13 **was the same person in the retail fraud.**

14 Q. And then what did Lt. Chadwick-Bills respond to
15 that?

16 **A. I believe her response was, "Okay". I don't**
17 **remember exactly what she said. It wasn't much**
18 **more than that.**

19 Q. Was she involved in the case in any way after
20 that conversation?

21 **A. Not that I recall, no.**

22 Q. Did you tell anyone else that you don't think
23 that the person you picked up was the person in
24 the video?

25 **A. Not that I recall.**

1 Q. You don't remember going back to Det. Atkinson
2 and Ronan and saying, "I think you're right" or
3 anything like that?

4 **A. I could that, but I don't remember a conversation**
5 **about it.**

6 Q. You don't remember talking to Capt. Cox at all?

7 **A. No.**

8 Q. Did Capt. Cox ever reach out to you about the
9 fact that it might not be the right guy?

10 **A. Not until after it hit the news.**

11 Q. Did you ever send an e-mail about Mr. Williams
12 not being the right guy other than the e-mail you
13 sent to the prosecutor?

14 **A. Not that I recall.**

15 Q. Did you ever send any e-mail about this case
16 other than to the prosecutor.

17 **A. I have e-mails with Katherine Johnston.**

18 Q. And any e-mails internal to the DPD?

19 **A. Not that I can recall.**

20 Q. So you mentioned those e-mails with Katherine
21 Johnston. We can move on to those e-mails then.

22 You said you were in touch with
23 Katherine Johnston at Mackinac Partners, right?

24 **A. Correct.**

25 Q. And Mackinac Partners is a loss prevention group

1 for Shinola?

2 **A. Correct.**

3 Q. And were you in touch with anyone else at
4 Mackinac Partners?

5 **A. I've talked to Scott, the store manager, the CEO**
6 **of Shinola. I believe those were the only ones**
7 **I've spoke to.**

8 Q. But those two individuals are at Shinola. Anyone
9 else at the loss prevention group, the Mackinac
10 Partners Group?

11 **A. I had not spoke to -- there's another female**
12 **working on other cases. That's what I believe**
13 **Ben's case was part of, but I did not speak to**
14 **her, no.**

15 Q. And who is Ben, I'm sorry?

16 **A. I'm sorry, Det. Atkinson.**

17 Q. So there was another individual at Mackinac
18 Partners, you don't remember her name?

19 **A. Correct.**

20 Q. So how often were you in touch with Ms. Johnston
21 at Mackinac Partners?

22 **A. Quite often.**

23 Q. Would you say once a week, more than that?

24 **A. No, only in exchanging of e-mails or phone calls.**
25 **How frequently I can't tell you.**

1 Q. Would you say it was common among the
2 investigations with you -- for you to be in touch
3 with an outside party frequently?

4 A. Yes.

5 Q. And in what other context would you do that?

6 A. If we had to notify them of anything, court
7 cases, prosecutor can't get ahold of them, if we
8 need anything else for the case.

9 Q. And who would you be reaching out to in other
10 contexts?

11 A. It would be different for each case.

12 Q. Would you communicate frequently with victims?

13 A. Normally it would be the Complainant normally.
14 Whether they're the victim or the witness or the
15 person who reported offense or in that case the
16 representative for the company.

17 Q. Okay, sure. So in this case the person reporting
18 the offense originally was an employee of
19 Shinola, right?

20 A. Correct.

21 Q. But then after your discussion with the CEO of
22 Shinola and Katherine Johnston you decided that
23 Mackinac Partners, specifically Katherine
24 Johnston, would be the stand-in for the company?

25 A. I didn't decide it.

1 Q. They decided it?

2 A. Yes.

3 Q. So essentially when you're talking to Katherine
4 Johnston you are treating her as the person
5 reporting the offense?

6 A. Correct.

7 Q. And that was at the decision of Shinola?

8 A. Yes.

9 Q. So let's talk about some of those conversations
10 then.

11 (A recess was taken.)

12 Q. I'm realizing the time and so I have one quick
13 question about what we discussed and I'm going to
14 run through the e-mails and then we'll take a
15 lunch break around 1:30.

16 MR. CUNNINGHAM: We would prefer to
17 keep going. I need to have this room by 3 for
18 something else.

19 MR. WADOOD: Okay, all right. If
20 that's okay with everybody else in the room, we
21 can just keep going.

22 BY MR. WADOOD:

23 Q. So quickly going back to your asking Sgt. Soty
24 for approval on the warrant, does Sgt. Soty work
25 in the 3rd Precinct or did he at the time work in

1 the 3rd Precinct?

2 **A. 3rd Precinct, yes.**

3 Q. What section did he work for?

4 **A. Timekeeping.**

5 Q. What does that section do?

6 **A. Control our time, payroll.**

7 Q. Do they do any investigative work?

8 **A. No.**

9 Q. And so Sgt. Soty, his position at the time wasn't
10 one involving investigations, was it?

11 **A. Correct.**

12 Q. And so when you asked Sgt. Soty to sign off on
13 the warrant did you know that he didn't have any
14 investigative experience?

15 **A. I don't know what his background is.**

16 Q. When you asked Sgt. Soty for approval on your
17 warrant did you know that he wasn't in an
18 investigative role?

19 **A. At that time, correct.**

20 Q. So at the time you knew that he was in the
21 Timekeeping Department?

22 **A. Yes.**

23 Q. And you didn't feel any hesitation asking him to
24 sign off on your warrant because of that?

25 **A. No.**

1 Q. Is that something that commonly happens, for
2 detectives to ask for approval on a warrant from
3 someone who doesn't work on warrants?

4 A. **Used to. Now you have to ask your investigative
5 supervisor.**

6 Q. Do you know why that changed?

7 A. **I do not.**

8 Q. Do you know when that changed?

9 A. **I don't.**

10 Q. Did it change before you left the 3rd Precinct
11 for the Court Section?

12 A. **No.**

13 Q. So when you came back to the 3rd Precinct you
14 understand that there's a new policy?

15 A. **Correct.**

16 **DEPOSITION EXHIBIT 23**

17 **document regarding meeting for 7-23-19**

18 **WAS MARKED FOR IDENTIFICATION.**

19 Q. Let's talk about some e-mails between you and
20 Katherine Johnston. I'm going to start with
21 Exhibit 23.

22 So this is a calendar invite, right?

23 A. **I do not know what this is.**

24 Q. Let's take a look at the substance of it then.

25 Looks like the subject line says, "Face to face

1 /Katherine and DPD Det. Bussa", right?

2 **A. Yes.**

3 Q. It says, "Discuss process for testifying,
4 communication issues with store", right?

5 **A. Yes.**

6 Q. And provides a location, the 3rd Precinct on
7 Grand Boulevard.

8 **A. Yes.**

9 Q. Start time and end time both are on July 23,
10 2019, right?

11 **A. Correct.**

12 Q. Is this referring to the meeting that you had
13 with Katherine Johnston and the CEO of Shinola?

14 **A. I do not know, I've never seen this.**

15 Q. Do you recall having a meeting with Katherine and
16 someone named John to discuss the process for
17 testifying and communication issues with the
18 Shinola store?

19 **A. I don't recall his name, but it was the CEO of
20 Shinola and Katherine, yes.**

21 Q. Were you certain that it was the CEO of Shinola?

22 **A. That's what I was told.**

23 Q. Could it have been the vice-president of Retail
24 Operations at Shinola?

25 **A. I was told he was the CEO.**

1 Q. Who told you he was the CEO?

2 **A. Katherine said I would be meeting with the CEO.**

3 Q. But you do recall having a conversation with
4 Katherine and the supposed CEO of Shinola about
5 the process for testifying and about
6 communication issues with Shinola stores?

7 **A. Yes.**

8 Q. So let's take that one by one. Can you tell me
9 what you talked about during that meeting
10 regarding the process for testifying?

11 **A. Well, that's when they -- we told them that we**
12 **needed his staff to go to court to testify to**
13 **what they witnessed and that's when we discussed**
14 **that he asked for his security group to be the**
15 **point person to do that.**

16 Q. Instead of his store employees?

17 **A. Correct.**

18 Q. Is there a reason he suggested that?

19 **A. He said he does not want to make his store**
20 **employees go to court.**

21 Q. What was your response to that suggestion that
22 the loss prevention group step in for the store
23 employees?

24 **A. I would have to talk to my supervision.**

25 Q. And what did they respond to that?

1 **A. They told me to call the prosecutor.**

2 Q. What did the Shinola representative respond to
3 you saying, "I need to talk to my supervisor
4 about that"?

5 **A. They said, "Okay".**

6 Q. And did you talk about eyewitnesses in any way,
7 whether or not the loss prevention group was an
8 eyewitness to any crime?

9 **A. No.**

10 Q. So all you talked about with regard to testifying
11 was Shinola's desire for their loss prevention
12 group to be witnesses in the cases instead of
13 store employees?

14 **A. Correct.**

15 Q. How about communication issues with the store,
16 what did you talk about that?

17 **A. That was because they had before me and I'm
18 assuming after me they've had countless issues
19 with the staff and management not getting back to
20 DPD to continue the prosecution, so that was
21 discussed there.**

22 Q. Did you bring that issue up or did they bring
23 that issue you?

24 **A. They did.**

25 Q. Did you agree with them that you've had issues

1 communicating with Shinola stores?

2 **A. Yes.**

3 Q. And what was your response to their complaints
4 about that?

5 **A. I told them that without their assisting in the
6 case that we cannot prosecute any of their cases
7 and that's when the subject came up of using
8 security to take that place.**

9 Q. So their suggestion for using Mackinac Partners
10 instead of store employees was in response to you
11 saying if you don't cooperate we can't prosecute?

12 **A. Correct.**

13 Q. So looking back at Exhibit 19, that's the case
14 tracking document, it looks like it says on July
15 23, 2019 you met with CEO of Shinola and director
16 of Mackinac Partners.

17 Was that the same conversation we were
18 just talking about?

19 **A. Yes.**

20 Q. And that looks to be the same meeting that's
21 described in this exhibit that we're just looking
22 at, 23?

23 **A. Yes.**

24 **DEPOSITION EXHIBIT 24**

25 **e-mails**

1 **WAS MARKED FOR IDENTIFICATION.**

2 Q. You can set this calendar invite aside, let's
3 move on to Exhibit 24.

4 Do you recall this e-mail thread?

5 **A. Yes.**

6 Q. Let's go all the way to the back. I suggest for
7 the sake of the record let's go to the second to
8 last page. At the very bottom it says that,
9 "Katherine Johnston sent me an e-mail on July 24,
10 2019 at 9:39 AM", right?

11 **A. Yes.**

12 Q. And that refers to the subject -- or the body on
13 the second page?

14 **A. Yes.**

15 Q. So this final e-mail says, "Thank you again for
16 meeting with myself and John yesterday", right?

17 **A. Yes.**

18 Q. And this e-mail was sent on July 24, right?

19 **A. Correct.**

20 Q. So that refers to the conversation, that meeting
21 that we were just talking about?

22 **A. Yes.**

23 Q. And that was the same meeting that we looked at
24 the calendar invite for?

25 **A. Yes.**

1 Q. So the next sentence says, "I feel our chat was
2 very productive and look forward to the
3 partnership between DPD and Shinola," so this
4 e-mail mentions partnership.

5 What partnership are they talking
6 about?

7 **A. I would assume -- I don't know what she was**
8 **meaning.**

9 Q. So there was no discussion of a partnership
10 during your meeting with Ms. Johnston and the
11 CEO?

12 **A. No, no.**

13 Q. So could she have been referring to the agreement
14 that -- or the suggestion that they pitched about
15 the loss prevention group working with DPD
16 instead of the store employees?

17 **A. That's the way I would have read it.**

18 Q. Later on in the e-mail chain, let's go to the
19 e-mail that you sent to Katherine Johnston July
20 29, 2019 at 2:43 PM, that's on the second page of
21 that packet.

22 It looks like you're informing
23 Katherine Johnston that the six-pack is ready and
24 that you're trying to schedule her to come in to
25 be the witness for that six-pack, is that right?

1 A. Yes.

2 Q. And at this point you knew that Ms. Johnston
3 wasn't an eyewitness to the theft, right?

4 A. Yes.

5 Q. And so you were setting up this six-pack with
6 Ms. Johnston as the -- as a non-eyewitness,
7 right?

8 A. Yes.

9 Q. Was this after you had that conversation with
10 your supervisor and the prosecutor about whether
11 that was okay?

12 A. Yes.

13 Q. And so you set up this photo lineup with her
14 because you thought it was okay to use
15 non-eyewitnesses?

16 A. Yes.

17 DEPOSITION EXHIBIT 25

18 e-mail dated 7-30-19

19 WAS MARKED FOR IDENTIFICATION.

20 Q. Let's set this one aside and move on to Exhibit
21 25. Do you recall this e-mail?

22 A. Not offhand, no.

23 Q. This e-mail from Katherine Johnston to you July
24 30, 2019 at 2:07 PM, right?

25 A. Yes.

1 Q. It says, "Thanks for the call", right?

2 A. Yes.

3 Q. But if you look back at the case tracking
4 document which was Exhibit 19 I don't see any
5 call that was recorded in this case tracking
6 document on July 30, 2019 or any of the days
7 leading up to that date, do you see that?

8 A. Correct.

9 Q. So do you recall giving Katherine Johnston a call
10 on or around July 30?

11 A. I don't recall.

12 Q. Do you recall talking to Katherine Johnston on
13 the phone without recording it on the case
14 tracking document?

15 A. Several times.

16 Q. What were those conversations about?

17 A. I don't recall.

18 Q. Were they about updates to the case possibly?

19 A. I would assume so.

20 Q. Do you recall ever calling Katherine Johnston to
21 let her know that you submitted a warrant in the
22 case?

23 A. I don't recall.

24 Q. Do you recall ever calling Katherine Johnston
25 about participating in a photographic lineup?

1 A. I don't recall. Most of the stuff were e-mails.

2 Q. How did you notify Katherine Johnston or anyone
3 else at Mackinac Partners or Shinola that you
4 received approval to use Katherine Johnston as a
5 witness instead of an eyewitness from Shinola?

6 A. I don't recall.

7 Q. Do you recall notifying them of that update?

8 A. Yes.

9 Q. But you don't recall how you notified them?

10 A. Correct.

11 DEPOSITION EXHIBIT 26

12 e-mails

13 WAS MARKED FOR IDENTIFICATION.

14 Q. Let's move on to Exhibit 26. Looking through
15 this e-mail do you recall this e-mail thread?

16 A. Yes.

17 Q. I'm going to focus on the very top e-mail on the
18 first page, that final e-mail from you to
19 Katherine Johnston on September 24, 2019 at 4:26
20 PM.

21 Do you see that?

22 A. Yes.

23 Q. And you'll see from the subject line that this
24 e-mail chain is about a different theft at
25 Shinola than the one we're talking about that

1 occurred in 2019 -- or 2018, right?

2 **A. Yes because it's a different case number.**

3 Q. Right, okay. And so about that different case
4 you say in the e-mail,

5 "We do not have an ID of the person in
6 this case yet. Wanted to let you know
7 what is going on on this end between
8 me and you. Last time we were able to
9 get the person because the use of
10 facial recognition. The issue we're
11 having right now is that we are unable
12 to use this tech for property crime
13 because of issues going on the city".

14 Did I read that right?

15 **A. Correct.**

16 Q. So you say, "Last time we were able to get the
17 person because the use of facial recognition".

18 Were you referring to the Shinola
19 investigation involving Mr. Williams?

20 **A. Correct.**

21 Q. And then you say, "The issue we're having right
22 now if that we're unable to use this tech for
23 property crime." Did you mean "is that we're
24 unable to use this tech for property crime"?

25 **A. Yes.**

1 Q. "... because of issues going on in the city".

2 What did you mean by "because of issues going on
3 in the city"?

4 **A. I don't recall.**

5 Q. Did you think at the time that there were issues
6 about facial recognition technology going on in
7 the city?

8 **A. There could have been.**

9 Q. Do you recall hearing anything about issues the
10 city was having with facial recognition
11 technology around the September, 2019 time?

12 **A. I don't recall the dates and times.**

13 Q. Do you recall ever hearing about issues that the
14 city was having with facial recognition
15 technology?

16 **A. The things I've heard on the news.**

17 Q. And what were the things you heard on the news?

18 **A. That it was a biased program.**

19 Q. Biased against --

20 **A. To darker skin people.**

21 Q. And so you thought that -- based on this e-mail
22 did you think that because of the issues you
23 heard on the news is the reason that you're
24 unable to use the tech for property crime?

25 **A. I honestly don't know. I don't recall how I was**

1 referring to it.

2 Q. And so you don't recall -- you don't have any
3 understanding of the sentence you're saying that
4 we are unable to use this tech for property
5 crimes because of issues going on in the city?

6 A. Correct.

7 Q. Do you recall any reason -- do you recall
8 learning of any reason that you were unable to
9 use facial recognition technology for property
10 crime?

11 A. I don't recall.

12 Q. But you do remember that policy change, right?

13 A. Correct.

14 Q. And the final sentence you have in that e-mail,
15 just wanted to give you a heads up with what is
16 going on over here.

17 What did you mean by "what is going on
18 over here"?

19 A. With the case.

20 Q. With which case?

21 A. I'm assuming that case.

22 DEPOSITION EXHIBIT 27

23 e-mails

24 WAS MARKED FOR IDENTIFICATION.

25 Q. You can put that one aside. We're going to move

1 on to Exhibit 27. Take a look at that e-mail
2 thread.

3 Do you recall this e-mail thread?

4 **A. Yes.**

5 Q. I want you to go back and look at the e-mail you
6 sent tabbed for you, the e-mail you sent on
7 December 27, 2019 at 12:21 PM to Katherine
8 Johnston.

9 Do you see that e-mail?

10 **A. Correct.**

11 Q. It says in that last line, "On another case for
12 you guys No. 1912050318 I do believe it is the
13 same guy in the first case we got a warrant out
14 on. Was in contact with your partner in this
15 case."

16 That "first case we got a warrant out
17 on", was that the Shinola investigation we've
18 been talking about?

19 **A. I don't recall.**

20 Q. Do you recall getting a warrant for any other
21 individual regarding Shinola?

22 **A. No.**

23 Q. So this must have referred to Mr. Williams,
24 right?

25 **A. Yes.**

1 Q. So your understanding in December of 2019 was
2 that Mr. Williams was involved in more than one
3 theft at Shinola, right?

4 **A. Correct.**

5 Q. And what made you think that?

6 **A. The photos from those cases matched the photos I**
7 **had.**

8 Q. And the photos you had, are you referring to the
9 photos of Mr. Williams or the photos from the
10 security footage from Shinola?

11 **A. Photos from the security camera.**

12 Q. So you were comparing security footage from
13 Shinola from the October 2, 2018 theft with
14 photos from these new thefts?

15 **A. Correct.**

16 Q. And because you assumed that the photo from the
17 October, 2018 theft was Mr. Williams, you thought
18 that Mr. Williams was the same guy in these
19 thefts?

20 **A. Correct.**

21 Q. So two e-mails up, that's going to be on the next
22 page, you sent an e-mail to Katherine Johnston
23 December 27, 2019 at 12:57 PM, do you see that?

24 MR. CUNNINGHAM: What time?

25 MR. WADOOD: 12:57 PM.

1 BY MR. WADOOD:

2 Q. At the bottom of the page you're looking at,
3 detective?

4 **A. Yes.**

5 Q. It looks like you provided Katherine Johnston
6 with Mr. Williams' name, his demographic
7 information and his birth date, right?

8 **A. Correct.**

9 Q. Was it common for you to share a suspect's
10 information with an outside party?

11 **A. I believed it was public info at that time, so I**
12 **did.**

13 Q. How was it public info at that time?

14 **A. Because a warrant was submitted for him.**

15 Q. And so you think it's comfortable -- you think
16 it's appropriate for you to share this
17 information with someone for -- that the warrant
18 has been requested for?

19 **A. I did at that time, yeah.**

20 Q. Even before that person is arrested?

21 **A. Yes.**

22 Q. And in what way is it public information?

23 **A. The warrant is public information.**

24 Q. So you felt comfortable sharing the names of
25 suspects for whom you've submitted a warrant?

1 **A. In this case, I did.**

2 Q. In this case you did. Is it different in any
3 other cases you do?

4 **A. I would think each case is a case-by-case basis.**

5 Q. So you don't think -- generally speaking you
6 don't think it's an invasion of privacy in any
7 way to share a suspect's name before they're
8 arrested?

9 **A. I think during -- I wouldn't do it during the**
10 **investigation. The investigation was over at**
11 **that point.**

12 Q. So after an investigation is completed you don't
13 think it's an invasion or privacy to share a
14 suspect's name and date of birth and demographic
15 information before they're arrested with an
16 outside party?

17 **A. I did not.**

18 Q. So -- but why did you share the information with
19 Ms. Johnston here?

20 **A. She asked for the information so she could do an**
21 **in-house BOLO, be on the lookout.**

22 Q. BOLO means be on the lookout?

23 **A. Yes.**

24 Q. And by "in house" what did you mean, for Shinola
25 stores?

1 A. Correct.

2 Q. And so you were supplying this information to
3 Katherine Johnston so she could put Mr. Williams'
4 name out to all the Shinola stores --

5 A. Yes.

6 Q. -- as a be on the lookout for Mr. Williams?

7 A. Yes.

8 Q. Did you think she would do anything else with the
9 information?

10 A. No.

11 Q. So in the e-mails that came after this it looks
12 like Ms. Johnston provides you with a great deal
13 of personal information about Mr. Williams and
14 his family, a picture of him and his wife and two
15 kids, a picture of his blog on Facebook, a
16 picture of blog posts from his blog.

17 Did you think that Ms. Johnston would
18 be using the information provided her to conduct
19 her own investigation?

20 A. No.

21 Q. And when you saw the picture of Mr. Williams, his
22 wife, his two kids, did that picture give you any
23 doubt that Mr. Williams wasn't the same guy in
24 the security footage from the theft that you
25 reviewed?

1 A. I don't recall.

2 Q. So even though you didn't expect Ms. Johnston to
3 conduct her own investigation you respond to the
4 information that she sends you with, "Look at you
5 guys go, nice work", and that's an e-mail from
6 you to Katherine Johnston on December 27, 2019 at
7 2:59 PM, right?

8 A. Yes.

9 Q. Is there a reason that you commended her for
10 conducting her own investigation into a suspect
11 that you had already submitted a warrant request
12 for?

13 A. I don't recall.

14 DEPOSITION EXHIBIT 28

15 e-mails

16 WAS MARKED FOR IDENTIFICATION.

17 Q. You can put this one aside. Let's move on to the
18 next e-mail, this is Exhibit 28.

19 Do you recall this e-mail thread?

20 A. Yes.

21 Q. Let's go to that tab, let's scroll down to the
22 e-mail that you sent Katherine Johnston January
23 7, 2020 at 6:43 PM?

24 A. Okay.

25 Q. You say in this e-mail, "I'm hoping to link all

1 the cases too, coming from the 2018 one. Have to
2 see how it goes with the courts with the ID'ing".

3 By "the 2018 one" were you referring to
4 the Shinola investigation that we've been talking
5 about involving Mr. Williams?

6 **A. Yes.**

7 Q. And it sounds like both you and Katherine
8 Johnston are trying to link a number of thefts at
9 Shinola stores to the investigation into
10 Mr. Williams, is that right?

11 **A. Correct.**

12 Q. And you were doing that because of your review of
13 security footage from that first theft and
14 security footage from subsequent thefts?

15 **A. Correct.**

16 Q. And at this point on January 7, 2020 you had seen
17 a picture of Mr. Williams, right, in the
18 investigative lead and in the six-pack?

19 **A. Correct.**

20 Q. Were you comparing a picture of Mr. Williams at
21 all to the new security footage you got from the
22 subsequent thefts?

23 **A. I don't recall.**

24 Q. You also say, "Have to see how it goes with the
25 courts with the ID'ing". Can you explain to me

1 what that means?

2 **A. Yes because I believe that was after the change**
3 **of using security for the ID.**

4 Q. So you were concerned -- were you concerned at
5 all that courts would not hold up a
6 non-eyewitness ID?

7 **A. No, I was just referring to see how it goes with**
8 **the courts.**

9 Q. But why were you wondering how it would go with
10 the courts?

11 **A. I don't recall.**

12 Q. Was there a possibility based on this sentence
13 that a court would not accept a non-eyewitness ID
14 based on a photo showup?

15 **A. No, to my knowledge everything was fine.**

16 Q. And so you don't have a reason for saying, "Have
17 to see how it goes with the courts with the
18 ID'ing"?

19 **A. Not that I recall.**

20 Q. So let's go in the e-mail you sent to Katherine
21 Johnston on January 8, 2020 at 10:37 AM. At the
22 end of that first paragraph you say, "Also may be
23 able to get a warrant for the home to look for
24 the property".

25 Did you ever request a search warrant

1 against Mr. Williams' home?

2 **A. No.**

3 Q. Did you ever do any work towards requesting a
4 search warrant?

5 **A. No.**

6 Q. So this was just a thought that you presented to
7 Ms. Johnston?

8 **A. Yes.**

9 Q. And you never acted on that thought?

10 **A. Correct.**

11 Q. Now, Ms. Johnston e-mails you on January 10 at
12 10:04 AM. Do you see that?

13 **A. Yes.**

14 Q. She says, "Good morning, detective. I heard that
15 the suspect was in custody as of yesterday. That
16 is great news".

17 Do you know how Katherine Johnston knew
18 that Mr. Williams was in custody as of yesterday
19 being January 9?

20 **A. I don't.**

21 Q. Did you tell her?

22 **A. No.**

23 Q. Do you know if anyone that you work with told
24 her?

25 **A. I do not.**

1 Q. So then going to the very top e-mail you sent to
2 Katherine Johnston January 11, 2020, 10:33 AM you
3 say, "Yeah, my guys locked him up in the morning,
4 told them Wayne State University Police
5 Department was going to try to get him and I
6 think my guys didn't want to get showed up, LOL.

7 I think the exam will be on the 30th,
8 but we'll see. I'm trying to work the prosecutor
9 to get the case linked".

10 Did I read that right?

11 **A. Correct.**

12 Q. So help me understand this. Does the involvement
13 of another agency, in this case the Wayne State
14 University Police Department, usually cause your
15 department, the Detroit Police Department, to act
16 faster on outstanding warrants?

17 **A. No.**

18 Q. So can you explain to me what you were saying to
19 Katherine Johnston in this first --

20 **A. I was just doing banter.**

21 Q. So it was just a joke?

22 **A. Yep.**

23 Q. Did you actually tell officers you work with that
24 Wayne State was trying to get him?

25 **A. I did tell them that Wayne State was trying to**

1 get him.

2 Q. Why did you tell them that?

3 A. Because, more banter. I thought it was funny
4 that the university was trying to apprehend an
5 individual on our warrant.

6 Q. And that prompted them to go out to Farmington
7 Hills and arrest Mr. Williams?

8 A. No.

9 Q. What did prompt them to go out?

10 A. I was not there for it. After the fact I was
11 told that they were ordered to do so by our
12 captain.

13 Q. They were ordered to do so by Capt. Cox?

14 A. Yes.

15 Q. And does that reflect your general practice of
16 not picking people up on warrants unless they're
17 stopped for another violation?

18 A. Me individually, correct. I did not send them.

19 Q. So Capt. Cox sent those officers out?

20 A. That is what I was told.

21 Q. And you told them about Wayne State trying to
22 arrest Mr. Williams after they had already
23 arrested him or before?

24 A. I don't recall -- I don't recall when it was
25 done.

1 Q. So in the same e-mail at the end you say, "I'm
2 trying to work the prosecutor to get the case
3 linked".

4 By "get the case linked", are you
5 referring to the same conversation that you've
6 been having with Katherine Johnston about linking
7 the Shinola thefts to the original October 8
8 theft?

9 **A. Correct.**

10 Q. And you said you're trying to work the
11 prosecutor. What conversations have you had with
12 the prosecutor about getting the cases linked?

13 **A. None.**

14 Q. So what did you mean by trying to work the
15 prosecutor.

16 **A. I would think that I was going to, but I didn't
17 end up doing it.**

18 Q. So you never talked with anyone at the Wayne
19 County Prosecutor's Office about linking
20 Mr. Williams' case with any of the other thefts
21 going on at Shinola stores?

22 **A. Correct.**

23 Q. What about John Varvatos stores?

24 **A. They were not my case.**

25 Q. And when PO Atkinson and Det. Ronan interviewed

1 Mr. Williams and asked him about multiple thefts
2 you had nothing to do with linking those cases
3 together?

4 **A. Correct. He was interviewing them, my
5 understanding, to link that suspect to his case.**

6 Q. By "he" you mean PO Atkinson?

7 **A. Yes, I'm sorry, PO Atkinson.**

8 Q. And how was he put on notice that Mr. Williams
9 was in custody and might be related to his case?

10 **A. I don't know.**

11 Q. How did you find out that Capt. Cox sent officers
12 out to arrest Mr. Williams?

13 **A. Supplement report.**

14 Q. A supplement report and how does that get to you?

15 **A. It's in my case file.**

16 Q. And are you notified that something is added to
17 your case file?

18 **A. No -- well, we get a mark in our system that a
19 case file has been altered.**

20 Q. So do you recall how you first got the supplement
21 report?

22 **A. Just when I went back into the case and seen
23 there was a Supplement 1, clicked the supplement,
24 which stated that.**

25 Q. Were you surprised that your captain sent

1 officers out to get your warrant?

2 **A. Generally, no.**

3 Q. In this case were you?

4 **A. No, for the fact of the complaint that was**
5 **originally on the case.**

6 Q. And so you didn't think anything of Capt. Cox
7 sending officers out for this case?

8 **A. No, it was common.**

9 Q. It was common for Capt. Cox to send officers out?

10 **A. Yes.**

11 Q. Is that a decision that Capt. Cox usually makes
12 to execute outstanding warrants?

13 **A. He has that ability to.**

14 Q. And you said before, that's a command level
15 decision?

16 **A. Correct.**

17 Q. And Capt. Cox is command level?

18 **A. Correct.**

19 **DEPOSITION EXHIBIT 29**

20 **e-mails**

21 **WAS MARKED FOR IDENTIFICATION.**

22 Q. Let's go to what I think is the final e-mail,
23 this is Exhibit 29. Do you recall this e-mail
24 thread?

25 **A. Yes.**

1 Q. Let's start all the way from the bottom, if you
2 go to the final e-mail. This is from Katherine
3 Johnston to you January 17, 2020, 11:14 AM.

4 Ms. Johnston tells you that, "Wayne
5 County Prosecutor Jane Gillis just called me.
6 She said her bosses told her that I would not be
7 able to testify on the 10/2018 case for this guy
8 because I didn't witness the crime in person".

9 By 10/2018 case is she referring to the
10 Shinola investigation involving Mr. Williams?

11 **A. Yes.**

12 Q. Do you know why the Wayne County Prosecutor's
13 Office is reaching out to Katherine Johnston
14 directly?

15 **A. Because she would have been the witness for
16 Shinola.**

17 Q. And you listed her as a witness in your warrant
18 packet?

19 **A. Correct.**

20 Q. And that's how Jane Gillis knew that Katherine
21 Johnston was planning to testify?

22 **A. No, she knew from the warrant packet with her --
23 it's her statement is in the warrant packet.**

24 Q. Right. Just to clarify, Jane Gillis knew from
25 your warrant packet that Katherine Johnston was

1 planning to testify, right?

2 **A. Correct.**

3 Q. And so was this the first time that you heard the
4 Wayne County Prosecutor's Office saying that
5 someone can't testify because they didn't witness
6 the crime in person?

7 **A. Yes.**

8 Q. What about a few months before this when the
9 Prosecutor's Office told you that
10 non-eyewitnesses can participate in cases, how do
11 you square that with the update?

12 **A. How so?**

13 Q. Do you think the Prosecutor's Office changed
14 their mind, do you think it may have been a
15 miscommunication the first time around?

16 **A. I don't know. I don't know how that came about.**
17 **All I know at one point they told me yes and then**
18 **they said no later on.**

19 Q. Moving on to the e-mail it says, "I told her that
20 we worked it out with the 3rd Precinct so that I
21 could ID him based on my review of the CCTV as LP
22 for Shinola and the photo lineup and she said Kym
23 Worthy won't sign off on that for any case".

24 Can you explain what LP is?

25 **A. Loss prevention.**

1 Q. And do you know who Kym Worthy is?

2 A. Yes.

3 Q. Who is that?

4 A. The prosecutor.

5 Q. So it sounds like the Prosecutor's Office is not
6 going to sign off on any case that relied on a
7 non-eyewitness to conduct a photo lineup, is that
8 right?

9 A. According to this e-mail, correct.

10 Q. And your understanding was that that was a change
11 in the Prosecutor's Office?

12 A. Yeah.

13 Q. There's no way that your first conversation with
14 the Prosecutor's Office could have been unclear
15 or a misunderstanding about the use of
16 non-eyewitnesses?

17 A. No.

18 Q. But you didn't specifically talk about
19 non-eyewitnesses with the Prosecutor's Office,
20 did you?

21 A. I didn't use the word, no.

22 Q. Did you use the word "eyewitness"?

23 A. No.

24 Q. You just asked them if a loss prevention group
25 for Shinola could participate in cases, right?

1 **A. That's my understanding.**

2 Q. Moving on to the end of the e-mail it says, I
3 thought we had a process that would allow me to
4 testify in lieu of the store, but it sounds like
5 they won't honor that.

6 By "we had a process", is Katherine
7 Johnston referring to the agreement that Shinola
8 and the group they came to you about using loss
9 prevention?

10 **A. Correct.**

11 Q. And so "it sounds like they won't honor that" is
12 referring to the Wayne County Prosecutor not
13 honoring the agreement between Shinola and the
14 3rd Precinct, is that right?

15 **A. Yes.**

16 Q. So in your response to her on January 19 at 10:03
17 AM -- actually before we get there, I apologize.

18 Let's go back one e-mail. Katherine
19 Johnston e-mails you again on January 17, 4:32 PM
20 and says that, the store employee who saw the
21 suspect that day actually agreed to testify. Her
22 name is Ranetta Andry.

23 Did I see that right?

24 **A. Correct.**

25 Q. And now moving on to the next e-mail, you

1 e-mailed Katherine Johnston January 19, 10:03 AM,
2 and you said,

3 "Okay, I will call and get a photo
4 line sheet done, but just so you know
5 this case may be dropped still because
6 I believe that the suspect we ID with
7 facial recognition is the wrong guy.
8 When seeing him in person he does not
9 match up to the guy in any of your
10 videos from the cases. This is the
11 reason I believe the prosecutors are
12 looking for more and will not let you
13 go for it".

14 So this January 19 a is few days after
15 you came to the conclusion that Mr. Williams
16 wasn't the right guy, correct?

17 **A. Correct.**

18 Q. But you're still saying that you will get a photo
19 line sheet done with a new witness, right?

20 **A. Correct.**

21 Q. So why would you want to run a photo line sheet
22 in this case when you knew that Mr. Williams
23 wasn't the right suspect?

24 **A. That would clear him if it wasn't.**

25 Q. So you were hoping that Ranetta Andry, the

1 witness, the eyewitness from Shinola, would
2 confirm that Mr. Williams wasn't the right guy?

3 **A. Confirm or not confirm.**

4 Q. To confirm or not confirm, okay. And so you
5 said, when seeing him in person he does not match
6 up to the guy in any of your videos from the
7 cases.

8 When you say "in person" are you
9 referring to the custodial interview footage?

10 **A. Yes.**

11 Q. "This is the reason I believe that the
12 prosecutors are looking for more and will not let
13 you go in for it, and then you say if fact" --
14 meaning in fact.

15 **A. In fact, yes.**

16 Q. " -- in fact this is the only case they have
17 signed last year with the use of facial
18 recognition technology."

19 You're referring to the warrant they
20 signed for Mr. Williams, right?

21 **A. Correct.**

22 Q. And so do you mean that the warrant against
23 Mr. Williams was the only warrant the
24 Prosecutor's Office signed off on that was based
25 on facial recognition technology?

1 **A. I believe so.**

2 Q. How about any of the cases we looked at a couple
3 of hours ago in which a warrant was submitted?

4 **A. There was one other.**

5 Q. For the Oliver case?

6 **A. Yes.**

7 Q. So is there more than one case that the
8 Prosecutor's Office --

9 **A. Oliver was in '19, correct?**

10 Q. Right.

11 **A. This was an '18 case.**

12 Q. So it says in fact this is the only case that
13 they have signed last year with the use of facial
14 recognition technology. This e-mail was sent in
15 2020 and the Prosecutor's Office signed off on
16 the warrant in 2019, so was there more than one
17 case in 2019?

18 **A. Yes.**

19 Q. You can set this e-mail aside. Let's talk about
20 these communications in general. So this is a
21 lot of communications with an outside party for a
22 handful of property crimes, isn't it?

23 **A. Each case is a case-by-case.**

24 Q. Did you ever feel pressured by Mackinac Partners
25 or by Shinola to find a suspect in these crimes?

1 A. No.

2 Q. Did Mackinac Partners or Shinola ever push you to
3 find a suspect in these crimes?

4 A. Not to find, but after they ID'd one they were
5 wanting them to be arrested.

6 Q. So you would say that they -- once they ID'd a
7 suspect they were pushing you to get that suspect
8 arrested?

9 A. In custody, correct.

10 Q. Other than Mackinac Partners or Shinola did you
11 speak to any other outside agency -- any other
12 outside person or organization about the Shinola
13 investigation?

14 A. No.

15 Q. Did you speak to anyone else at Shinola or at
16 Mackinac Partners other than the John individual
17 who may be the CEO, may be the VP of Regional
18 Operations or Katherine Johnston about the
19 Shinola investigation?

20 A. Originally I talked to Scott, the manager.

21 Q. So Scott Ratkowski, the manager?

22 A. Yes.

23 Q. John who may be the CEO, may be the VP and
24 Katherine Johnston?

25 A. Correct.

1 Q. Anyone else at Shinola?

2 **A. Afterwards I received a -- after the case was**
3 **dropped I received a phone call from that Ranetta**
4 **who stated that she was gone for a funeral during**
5 **the time that they wanted to do an additional**
6 **six-pack.**

7 Q. And so that additional witness Ranetta Andry did
8 reach back out to you?

9 **A. Correct.**

10 Q. And you didn't ultimately run a six-pack with
11 that person?

12 **A. Correct, the case was already dropped.**

13 Q. So the case was already dropped, so you didn't
14 feel the need to do another six-pack?

15 **A. Correct.**

16 Q. So anyone else other than those individuals,
17 whether it's at Shinola, at Mackinac Partners,
18 somewhere else, that you talked to about this
19 case outside of DPD?

20 **A. No.**

21 Q. Let's take a five-minute break and come back. I
22 just have one more section of some questions, a
23 couple more documents and then I think we'll be
24 on our way.

25 MR. CUNNINGHAM: Okay.

1 (A recess was taken.)

2 BY MR. WADOOD:

3 Q. Just to finish, so you're a field training
4 officer?

5 A. Was.

6 Q. What does a field training officer do?

7 A. You evaluate and help train new officers for
8 their first probationary period.

9 Q. And is that part of the police academy?

10 A. No, it's after they get out of the academy.

11 Q. When were you a field training officer?

12 A. I don't have the exact dates, it's been some time
13 now.

14 Q. But it was before you were a detective?

15 A. Yes.

16 Q. And do you have to be trained to become a
17 training officer?

18 A. Yes, you take some classes, I think it was like a
19 two-week course.

20 Q. And what you were being trained in was what you
21 were training the officers?

22 A. No, it's more of like how to train other people
23 in doing our job and doing the paperwork for
24 their evaluations and stuff like that.

25 Q. But you were training other patrol officers?

1 **A. Correct.**

2 Q. So we left off -- chronologically we left off at
3 you realizing Mr. Williams was not the right guy
4 and you telling the prosecutor and telling Lt.
5 Chadwick-Bills about that fact, right?

6 **A. Correct.**

7 Q. And so those doubts about Mr. Williams being the
8 right guy ended up being true, right,
9 Mr. Williams wasn't the right suspect?

10 **A. That I don't know.**

11 Q. Well, charges against him were dropped?

12 **A. Correct.**

13 Q. And does anyone in the department continue to
14 believe that Mr. Williams was the right suspect?

15 **A. Not that I'm aware of.**

16 Q. Do you continue to believe that Mr. Williams was
17 the right suspect?

18 **A. No.**

19 Q. And did you stop believing that once you reviewed
20 the custodial footage?

21 **A. Yes.**

22 Q. So speaking of the custodial footage, I'm going
23 to have to bring that back up really quickly and
24 ask you a question also about Exhibit 18, that's
25 the warrant packet.

1 **A. The one I submitted or the one I got back from**
2 **the prosecutor?**

3 Q. The one you submitted because that's a color copy
4 for you.

5 So I'm just going to play 3 minutes 2
6 seconds.

7 (VIDEO PLAYED.)

8 Q. I'm going to pause at 3 minutes, 20 seconds.
9 What they said is what's relevant to the person
10 you're looking at on the screen.

11 So looking at the custodial footage,
12 the custodial interview footage and looking at
13 the lineup photo in your warrant packet do you
14 think those are the same person?

15 **A. As the person standing there?**

16 Q. As the person standing there.

17 **A. Yes.**

18 Q. So just a couple more questions to wrap up our
19 previous conversation and then we'll move on to
20 our final set of questions.

21 When you were arranging for a six-pack
22 lineup or showup with Katherine Johnston you
23 already had -- or Katherine Johnston already knew
24 that the department had a potential suspect in
25 the case, right?

1 A. Yes.

2 Q. Did Katherine Johnston coming into the six-pack
3 lineup already know that facial recognition had
4 been used in the case?

5 A. Yes.

6 Q. And that facial recognition search had come back
7 with a match?

8 A. Yes.

9 Q. Did you tell her that?

10 A. I don't recall.

11 Q. But she knew going into the six-pack that there
12 was a possible suspect because facial recognition
13 came back with a match?

14 A. For the possible suspect I can say yes. Whether
15 -- how she was told, I don't recall.

16 Q. Let's do those things separately. So she knew
17 going into the six-pack that there was already a
18 possible suspect that DPD was investigating,
19 right?

20 A. Correct.

21 Q. And she already knew going into the six-pack
22 lineup that DPD that used facial recognition in
23 the case, right?

24 A. I believe so.

25 Q. And she already knew going into the six-pack

1 lineup that that facial recognition search that
2 DPD used came back with a match?

3 **A. I believe so.**

4 Q. And when you were attending the photographic
5 showup with Katherine Johnston there, so on July
6 30, 2019 did you already know that Katherine
7 Johnston knew those things?

8 **A. Yes.**

9 Q. And so let's wrap up that final e-mail that
10 Katherine Johnston sent you about there being a
11 potential additional witness Ranetta Andry from
12 Shinola?

13 **A. Yes.**

14 Q. So we had already established that you weren't
15 able to get the six-pack done with Ms. Andry in
16 time for the prosecutor to use it, right?

17 **A. Correct.**

18 Q. So let's say that you did run the photographic
19 showup with Ms. Andry and let's say that
20 Ms. Andry picked Mr. Williams out of that
21 six-pack.

22 What would you have done with that
23 information?

24 **A. Give it to the prosecutor.**

25 Q. Even though you already believed at that time

1 that Mr. Williams wasn't the right person?

2 **A. Yes.**

3 Q. And why would you do that?

4 **A. Because I present evidence, not my opinion.**

5 Q. But would you include your understanding that
6 Mr. Williams wasn't the same person in the photo?

7 **A. Yes, I've already told her through the e-mail.**

8 Q. Told who, sorry?

9 **A. The prosecutor.**

10 Q. But when you submit the photographic showup
11 hypothetically that picked Mr. Williams again,
12 would you have mentioned that I don't think this
13 is the right person, but the person picked him
14 out?

15 **A. Yes.**

16 Q. Let's move on to -- move on chronologically to
17 what happened after the charges against
18 Mr. Williams were dropped.

19 Did anyone talk to you about the case
20 after the charges against Mr. Williams were
21 dropped?

22 **A. Not until it was on the news.**

23 Q. And when was it on the news?

24 **A. I don't recall.**

25 Q. An Internal Affairs investigation was initiated,

1 right?

2 **A. Correct.**

3 Q. Do you recall when that investigation started?

4 **A. I do not.**

5 Q. Did the investigation occur in 2020?

6 **A. I believe so.**

7 **DEPOSITION EXHIBIT 30**

8 **Internal Affairs report, 11-5-20**

9 **WAS MARKED FOR IDENTIFICATION.**

10 Q. So I'm going to introduce Exhibit 31 -- sorry,
11 Exhibit 30 I had already marked, I apologize.
12 This is the November 5, 2020 report came out of
13 the Internal Affairs investigation.

14 Do you recall participating in this
15 Internal Affairs investigation?

16 **A. I remember participating in a -- I don't know**
17 **this one. They didn't provide me with the**
18 **report.**

19 Q. So -- but do you recall participating in an
20 Internal Affairs investigation?

21 **A. Yeah.**

22 Q. Do you recall being interviewed by Internal
23 Affairs?

24 **A. Yes.**

25 Q. And did you tell the truth when you were

1 interviewed by Internal Affairs?

2 **A. Yes.**

3 Q. And so you stand by everything that you said in
4 that interview?

5 **A. Yes.**

6 Q. And would it be a violation of department policy
7 if you didn't tell the truth in that interview?

8 **A. Yes.**

9 Q. And you could be punished for that violation,
10 right?

11 **A. Yes.**

12 Q. So from your recollection does anything that we
13 discussed today contradict anything you stated
14 during your Internal Affairs interview?

15 **A. Not that I recall.**

16 Q. And so this report dated November 5, 2020
17 produced by Sgt. Dominic Davidson of Internal
18 Affairs, a report that summarizes the interview
19 that you conducted and that other officers
20 conducted. What's contained in this report as a
21 reflection of the interview you took would be --
22 would be truthful, right?

23 **A. Yes.**

24 Q. I just want to touch on a couple of pieces of
25 this Internal Affairs report without reiterating

1 everything since you've already told me that you
2 were telling the truth during the interview.

3 I just want to focus on a couple of
4 pieces. Let's go to Page 6 of the Internal
5 Affairs report. The page numbers are on the top
6 right.

7 You see that Ms. Katherine Johnston,
8 director of investigations, Mackinac Partners,
9 was interviewed, right?

10 **A. Yeah.**

11 **Q.** Let's go closer to the end of her interview on
12 Page 8. That first full paragraph that starts
13 with,

14 "Ms. Johnston stated that she did
15 bring a still photograph of the
16 larceny suspect which was obtained
17 from the video from the larceny with
18 her when she did the photo lineup.
19 Ms. Johnston stated that she recalled
20 asking the detectives before the photo
21 lineup had begun if she could compare
22 the still photo to the photos in the
23 lineup. Ms. Johnston stated that she
24 did not recall if she asked Det. Bussa
25 or both detectives if she could look

1 at the still photographs while she
2 looked at the photo lineup."

3 Do you recall Ms. Johnston asking you
4 anything about referring to a still photo before,
5 during or after the photo lineup?

6 **A. No.**

7 Q. So you don't recall what Ms. Johnston stated in
8 her interview about asking the detectives before
9 the photo lineup had begun?

10 **A. Correct.**

11 Q. Let's move forward to Page 23. And before
12 I move on to the next person, do you have any
13 reason to think that Katherine Johnston wasn't
14 telling the truth during her interview?

15 **A. No.**

16 Q. Let's move onto Page 23. It looks like Det.
17 Stevie Posey, Badge D-2698, assigned to the 3rd
18 Precinct was interviewed as well, right?

19 **A. Yes.**

20 Q. Let's go to Page 24 as a part of his interview
21 second to last paragraph, "Det. Posey stated that
22 Det. Bussa had previously spoke to him about
23 being pushed to take care of the case".

24 **A. Where are we at?**

25 Q. The second to last paragraph of Page 24.

1 A. Okay.

2 Q. I'll read that again. "Det. Posey stated that
3 Det. Bussa had previously spoke to him about
4 being pushed to take care of the case."

5 Did I read that right?

6 A. Correct.

7 Q. Do you recall speaking to Det. Posey about being
8 pushed to take care of the Shinola investigation?

9 A. Yes.

10 Q. Can you give me more information about that
11 conversation?

12 A. I was referred to him, he was there when Capt.
13 Cox came up and said I had to submit the case.
14 He was also there when I was told that there was
15 a complaint filed because of lack of movement on
16 the case.

17 Q. So based on those interactions you had with Capt.
18 Cox about -- and Lt. Chadwick-Bills about
19 submitting the warrant and there being a
20 complaint, you told Det. Posey that you felt you
21 were being pushed in the case?

22 A. Yes.

23 Q. Did you tell anyone else that you felt you were
24 being pushed or pressured?

25 A. Not that I recall.

1 Q. What did Det. Posey say in response to that?

2 A. I don't recall.

3 Q. Let's move to Page 28. And before I move on
4 to the next person do you have any reason to
5 believe that Det. Posey wasn't telling the truth
6 during his Internal Affairs interview?

7 A. No.

8 Q. Page 28, it says that you, Det. Donald Bussa,
9 Badge D-608, assigned to the 3rd Precinct were
10 interviewed, is that right?

11 A. Correct.

12 Q. And, again, you told the truth during this
13 interview?

14 A. Yes.

15 Q. And then this report would reflect that
16 truthfulness?

17 A. Yes.

18 Q. So let's go to Page 31 as a part of your
19 interview. It says, "Det. Bussa stated --"
20 sorry, this is the third full paragraph, second
21 sentence.

22 "Det. Bussa stated that he did recall
23 Ms. Johnston having her cellular phone during the
24 lineup. However, he did not recall what she was
25 doing with it."

1 Did I read that right?

2 **A. Yes.**

3 Q. Do you recall Ms. Johnston having her phone with
4 her during the lineup?

5 **A. Yes.**

6 Q. Did she have her phone out during the photo
7 showup?

8 **A. I don't recall. I think it was on the table.**

9 Q. Do you recall her touching her phone?

10 **A. I don't recall.**

11 Q. Reviewing her phone?

12 **A. No.**

13 Q. Looking at her phone?

14 **A. I don't recall that.**

15 Q. Do you recall any conversation you had with
16 Ms. Johnston about her phone?

17 **A. No, I didn't handle that portion of it.**

18 Q. And then next sentence says,

19 "Det. Bussa stated that, from his
20 detective experience at the time this
21 lineup was done he probably would not
22 have denied her if she had asked to
23 look at images that she had brought
24 with her to compare to the lineup that
25 was presented."

1 Did I read that right?

2 **A. Correct.**

3 Q. And is that an accurate reflection of your
4 understanding at the time?

5 **A. Yes.**

6 Q. So you wouldn't -- if Katherine Johnston asked
7 you, "Can I look at the CCTV footage or a still
8 photo from the footage" while looking at the
9 six-pack you wouldn't have said no?

10 **A. No.**

11 Q. And why is that?

12 **A. At that time my understanding that she is the one
13 that provided us the video and pictures and I
14 didn't know that she couldn't look at her own
15 stuff.**

16 Q. Let's go to Page 33. Last paragraph,
17 "Det. Bussa stated that after this
18 case was featured in the news he
19 received multiple phone calls from
20 Capt. Cox regarding this case. Det.
21 Bussa stated that during one week he
22 counted 17 personal calls from Capt.
23 Cox and two conference calls."

24 Do you recall those calls with Capt.
25 Cox?

1 **A. I remember getting them, yes.**

2 Q. "Det. Bussa stated that the calls entailed what
3 he had done with this investigation and why he
4 had done it. Det. Bussa stated that during all
5 of the calls he was asked the same things
6 repeatedly."

7 Do you remember what you were asked?

8 **A. Just the stuff for the case.**

9 Q. And do you know why Capt. Cox was calling you
10 almost 20 times in one week?

11 **A. Because it was on the news.**

12 Q. Have any of your other cases been on the news?

13 **A. I don't recall, I can't recall.**

14 Q. Of the thousands of investigations you've worked
15 on, none of them other than this one have ended
16 up on any news channel, whether it's local or
17 national?

18 **A. Not that I recall.**

19 Q. Did you feel it was unusual for Capt. Cox to be
20 calling you almost 20 times in one week?

21 **A. Yes.**

22 Q. And so what was your reaction when you kept
23 receiving these calls from Capt. Cox?

24 **A. Anger.**

25 Q. Why were you angry?

1 A. Because I wasn't even working, he was calling me
2 at home.

3 Q. He was calling your personal phone?

4 A. Yes.

5 Q. Did you feel it was inappropriate for him to call
6 your personal phone?

7 A. Yes.

8 Q. Did you tell him that?

9 A. No.

10 Q. So in response to all these questions that he was
11 asking repeatedly what did you tell him about the
12 case?

13 A. I just answered whatever questions he asked.

14 Q. Did you ever ask why he keeps asking the same
15 questions?

16 A. No.

17 Q. Did you ever ask him why he's asking you about
18 the case?

19 A. No.

20 Q. On Page 34, same paragraph, it says Det. Bussa
21 stated that during all of the conversations he
22 felt that it was an attempt to 'railroad' him."

23 Can you explain that to me?

24 A. I felt that because when someone asks you the
25 same thing over and over and over again they're

1 **trying to get you to say something different.**

2 Q. And did you feel that the answers you were giving
3 him were satisfying Capt. Cox?

4 A. **No.**

5 Q. What did you think at the time he wanted you to
6 say about the case?

7 A. **Not quite sure. I just felt like they were
8 looking for someone to put it on, to blame.**

9 Q. So you thought that he kept asking you the same
10 questions because he was trying to put the blame
11 for the case on you?

12 A. **Correct.**

13 Q. Did you ever express that to him?

14 A. **No.**

15 Q. Did you ever express that to anyone else?

16 A. **Not that I recall.**

17 Q. Do you know if this is something that Capt. Cox
18 has done in any other case?

19 A. **Not with me. I don't recall of him -- I don't
20 know if any other case that had such high level
21 that was on the news and stuff that he reached
22 out to someone like that.**

23 Q. Do you know if anyone else at the command level
24 other than Capt. Cox acted the same way towards
25 you as far as calling you constantly?

1 A. None.

2 Q. Do you know if anyone else at the command level
3 was looking for someone to blame in the case?

4 A. I don't know.

5 Q. Do you know why Capt. Cox was looking to blame
6 someone in the case?

7 A. I'm sure -- because he was getting asked by his
8 command, his upper level.

9 Q. And who was his command?

10 A. I don't recall at the time who was this immediate
11 command. It would have been the commander, DC,
12 AC, those levels.

13 Q. Did you feel in any way that it was unfair for
14 him to be asking you these questions after he was
15 the one who pressured you to submit the warrant?

16 A. Yes.

17 Q. Did you ever express that to him?

18 A. No.

19 Q. Did you feel that any of the blame for what
20 happened in this case was on Capt. Cox?

21 A. I don't know blame, but definitely it was his
22 influence that progressed the case along faster
23 or farther.

24 Q. So if you look at the final page of the report,
25 Page 50, it says -- this is Lt. William Trzos.

1 "I have read and reviewed the
2 investigation submitted by Sgt.
3 Davidson and I find it to be complete
4 and accurate. I concur with Sgt.
5 Davidson's finding of 'EXONERATED' as
6 it relates to the allegations of
7 misuse of facial recognition and
8 'SUSTAINED' for violating DPD policy".

9 Is that right?

10 **A. Correct.**

11 Q. Were any disciplinary actions taken against you
12 as a result of this investigation or this
13 conclusion?

14 **A. I was assigned out for a while, but they said it
15 wasn't for disciplinary reasons.**

16 Q. And that was assigned out to Court Section?

17 **A. Correct.**

18 Q. I'll get to that in just a second. But before I
19 get there, do you know if disciplinary actions
20 were taken against anyone else as a result of
21 this conclusion?

22 **A. I do not know.**

23 Q. Do you know if any disciplinary action was taken
24 against Det. Levan Adams?

25 **A. I don't know.**

1 Q. Do you know if any disciplinary action was taken
2 against Capt. Cox?

3 A. He was transferred.

4 Q. He was transferred to --

5 A. I don't know if it was from this. I know he was
6 transferred and either stepped down or demoted.

7 I don't know how it came about.

8 Q. Do you think it was because of this?

9 A. I would think.

10 DEPOSITION EXHIBIT 31

11 Notice of Discipline, 1-7-21

12 WAS MARKED FOR IDENTIFICATION.

13 Q. I'm going to enter Exhibit 31. Do you recognize
14 this document?

15 A. No.

16 Q. Let's take a look at it then. It says Notice of
17 Discipline dated January 7, 2021, is that right,
18 at the very top?

19 A. Yes.

20 Q. And it looks like it refers to Rodney Cox, right?

21 A. Correct.

22 Q. And his rank is lieutenant at this point?

23 A. Yes.

24 Q. Is that referring to the demotion that you had
25 just mentioned?

1 **A. Yes.**

2 Q. And let's move down, it says,

3 >List of Charges.

4 1. Neglect of duty. Specification 1,
5 that he, Lt. Rodney Cox, Badge L-272,
6 former captain, currently assigned to
7 the 10th Precinct did while on duty
8 approximately between October, 2018
9 and January, 2020 while assigned to
10 the 3rd Precinct neglect his duty when
11 he failed to ensure that the
12 supervision assigned to the 3rd
13 Precinct PDU properly supervised and
14 trained department members assigned to
15 the 3rd Precinct PDU. Such conduct
16 has a significant negative impact on
17 the operations and professional image
18 of the department."

19 That was a mouthful, but did I read
20 that right?

21 **A. Yes.**

22 Q. And it looks like the presumptive penalty was a
23 five-day suspension, right?

24 **A. Correct.**

25 Q. Did you know that Capt. Cox was suspended for

1 five days in relation to the Shinola
2 investigation?

3 **A. No.**

4 Q. Do you agree that Capt. Cox failed to properly
5 supervise and train department members assigned
6 to the 3rd Precinct PDU?

7 **A. I don't know. I don't know what direct -- I
8 don't know what step level he as a captain will
9 have to provide -- ensure training of his people.**

10 Q. Setting this document aside and speaking from
11 your perspective as a detective do you feel that
12 Capt. Cox properly supervised and trained you?

13 **A. No.**

14 Q. Why not?

15 **A. He was not my supervisor. A captain wouldn't --
16 generally wouldn't come and train me or supervise
17 me. We had the chain of command.**

18 Q. That would be Lt. Chadwick-Bills?

19 **A. It would be sergeant first and then lieutenant.**

20 Q. Sgt. Jackson and then Lt. Chadwick-Bills?

21 **A. Yep.**

22 Q. And so if you had to follow the chain of command
23 why was Capt. Cox involved in the Shinola
24 investigation?

25 **A. I do not know.**

1 Q. Did you find it unusual that a captain was
2 involved in one of your cases?

3 A. **No, captains are always in the loop per se for**
4 **investigations. They have to report out on it to**
5 **the Chief's Office.**

6 Q. Did you feel it was unusual that he was involved
7 so heavily in one of your cases?

8 A. **Yes.**

9 Q. So just to be sure, there was no disciplinary
10 action like this one taken against Mr. Cox taken
11 against you, right?

12 A. **Correct.**

13 Q. We can set this one aside. So other than the
14 Internal Affairs investigation did the DPD do
15 anything else to review what happened in the
16 Shinola investigation?

17 A. **Not that I'm aware of.**

18 Q. Are you aware that then Chief James Craig made
19 public comments about the Shinola investigation?

20 A. **Yes.**

21 Q. Do you recall what those comments were?

22 A. **That it was a -- I don't recall the exact**
23 **wording, but I know he said it was a bad**
24 **investigation.**

25 **DEPOSITION EXHIBIT 32**

1 transcript of Detroit Board of
2 Police Commissioners meeting of 7-9-20
3 WAS MARKED FOR IDENTIFICATION.

4 Q. So let's look at a couple of documents. I'm
5 going to enter -- and these are the last couple
6 of documents I'm looking at.

7 I'm going to enter Exhibit 32. I'm
8 going to actually enter the full transcript as
9 the exhibit in the case -- the deposition, but
10 what I have provided to everyone else in the room
11 are just the relevant excerpts and the full
12 transcript will be on the record.

13 And we're just looking at excerpts to
14 save pages. Do you recognize this document?

15 A. I do not.

16 Q. Looking at the title page it looks like it was a
17 July 9, 2029 meeting of the Detroit Board of
18 Police Commissioners, right.

19 A. Correct.

20 Q. And this looks to be a transcript of that
21 meeting?

22 A. Yes.

23 Q. Let's go to -- you see where the page numbers are
24 on these mini pages?

25 A. Yes.

1 Q. Let's go to Page 55, that's the bottom left.

2 A. Okay.

3 Q. And let's go to Line 20. I'll read this really
4 quickly.

5 "So one of the things as I stated out,
6 as you know this tragic situation
7 involving the arrest of Mr. Williams
8 should not have happened. Had the
9 Board of Police Commissioners policy
10 that was adopted 10 months ago been in
11 place this would not have happened.
12 We know that".

13 And the next page 56,

14 "What I can tell you as clearly as I
15 know the facts of this case this was
16 clearly sloppy, sloppy investigative
17 work. There's no other way for me to
18 say it but that way."

19 Do you agree with Chief Craig's
20 assessment that this is clearly sloppy, sloppy
21 investigative work?

22 A. No.

23 Q. Do you know why he would have said that then?

24 A. I do not.

25 Q. Do you think that any part of your investigation

1 was sloppy?

2 **A. No.**

3 Q. Moving a few lines down, still Page 56, Line 7,
4 "The other big concern that I didn't talk much
5 about in the public media was that I'm concerned
6 about the lack of failed oversight concerning
7 this case".

8 Do you agree with Chief Craig's
9 assessment that there was failed oversight in
10 this case?

11 **A. No.**

12 Q. So you think that your chain of command provided
13 adequate oversight in this case?

14 **A. Yes.**

15 Q. You think Sgt. Jackson provided adequate
16 oversight?

17 **A. Well, he wasn't involved after the fact of giving
18 me the case, he retired.**

19 Q. Okay. Do you think Lt. Chadwick-Bills provided
20 adequate oversight to you?

21 **A. Yes.**

22 Q. Do you think that Capt. Cox provided adequate
23 oversight to Lt. Chadwick-Bills for the case, or
24 to you?

25 **A. I don't know what supervision he had over her.**

1 Q. Let's go to Page 57, the same page, just bottom
2 right. Line 1.

3 "We now know that the image or the
4 photograph that was used in facial
5 recognition was blurry and under
6 current policy a blurry image would
7 not be used in facial recognition, but
8 in this instance it was used".

9 Do you agree that the photo used in
10 this case was blurry?

11 **A. No.**

12 Q. And so do you know why Chief Craig would have
13 said that it was blurry?

14 **A. I do not.**

15 Q. Did anyone else in the department express to you
16 or to the public that the photo was blurry?

17 **A. Not to me.**

18 Q. Have you used blurrier images than the one we
19 looked at in submitting facial recognition
20 requests?

21 **A. Not that I recall.**

22 Q. So would you say then that that was the blurriest
23 image that you've submitted to facial
24 recognition?

25 **A. No, I wouldn't be able to judge it, I don't**

1 remember all the --

2 Q. Let's go to Page 58, Line 1. It says,

3 "So the warrant was requested and for
4 whatever reason that prosecutor signed
5 it based on what the prosecutor was
6 told, a photo array identification.

7 What was left out and what I'm
8 advising you of today, the person that
9 made the pick in the photo array was
10 not a direct witness. In fact, the
11 security staff member wasn't even
12 there when the theft took place.

13 That's what we know today, in fact.
14 So there's a lot more that we're
15 starting to find out about the -- this
16 case."

17 So the fact that Chief Craig pointed
18 this out, do you agree that it was an issue that
19 someone who participated in the photo array was
20 not in fact there when the theft took place?

21 A. No.

22 Q. And then it goes on to say, "And we know there's
23 another case emerging out of the same precinct,
24 the same detective, and so that's causing us some
25 real deep concerns."

1 He's probably talking about the Michael
2 Oliver case, right?

3 **A. I would assume so.**

4 **Q.** Did Chief Craig or his staff ever follow up with
5 you about their real deep concern?

6 **A. No.**

7 **Q.** This is the final excerpt from this transcript.
8 Let's go to Page 64. You'll see on Line 7 Asst.
9 Chief who's now Chief James White starts to talk.
10 Moving down to Page 65 Line 11, Asst.

11 Chief White says,

12 "So you take the investigative lead.
13 You then have to inquire whether or
14 not your suspect had an opportunity to
15 commit the crime that they're being
16 accused of, and that can be as simple
17 as did they have the availability, did
18 they have the timeline, were they at
19 work? And looking at this
20 investigation from that standpoint
21 those things were not done and that's
22 a violation of our policy, our policy
23 of investigations."

24 Did you do anything that Chief White
25 mentioned here in this case?

1 A. I did not.

2 Q. So you didn't see if Mr. Williams would have had
3 the availability to commit the crime?

4 A. No.

5 Q. You didn't check if he had an alibi?

6 A. No.

7 Q. Did you see if the timeline of the theft versus
8 Mr. Williams' day on that day lined up?

9 A. No.

10 Q. Did you check if Mr. Williams may have been at
11 work at that time?

12 A. No.

13 Q. Do you feel that you should have done that?

14 A. No.

15 Q. Do you do that in any of your other cases?

16 A. Each case is different.

17 Q. Is it your general practice not to look at those
18 things unless the case requires it?

19 A. Yes.

20 Q. So in a case where a facial recognition match
21 came back, would you feel that it's not necessary
22 to look for alibis or timelines?

23 A. It would depend on the case.

24 Q. But in this case you felt it wasn't necessary?

25 A. Correct.

1 Q. Why is that?

2 A. **Because I had an ID and at that time a witness.**

3 Q. So you had an ID from facial recognition?

4 A. **Correct.**

5 Q. And you had a non-eyewitness ID, that same person
6 through the photographic showup, right?

7 A. **Yep, that I was told I could use.**

8 Q. And you thought that was enough and that you
9 didn't need to check on the suspect's alibi or
10 timeline?

11 A. **Correct.**

12 **DEPOSITION EXHIBIT 33**

13 **police review, facial recognition technology**

14 **WAS MARKED FOR IDENTIFICATION.**

15 Q. You can set this one aside. Last document we're
16 looking at, Exhibit 33. Do you recognize this
17 document?

18 A. **I do not.**

19 Q. So this was a presentation offered to the Board
20 of Police Commissioners by then Chief James
21 Craig, then Asst. Chief James White and Director
22 of Professional Standards Chris Graveling in that
23 same BOPC, Board of Police Commissioners meeting
24 that we just looked at the transcript for.

25 If you can look at the very last page,

1 this presentation by Chief Craig, Asst. Chief
2 White and Dir. Graveling concludes preliminarily
3 this investigation was not up to department
4 standards.

5 Do you agree with that assessment?

6 **A. No.**

7 Q. Do you know what the department standards were as
8 far as investigations go?

9 **A. Not particularly.**

10 Q. You didn't look at any policies regarding
11 investigations?

12 **A. Correct.**

13 Q. You didn't receive any training regard
14 investigations?

15 **A. No.**

16 Q. But you still believe that your investigation was
17 up to department standards?

18 **A. I would have to know what the standards were at
19 the time.**

20 Q. So you can't say today whether or not your
21 investigation was up to department standards?

22 **A. Correct.**

23 Q. You can put that aside. Has anyone at the DPD
24 spoken to you about this case since the Internal
25 Affairs investigation?

1 A. No.

2 Q. Capt. Cox didn't reach out after the Internal
3 Affairs investigation started?

4 A. No.

5 Q. Have you spoken to Capt. Cox in any way since the
6 Internal Affairs investigation?

7 A. No.

8 Q. Other than the conversations we've discussed
9 today, whether they were in the DPD, outside the
10 DPD, can you name anyone else at DPD or outside
11 of DPD who you talked to about the Shinola
12 investigation?

13 A. No.

14 Q. So now you mentioned that you were transferred
15 out to the Court Section?

16 A. Assigned out.

17 Q. Assigned out to Court Section in the summer of
18 2020, right?

19 A. Correct.

20 Q. And that's around the same time that this Board
21 of Police Commissioners meeting happened in July
22 of 2020, right?

23 A. Correct.

24 Q. And around the same time that the Internal
25 Affairs investigation was going on, right?

- 1 **A. Correct.**
- 2 Q. Can you remind me what Court Section is?
- 3 **A. Well, there's multiple parts. The part I was**
4 **working in was warrant submission into our**
5 **database.**
- 6 Q. And that's the same process you mentioned
7 earlier, a detective from any precinct would
8 come, drop off a warrant in the dropbox and then
9 you would take it and submit the warrant?
- 10 **A. No, we have a -- in our database we have a**
11 **section where we just type in the warrants after**
12 **they've been signed. That's what I was doing.**
- 13 Q. And you were there until just a couple of months
14 ago?
- 15 **A. Correct.**
- 16 Q. So like two years?
- 17 **A. Yes.**
- 18 Q. Does any part of you think that you were assigned
19 out to Court Section in the summer of 2020
20 because of the controversy surrounding the
21 Shinola investigation?
- 22 **A. Yes.**
- 23 Q. Why do you think that?
- 24 **A. Because of the IA investigation.**
- 25 Q. But did being assigned out to the Court Section

1 feel like a punishment to you?

2 **A. At first.**

3 Q. Did it feel like a demotion?

4 **A. No.**

5 Q. But the department never explained why it was
6 assigning you out to the Court Section, right?

7 **A. I was told to do this new program because that
8 was the start of it with the other participants.**

9 Q. It never mentioned that it was part of any
10 punishment on demotion?

11 **A. Correct.**

12 Q. So from the department's perspective you being
13 assigned out to Court Section had nothing to do
14 with your work on the Shinola investigation nor
15 the Michael Oliver case?

16 **A. That's my understanding.**

17 Q. It was just a feeling you had based on the
18 timeline?

19 **A. Yes.**

20 Q. So one final question about the facial
21 recognition policy updates that we discussed last
22 Monday. As you recall -- and we discussed today
23 -- you recall that in July, 2019 the department
24 limited the use of facial recognition technology
25 to just Part 1 violent crimes and all Division 1

1 crimes, right?

2 **A. Yes.**

3 Q. The September 19th policy kept that change in
4 place?

5 **A. Yes.**

6 Q. But the Shinola investigation had to do with
7 retail fraud, right?

8 **A. Correct.**

9 Q. And that's a non-Part 1 crime?

10 **A. Correct.**

11 Q. So the reason Det. Adams before you was able to
12 run a facial recognition search or request one in
13 that investigation was because it occurred before
14 the July, 2019 change, right?

15 **A. Yes.**

16 Q. So -- but if you had requested a facial
17 recognition search in that same investigation,
18 let's say in October of 2019, Crime Intel would
19 have told you they can't run the search, right?

20 **A. Correct.**

21 Q. Because it's not a Part 1 crime?

22 **A. Yes.**

23 Q. Let's say hypothetically that the Shinola
24 investigation had to do with a Part 1 violent
25 crime, let's say it had to do with a robbery.

1 You would have been able to request a
2 search then, right?

3 **A. Yes.**

4 Q. Because it's a Part 1 crime?

5 **A. Yes.**

6 Q. And if you used that same input photo and
7 received the same match you would have still
8 probably set up a photo showup and requested a
9 warrant for Mr. Williams, right?

10 **A. Yes.**

11 Q. So even with the July, 2019 and the September,
12 2019 policy changes there's still a possibility
13 that a facial recognition search can lead to
14 false matches, right?

15 **A. Yes.**

16 Q. So in other words those July and September, 2019
17 policy changes still create possibilities for
18 wrongful arrests, right?

19 **A. There's a lot more steps, but yes.**

20 Q. But there's still a possibility for wrongful
21 arrests, right?

22 **A. Yes.**

23 MR. WADOOD: I think that is all I
24 have. Can we just take a quick one-minute break
25 just to wrap up.

1 MR. CUNNINGHAM: Sure.

2 MR. WADOOD: We will be done by 3, I
3 promise.

4 (A short recess was taken).

5 MR. WADOOD: Okay.

6 BY MR. WADOOD:

7 Q. Just one final question just because I recall
8 there being a little bit of back and forth about
9 it. So you, at the request of -- at the
10 suggestion of Lt. Chadwick-Bills you called the
11 general prosecutor line to ask whether it was
12 okay to use Shinola's loss prevention group as a
13 part of your investigation in the Shinola theft,
14 right?

15 **A. Correct.**

16 Q. But to the best of your recollection do you
17 recall ever specifically asking if Katherine
18 Johnston can be used as a non-eyewitness in the
19 cases?

20 **A. Those words were not said, no.**

21 Q. But do you recall talking about using a specific
22 individual at Mackinac Partners as a witness in
23 the case that wasn't at the scene?

24 **A. I don't recall saying it like that. I believe**
25 **the conversation was just I explained the case**

1 that I have and whether I could use security for
2 the identification purposes.

3 Q. And by security did you --

4 A. Their loss prevention.

5 Q. Right, but did you explain to the prosecutor that
6 you meant an outside loss prevention group and
7 not an on-site security officer?

8 A. I don't recall.

9 Q. And you didn't record your phone conversation
10 with the prosecutor in any of your case notes,
11 did you?

12 A. No.

13 Q. It's not on the case tracking document?

14 A. No.

15 Q. And that's a regular part of your job that
16 sometimes phone calls aren't recorded on the case
17 tracking correct?

18 A. Correct.

19 MR. WADOOD: I think that's all I have.
20 I don't know, Patrick, if you have --

21 MR. CUNNINGHAM: I have one question, a
22 couple of questions.

23 EXAMINATION

24 BY MR. CUNNINGHAM:

25 Q. During the course of the deposition you were

1 asked about the authorship of various documents
2 and I thought that one might be kind of
3 misleading, so I just wanted to clear it up.

4 In various exhibits there's a number of
5 incident investigation reports. On this document
6 it indicated who the author of that document is,
7 right?

8 **A. Correct.**

9 Q. Where on the incident investigation report does
10 it identify who the author of the document is?

11 **A. You would have it down at the bottom and you
12 would have it the beginning of their statement.**

13 Q. So, first here, when it says officer ID, is that
14 the author?

15 **A. Correct.**

16 Q. But your name is on here as investigator ID.
17 Does that mean you authored the document?

18 **A. No, that means it was assigned to me.**

19 Q. So the officer here is indicated where it says
20 officer ID number, that's the author of the
21 incident investigation report?

22 **A. Correct.**

23 THE REPORTER: Both getting electronic
24 copies?

25 MR. WADOOD: Yes.

1 MR. CUNNINGHAM: Yes.

2 (The deposition was concluded at 2:56 p.m.,
3 signature of the witness was not requested by
4 counsel for the respective parties hereto)

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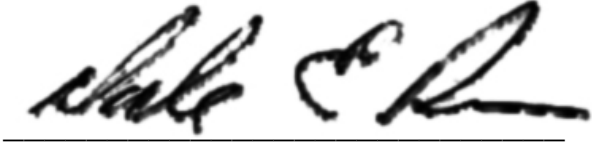
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CERTIFICATE OF NOTARY

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STATE OF MICHIGAN)
) SS
COUNTY OF WAYNE)

I, DALE E. ROSE, Certified Shorthand Reporter, a Notary Public in and for the above county and state, do hereby certify that the above deposition was taken before me at the time and place hereinbefore set forth; that the witness was by me first duly sworn to testify to the truth, and nothing but the truth, that the foregoing questions asked and answers made by the witness were duly recorded by me stenographically and reduced to computer transcription; that this is a true, full and correct transcript of my stenographic notes so taken; and that I am not related to, nor of counsel to either party nor interested in the event of this cause.



DALE E. ROSE CSR-0087
Notary Public,
Wayne County, Michigan

My Commission expires: 7-15-24

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