

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 - 109.

18

19 The videotaped deposition of JAMES CRAIG
20 taken via Hanson Virtual Remote
21 commencing at 1:00 p.m.
22 Wednesday, March 8, 2023,
23 before Ann L. Bacon CSR-1297.

24

25

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

2

3 WITNESS PAGE

4 JAMES CRAIG

5 Examination by Mr. Wadood 6

6

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8

9 E X H I B I T S

10 NUMBER PAGE

11 Deposition Exhibit A 27

12 (DataWorks Plus Professional
13 Services Contract)

14 Deposition Exhibit B 46

15 (4/9/19 Training Directive
16 19-07 on FRT)

17 Deposition Exhibit C 50

18 (CIU SOPs)

19 Deposition Exhibit D 54

20 (9/19/19 Directive No. 307.5)

21 Deposition Exhibit E 59

22 (Transmittal of Written
23 Directive 307.5)

24 Deposition Exhibit F 77

25 (7/9/20 Inter-Office Memo)

1 EXHIBITS, Continued:

2 NUMBER	PAGE
3 Deposition Exhibit G	82
4 (7/9/20 BOPC Meeting Transcript)	
5 Deposition Exhibit H	99
6 (FRT Policy Review)	
7 Deposition Exhibit I	
8 (Adams Official Reprimand)	
9 Deposition Exhibit J	102
10 (1/14/21 Kozloff Notice	
11 of Discipline)	
12 Deposition Exhibit K	102
13 (1/7/21 Cox Notice of Discipline)	
14 Deposition Exhibit L	103
15 (11/10/20 Cox Deappointment Letter)	

16

17

18 *The above exhibits have been labeled correctly,
19 however, during the deposition Mr. Wadood
20 inadvertently skipped Exhibit I, and thus in the
21 transcript Exhibits I through L are incorrectly
22 referred to.

23

24

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1 Hanson Virtual Remote
2 Wednesday, March 8, 2023
3 1:00 p.m.

4 - - -

5 COURT REPORTER: My name is Ann Bacon,
6 a Michigan State notary public and certified
7 shorthand reporter and this deposition is being
8 held via videoconferencing equipment. The
9 witness and reporter are not in the same room.
10 The witness will be sworn in remotely pursuant
11 to agreement of all parties. The parties
12 stipulate that the testimony is being given as
13 if the witness was sworn in person.

14 J A M E S C R A I G

15 was thereupon called as a witness herein, after
16 having been first duly sworn to tell the truth,
17 the whole truth, and nothing but the truth, was
18 examined and testified as follows:

19 EXAMINATION

20 BY MR. WADOOD:

21 Q. Good afternoon, Chief Craig. My name is Ramis
22 Wadood. I'm one of the lawyers representing the
23 Plaintiff, Mr. Williams, in this case. Now,
24 before we begin, I just want to say some
25 introductory words, lay out some ground rules

1 just to make sure that we're on the same page
2 and we can move through the material without
3 many disruptions. Does that sound good to you?

4 **A. Sounds good.**

5 Q. So I am deposing you today in connection with
6 Mr. Williams' lawsuit against you, the City of
7 Detroit and Detective Donald Bussa for his
8 wrongful arrest. Are you aware of that lawsuit?

9 **A. I'm aware of the lawsuit.**

10 Q. Okay. Great. And the reason we're deposing you
11 specifically today is because of your role as
12 the police chief at the Detroit Police Department
13 during the investigation that led to Mr. Williams'
14 arrest, so your deposition is going to focus on
15 your job as the police chief, your knowledge of
16 that investigation, your knowledge of police
17 department policies, trainings and things of
18 that sort, and your involvement in adopting
19 facial recognition technology at the department.
20 Do you understand all of that?

21 **A. I do.**

22 Q. Okay. Great. So have you had your deposition
23 taken before?

24 **A. I have.**

25 Q. I assume it's more than a few times as chief,

1 but do you recall roughly how many times?

2 **A. I do not. It's been a lot.**

3 Q. Did any of those cases have to do with issues
4 involving facial recognition technology?

5 **A. I'm not aware of any case involving facial
6 recognition. I think this is the sole case.**

7 Q. Okay. So you haven't been deposed in a case
8 involving the use of facial recognition
9 technology before?

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

11 Q. Okay. So I know you've been through this before.
12 I just want to reiterate some ground rules so we
13 understand each other especially because of this
14 kind of virtual setting, so let's try to agree
15 on the following: First things first, we won't
16 interrupt each other. If I ask a question,
17 please wait until I finish asking the question
18 and then you can answer. Similarly, I'll wait
19 until you finish answering before I ask the next
20 question. Does that sound good to you?

21 **A. Sounds good.**

22 Q. Okay. And then you should also give verbal
23 answers only. The transcript isn't going to be
24 able to pick up you nodding your head or giving
25 a thumbs-up. So if the answer is a yes, say the

1 word yes. If it's a no, say the word no. Is
2 that okay with you?

3 **A. I understand.**

4 Q. Okay. And if you don't understand any of my
5 questions, just let me know and I'll try my best
6 to clarify or rephrase the question. Is that okay?

7 **A. That's okay.**

8 Q. Okay. And your lawyer, Mr. Cunningham, may also
9 object to a question that I have. Unless he
10 specifically instructs you not to answer the
11 question, you still have to answer the question
12 even if there's an objection. That objection is
13 just for us to fight about later as lawyers, but
14 in this moment in this deposition you should
15 still answer the question. Does that sound good
16 to you?

17 **A. I understand.**

18 Q. Okay. Now I know we're in a virtual setting and
19 things might get difficult technologically when
20 presenting exhibits or with audio and video, so
21 if there's ever an issue with an exhibit, with
22 hearing me, with seeing me, just flag that and
23 we'll try to fix that as soon as possible. Is
24 that good?

25 **A. I understand.**

1 Q. Okay. And then also speaking of this virtual
2 setting, you may see me looking down or to the
3 left. That's because I have some notes and I
4 have two screens, so I apologize in advance.
5 That's not a sign of disrespect. That's just
6 this whole virtual world we're living in. Is
7 that okay?

8 **A. I understand.**

9 Q. Okay. So I do have some definitions I want to
10 go through just to make sure that you know what
11 I'm talking about when I say some abbreviations.
12 So when I say DPD, I'm going to be referring to
13 the Detroit Police Department. Is that okay
14 with you?

15 **A. I understand.**

16 Q. And when I say MSP, I'm referring to the
17 Michigan State Police. Is that okay?

18 **A. I understand.**

19 Q. When I say CIU, I'm referring to the Crime
20 Intelligence Unit within the Detroit Police
21 Department. Is that okay?

22 **A. Okay.**

23 Q. And when I say the Shinola investigation, I'm
24 referring to the investigation that's at the
25 heart of this case, the investigation into the

1 October 2018 theft of five watches from the
2 Shinola midtown store that ultimately led to the
3 arrest of Mr. Williams. Is that okay?

4 **A. I understand.**

5 Q. And then anything else, any other abbreviations
6 that come up, I will try to define those as we go.

7 **A. I understand.**

8 Q. Okay. So finally breaks, you're free to take
9 breaks whenever you need to go to the bathroom
10 or stretch or anything like that. The only
11 thing I ask is that if there's a question on the
12 table and you want to take a break, please
13 answer the question first before taking a break,
14 so if I ask you a question and you want to take
15 a break, give me an answer first and then say
16 I'd like to take a break. Is that okay with you?

17 **A. I understand.**

18 Q. I will just note that I understand we only have
19 a few hours with you today, so I'm going to try
20 my best to move through this material quickly,
21 so I only plan on taking one, maybe two breaks
22 just out of respect for your time, so I'm hoping
23 we can move through this material with minimal
24 breaks and as quickly as possible so that we can
25 avoid having to call you back for additional

1 questioning on a different day. Is that okay?

2 **A. I understand.**

3 Q. Okay. Great. Let's jump into it then. Can you
4 please identify yourself for the record, just
5 your name and your current employment position?

6 **A. James Craig, retired Chief of Police, Detroit
7 Police Department, City of Detroit.**

8 Q. Okay. And what town and county do you currently
9 live in?

10 **A. Detroit, Michigan, County of Wayne.**

11 Q. Okay. Did you do any preparation for this
12 deposition?

13 **A. I did meet with Attorney Cunningham prior to, yes.**

14 Q. Okay. And how many times did you meet?

15 **A. We discussed it yesterday for about 30 minutes
16 and then we had a very brief discussion on
17 another date, I don't recall, just that there
18 would be a deposition coming forth on this matter.**

19 Q. Okay. Did you review any documents in
20 preparation for this deposition?

21 **A. I did.**

22 Q. And which documents were those?

23 **A. To the best I can recall, it was a policy
24 document. It was an investigator's report and
25 that's what I can think of now.**

1 Q. Okay. And did that policy have to do with
2 facial recognition technology?

3 A. It did.

4 Q. Okay. And that investigator's report, did that
5 have to do with the Shinola investigation?

6 A. It did.

7 Q. Other than looking at those documents and
8 speaking with Attorney Cunningham, did you do
9 any other preparation for this deposition?

10 A. I have not.

11 Q. Okay. Can you quickly walk me through your
12 educational background starting with high school?

13 A. Graduated from Cass Technical High School 1974,
14 went to engineering school for a short time
15 following graduation at Lawrence Institute of
16 Technology. I didn't finish my studies there.
17 I ended up joining the Detroit Police Department,
18 completed the police academy and continued to
19 pursue advanced education. I went to Detroit
20 Mercy College up until the time I was laid off
21 in 1980. I started in 1977, laid off in 1980.
22 I then moved to Los Angeles, California where I
23 continued my education, got a scholarship to a
24 small university, West Coast university, obtained
25 my undergraduate in business. Later I started

1 to work on a Master's Degree at University of
2 Phoenix. I completed that, a Master's in Public
3 Administration, and then following that, I
4 started course work on a Ph.D. program during my
5 time as Chief of Police in Cincinnati, Ohio, and
6 then upon receiving an appointment as Chief of
7 Police in Detroit, I ceased working in the
8 doctoral program.

9 Q. And where was that doctoral program?

10 A. University of Phoenix.

11 Q. University of Phoenix, got it. And so do you
12 recall which years you conducted your Master's
13 and part of your doctoral program?

14 A. I do not.

15 Q. Okay. Was that in the nineties?

16 A. Some of my education was in the nineties, early
17 2000's. I just don't have specific dates.

18 Q. Okay. That's fine. So then let's move on to
19 your employment history. You said that you
20 started off as a police officer with the Detroit
21 Police Department, is that right?

22 A. I did.

23 Q. And that was from the years of 1977 to 1980 you
24 mentioned?

25 A. That's correct.

1 Q. And you were laid off from that role?

2 A. That's correct.

3 Q. Okay. So let's start from 1980 after you were
4 laid off. Can you explain your employment
5 history from then until now?

6 A. I moved to Los Angeles and joined the Los Angeles
7 Police Department in January 1981. I stayed for
8 28 years until I retired, leaving the Los Angeles
9 Police Department in 2009 and joined the
10 Portland, Maine Police Department as the Chief
11 of Police from 2009 to 2011. In 2011 I left the
12 Portland Police Department, joining the Cincinnati
13 Police Department, appointed as Chief of Police,
14 stayed two years, left in 2013 and joined and
15 was appointed as chief of the Detroit Police
16 Department in July of 2013 and then stayed for
17 eight years, retiring in June of 2021 I believe
18 it was.

19 Q. Okay. So just to recap that last piece, you
20 were the Chief of the Detroit Police Department
21 from 2013 until June of 2021, is that right?

22 A. That's correct.

23 Q. Okay. And what did you do after you retired in
24 June of 2021 from that position?

25 A. Launched a campaign running for governor for the

1 **State of Michigan.**

2 Q. Okay. And how long did that campaign last?

3 **A. Give or take a year, if that.**

4 Q. Okay. So in roughly June of 2022, sometime
5 around then, your campaign ended?

6 **A. It did.**

7 Q. Okay. And what have you been doing since that
8 time?

9 **A. Sometimes I public speak. I sit on a board for
10 a company and I'm pursuing other options. I'm
11 retired right now.**

12 Q. Okay. So you're currently retired, pursuing
13 other options, and you do the occasional public
14 speaking, is that right?

15 **A. That's correct.**

16 Q. Okay. So let's hone in on your time as the
17 Chief of Police, but before we do that, can we
18 take a quick break and go off the record?

19 (Recess 1:13 p.m. to 1:15 p.m.)

20 Q. (Continuing, by Mr. Wadood) Okay. So from the
21 years 2013 until 2021 you were the Chief of
22 Police at the Detroit Police Department, right?

23 **A. That's correct.**

24 Q. Can you describe to me the duties and
25 responsibilities you had as the Detroit Police

1 Chief?

2 A. I had many duties. I was overall, just overall
3 daily management of the operations of the
4 Detroit Police Department which involved patrol
5 activities, investigative, internal affairs,
6 administrative functions, so a wide array of
7 overall management responsibility, and that was
8 performed through an executive team that was
9 assembled, a management and executive team, so I
10 worked through my executive and command members.

11 Q. Okay. And what responsibility did you have over
12 departmental trainings?

13 A. I had overall management of the police department,
14 which included recruit and in-service training.

15 Q. Did you ever develop or administer any trainings
16 directly?

17 A. Not directly. I would at times approve training
18 or direct that certain training be conducted.

19 Q. Okay. So you were generally aware of what types
20 of trainings were being offered at the department?

21 A. Generally.

22 Q. Okay. So how about for departmental policies,
23 what responsibility did you have over department
24 policy?

25 A. Policies would be recommended. Some policies

1 were already in existence prior to my appointment,
2 but as new policies were developed by my staff,
3 I would approve it and then it would be -- I
4 would review it and then it would be forwarded
5 to the police commission who had the authority
6 to approve all policies.

7 Q. And by police commission, you're referring to
8 the Board of Police Commissioners?

9 A. That's correct.

10 Q. Okay. And so did you have any role in drafting
11 policies or were you just approving them?

12 A. I would be -- I would review the policy and if
13 there were issues inside the policy that I
14 needed to expand on, then I would send it back
15 to the staffer to add or delete certain issues.

16 Q. Okay. And you also mentioned you had daily
17 management over the department's investigative
18 work, is that right?

19 A. I would say overall management through an
20 executive and management level team. I mean I
21 didn't sit in all eight police stations and
22 supervise. I said overall management and that
23 was completed through a team that was assembled
24 to do the day-to-day direct supervision,
25 managerial oversight.

1 Q. I see. So at any time as chief did you ever play
2 any direct role in a criminal investigation,
3 whether it's supervisory or investigative in
4 nature?

5 A. I don't recall ever playing a direct role. As
6 having served as the Chief of Police, there were
7 times where I would be briefed on certain cases.
8 I would be briefed on the status of a case,
9 particularly if there were high profile type
10 cases, but in terms of going out and doing
11 actual investigative work, I did not.

12 Q. Okay. And so you weren't apprised of every
13 investigation at the department, were you?

14 A. I was not.

15 Q. Okay. And you would trust your executive team
16 or the command staff to apprise you of important
17 cases?

18 A. Again, I had general overview. I could not know
19 each and every investigation being conducted in
20 the police department. This is why every station
21 has two command-level officers who provide more
22 direct supervision and managerial oversight, and
23 on certain cases, I would be briefed on it either
24 because I wanted to know about a particular case
25 or because it was a high profile case and so

1 that would be my involvement. I would give
2 additional direction, if necessary.

3 Q. Okay. How about responsibilities with regard to
4 discipline against department personnel, what
5 role did you play in that as chief?

6 A. Ultimately I was responsible for overall
7 discipline, however, those investigations were
8 conducted at levels below me. If it was a
9 termination matter, generally I would get
10 involved in those, but not all, because the
11 executive team was also charged to conduct what
12 we call hearings, disciplinary hearings and they
13 would render a finding and if there was an
14 appeal, it would come to my level. I couldn't
15 increase a penalty. I could decrease or if the
16 individual officer accused of misconduct was not
17 satisfied with the outcome, they could appeal to
18 an arbitrator who could overrule a member of my
19 command or executive team or myself.

20 Q. Okay. Let me focus on internal affairs
21 investigations. What role did you play in your
22 typical internal affairs investigation?

23 A. Again, certain cases I would be briefed on.
24 It's no different than any other investigative
25 work that was conducted in the police department.

1 I would have regular meetings and they would
2 brief me on certain cases at the time they
3 initiated an investigation or ongoing through
4 that process, but that is not every investigation.
5 It's unrealistic that I would sit in the
6 internal affairs investigative area and manage
7 directly those cases. That was not my role.

8 Q. Okay. Did you ever call for an internal affairs
9 investigation?

10 A. I have.

11 Q. Okay. Were you as chief able to take disciplinary
12 actions against department personnel outside of
13 the internal affairs process?

14 A. Well, discipline was associated with an
15 investigation, so I would have to initiate, if
16 it wasn't already initiated, an investigation.
17 I would not just necessarily discipline someone
18 without appropriate investigation, however, some
19 of the levels in the organization above the
20 rank, at the rank of captain and above, those
21 individuals are appointed by the Chief of Police
22 and so I can appoint or deappoint depending for
23 no cause. It's strictly up to the chief.

24 Q. Okay. And during your time as chief, did you
25 ever deappoint someone for no cause?

1 A. I've deappointed a lot. When I say no cause, I
2 might have misstated. There is no requirement
3 that you have cause to deappoint. In other
4 words, I could deappoint someone and it didn't
5 have to originate with a disciplinary matter.
6 It could be just a performance issue and if I
7 felt based on the reviews I was receiving from
8 my executive team, things that I became aware
9 of, I could unilaterally deappoint someone based
10 on a number of factors.

11 Q. I see. So there was -- you didn't necessarily
12 have to have an internal affairs investigation
13 or any investigation before deappointing someone?

14 A. Yes, it's an at will/no cause, maybe that's more
15 appropriate, at will/no cause position and so
16 sometimes they are deappointments. It could be
17 performance, which doesn't necessarily amount to
18 discipline, a discipline case, does not have to.

19 Q. Okay. And then as chief, what was your role
20 vis-a-vis other external bodies, such as the
21 City Council or the Board of Police Commissioners?

22 A. On occasion I would at the request of the City
23 Council, I may make presentations on different
24 issues or I might delegate that depending on
25 what the issue might have been. Likewise, if

1 the police commission had a standing position
2 with the board every Thursday, but I would
3 attend select meetings, not all meetings, and
4 sometimes those meetings would require a
5 presentation. It might be a disciplinary matter
6 that the police commission would be involved in.
7 For example, if an employee was alleged to have
8 engaged in some misconduct and it was serious
9 misconduct, I could suspend the individual with
10 pay under the authority, but if I chose to
11 initiate a suspension without pay, then it would
12 have to go before the Board of Police Commissioners
13 and they would decide that it was warranted or
14 not warranted to suspend an individual without
15 pay. That was the only role they really played
16 in that level of discipline, but the final
17 adjudication was left to myself or individuals
18 that I had designated to hear and render a finding
19 of discipline and what the appropriate penalty
20 would be, if there was a penalty. It could have
21 been a matter that was determined to be not
22 sustained or unfounded. Those matters did not
23 necessarily come to me as a matter of practice.

24 Q. Okay. So let's move forward. I want to talk
25 about your involvement in the Shinola investigation

1 and also generally in facial recognition technology
2 use at the department. But before I get into
3 that, I want to first confirm that we're thinking
4 and talking about the same investigation, so
5 just to double-check, you are familiar with the
6 DPD's investigation into the October 2018 theft
7 of watches at the Shinola midtown store that
8 resulted in the wrongful arrest of our client,
9 Robert Williams, right?

10 **A. I confirmed earlier in this testimony that I was**
11 **aware of the Shinola case.**

12 Q. Okay. Great. You just saved me a couple pages,
13 so we can move forward getting on the same page
14 in that investigation. So now that we're on the
15 same page about that, I want to rewind all the
16 way back to your earliest involvement in the
17 DPD's use of facial recognition technology. You
18 are aware that the DPD uses facial recognition
19 technology and did so for at least a portion of
20 your time as chief, right?

21 **A. I did.**

22 Q. Okay. Can you explain to me in your own words
23 what facial recognition technician is?

24 **A. It's technology that uses an image, a photograph,**
25 **and it goes through the technology. The technology,**

1 once a photograph or an image is placed in the
2 technology, it would then populate a series of
3 possibles, if you will, possible individuals.
4 Once the technology populates a number of
5 possibles, it could be any number. It could be
6 pages of possibles, maybe 20 or more, and the
7 technology by itself will rank the images in
8 what the computer says this is the most likely
9 individual based on the computer's response,
10 however, it takes an analyst to go through all
11 of the possibles, and because of the analyst's
12 training, they would then make a match. Now,
13 once a match is made by an analyst, there is a
14 second analyst that will come behind that to
15 confirm whether or not this was, in fact, the
16 best match, and then the last step in the match,
17 a supervisor from the unit would then either
18 agree or not agree with the match. Now that,
19 I'm speaking specifically about how we as a
20 department use facial recognition technology
21 following the adoption -- well, two things,
22 following the acquisition of the technology, and
23 then the development of policy. Prior to our
24 acquisition of the technology, we would on
25 occasion go to the Michigan State Police, who

1 had been using facial recognition technology for
2 some time. I have no idea how long, but I know
3 the department on occasion would take cases to
4 the State Police. The frequency I'm unsure of.

5 Q. Okay. Let me ask a few questions about that.
6 So you said that at least after the department
7 developed policy, which we'll get more in-depth
8 into later, you needed an analyst or at least
9 one, two analysts to confirm the possible match
10 that the technology created, right?

11 A. That was in subsequent policy that we developed
12 and I already testified to the fact when we
13 acquired the technology.

14 Q. Right.

15 A. That was not the case prior to. We didn't have
16 the technology. We would request facial
17 recognition to the Michigan State Police.

18 Q. Okay. And why did you feel that an analyst was
19 necessary when you were developing internal
20 policy?

21 A. My assumption, and it's an assumption only, that
22 that was the best practice. I don't know of any
23 police agency that uses it without the review of
24 an analyst. Some may use one analyst, some may
25 not have to, you know, have confirmation from a

1 second analyst or even supervisory review. I
2 don't know. I just know what we developed as an
3 agency in response to acquiring our own technology.

4 Q. Okay. So let me just get the timeline straight.
5 Do you know when the Detroit Police Department
6 first started using facial recognition technology
7 in-house?

8 A. I do not.

9 Q. Do you recall roughly when from the time of --

10 A. I don't want to take a guess. There was policy
11 developed and I just don't -- I'm just not going
12 to guess, but it was during my tenure that we
13 acquired the technology and subsequent to that,
14 we put policy in place.

15 (Marked Exhibit A.)

16 Q. (Continuing, by Mr. Wadood) Okay. I'm going to
17 introduce Exhibit A, and for every exhibit
18 onwards, what I'm going to do is I'm going to
19 put the PDF of the document in the chat, so
20 whoever wants to open it can open it
21 independently and I will also share my screen so
22 you can see the exhibit directly. Do you see a
23 document on your screen, Chief Craig?

24 A. I do.

25 Q. Okay. Do you recognize this document?

1 **A. Off-hand I do not.**

2 Q. Okay. Based on the cover page of the document,
3 this looks like a professional services contract
4 between the City of Detroit and a company called
5 DataWorks Plus, is that right?

6 **A. That's correct.**

7 Q. Do you recall what services DataWorks provided
8 to the Detroit Police Department?

9 **A. As best that I can recall, DataWorks Plus was the**
10 **firm that sold us the facial recognition technology.**

11 Q. Okay. I'm going to go down to Exhibit A to this
12 contract. Under Project Description where I'm
13 highlighting on the screen, it says that, "The
14 project description is to purchase facial
15 recognition licensing, software and equipment
16 for the Detroit Police Department green light
17 locations." Does that line up with your
18 understanding of DataWorks' services?

19 **A. Yes. I don't know why it would include, I don't**
20 **have any recall about the green light locations,**
21 **but I'm aware of the purchase of the software.**

22 Q. Okay. And further down under Project Objective
23 it says, "DataWorks will work closely with the
24 City of Detroit, Detroit Police and Motorola,
25 Inc. to provide their FACE Watch Plus real-time

1 video surveillance facial recognition and FACE
2 Plus facial recognition solution." Does that
3 line up with your understanding of DataWorks'
4 services provided to the police department?

5 A. Not off-hand. I look at the one sentence that
6 video surveillance, the Detroit Police Department
7 did not use facial recognition for surveillance.
8 I'm not certain why that's in there, but that's
9 not how we use the technology.

10 Q. And by that you mean the police department did
11 not use facial recognition on real-time video?

12 A. We did use it on real-time video. For example,
13 if a suspect was armed with a gun and robbed a
14 gas station that had green light technology, we
15 could take an image of the suspect from that
16 video, but that's not video surveillance. Video
17 surveillance suggests to me that as using the
18 same location, a gas station, we would surveil,
19 but we're not using facial recognition at the
20 same time we're looking at green light locations
21 to determine whether or not a crime was being
22 committed. If a crime was committed, certainly
23 -- and there is an image of the suspect from the
24 video, we could take that image as part of a
25 follow-up investigation and then apply the

1 technology to it as part of a follow-up
2 investigation with the purpose of developing a
3 lead only.

4 Q. Okay. So you've never -- the department has
5 never used facial recognition technology during
6 or on live surveillance footage continuously?

7 A. I am unaware and, again, as I've already
8 testified to, we did not use the technology for
9 surveillance. We only used the technology for
10 the purposes of a follow-up investigation,
11 meaning a crime that had occurred at some point
12 required an image from a video not in real-time
13 and we would use that image and place it in, if
14 the quality of the image was such that it could
15 be placed in facial recognition.

16 Q. Okay. So do you know if the Detroit Police
17 Department didn't use facial recognition
18 technology in that way, do you know why the city
19 purchased that capability from DataWorks?

20 A. I can't speak as to why, but we did not, I'll
21 state it for now the third time, we did not use
22 the technology for purposes of surveillance.
23 That was a concern that was raised by community
24 activists. We certainly were responsive. We
25 had no desire to use it as a surveillance tool.

1 Again, I'll state for now the fourth time that
2 only if a felony crime was committed and we had
3 an image and it was a clear image, we then would
4 insert the image from that video in an effort to
5 try to identify a suspect, and once that
6 identification was made, it was a lead only. We
7 then just for sake of clarity, we could not then
8 just go out and make an arrest. There would
9 have to be other factors in the investigation to
10 make the arrest.

11 Q. Okay. We'll get into all that in more detail in
12 just a little bit. Let me just quickly on
13 Exhibit A go up one page to the signature page.
14 It looks like this contract was signed July, or
15 it was approved by the City Council July 25th,
16 2017 and approved by the chief procurement
17 officer December 4th, 2017. Does that look right?

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

19 Q. So based on your review of this document and
20 whatever recollection you have, does this sound
21 right, that the Detroit Police Department
22 started to use facial recognition technology
23 around the end of 2017?

24 **A. That's possible, but, again, I don't recall.**

25 Q. Okay.

1 A. I do recall that we, following the City Council
2 approval, I believe we had to also present
3 before the police commission. I'm just not
4 certain when and time frame.

5 Q. Okay. So let me move on from when and talk
6 about why. Do you know why the Detroit Police
7 Department decided to start using facial
8 recognition technology?

9 A. As I've already testified to, prior to acquiring
10 our own technology, we would seek out assistance
11 from the Michigan State Police, who had been
12 using the technology for some time. We felt
13 given our case-load and certainly the benefits
14 of using the technology, that we would acquire
15 our own, and then certainly acquiring our own
16 technology, we could control how it was used.

17 Q. Okay. So is it fair to say that you had good
18 experiences with asking MSP for help on facial
19 recognition so that you procured your own
20 technology to use it in the ways you wished?

21 A. Our experiences as far as I knew was good. I
22 was aware of other police departments that were
23 using it very effectively and we made a decision
24 to acquire our own software.

25 Q. Okay. And as far as your use of the State Police's

1 facial recognition technology, I know you say
2 you don't recall how often or exactly when the
3 department started using that, but were they
4 already sending requests to the State Police for
5 facial recognition when you became chief in 2013?

6 **A. I don't recall when. It might have been before**
7 **my appointment. I just don't recall.**

8 **Q. Okay. And what was your role, when it comes to**
9 **2017 or whenever exactly it was, what was your**
10 **role in deciding to use or procure facial**
11 **recognition technology in-house?**

12 **A. I don't know if I understand your question. My**
13 **role, as I've already testified to on numerous**
14 **occasions, that certainly I would be made aware,**
15 **I mean a lower ranking member of the department**
16 **wouldn't unilaterally acquire technology like**
17 **facial recognition and I not know about it, so I**
18 **may approve at my level, recognizing that the**
19 **final approval came through the city council and**
20 **so, yeah, I was aware of it and I approved that**
21 **this is something we should try to procure and**
22 **that's about it. As you can see in looking at**
23 **this document, it was signed off by my assistant**
24 **chief, who is now the Chief James White, so was**
25 **I briefed? Yes, but it wasn't necessary for me**

1 to sign off on it. We had already had a
2 discussion about it.

3 Q. Okay. And as far as the decision that, okay, we
4 have been using Michigan State Police, let's get
5 our own, was that decision made by someone other
6 than you and you were just advised of it or was
7 that decision first made by you?

8 A. I've already testified to the fact that I made
9 the final decision. It was a conversation we
10 had. I don't recall how many times, but we had
11 talked about acquiring our own technology.

12 Q. Okay. So do you know why the city ended up
13 going with DataWorks as its facial recognition
14 vendor instead of another company?

15 A. I do not know.

16 Q. Do you know what the selection process looked like?

17 A. I wasn't involved in the selection process.

18 Q. Okay. And while this decision to procure facial
19 recognition technology was being made internally,
20 did you or other department leadership ever
21 discuss or become advised of issues regarding
22 the accuracy or reliability of facial
23 recognition technology?

24 A. I'm not certain what we discussed, but we all
25 knew, as I did, that to rely solely on the

1 technology to tell us or tell, you know, an
2 investigator or an analyst that -- well, let me
3 digress for a moment so I don't have to go back
4 through this a second and third time. As I've
5 already stated, the technology would populate a
6 number of images, photographs, and the idea of
7 the technology is that the number one image
8 that's up, the technology suggests that that's
9 the most likely choice, but understanding the
10 technology, more times than not, it is not the
11 most likely choice, so it is the analyst who
12 does the significant review to go through the
13 various photographs until they reach an image
14 that closely matches the person in a video or a
15 still photograph, so it's not -- the technology
16 is a tool that allows the investigator and
17 analyst to make a best selection, not the
18 technology alone. It cannot work alone, it just
19 can't. It's not designed that way. This is why
20 the analysts go through some hours of training.
21 I think I know the Detroit Police Department
22 analysts go through FBI training because
23 likewise the FBI uses facial recognition and has
24 been for some time, so it's required that the
25 analyst goes through the training.

1 Q. Okay. That all makes sense, and so what I'm
2 hearing you saying is that the reason that you
3 ensure that analysts double-check the technology
4 is because the technology on its own isn't
5 fool-proof. It can't identify the right
6 suspect, is that right?

7 A. It cannot, more times than not, as I've made
8 public statements, if you just rely on the
9 technology alone, no human review, it will more
10 than likely the first photograph, which is the
11 one the computer says this is the most likely,
12 it is not the right person, so the analyst who
13 is trained to identify go well beyond what the
14 computer can provide and even going through that
15 process, there are times where the analyst
16 cannot make a match, even though the computer
17 says here are 30 photographs in rank order and
18 based on the training of the concerned analyst,
19 then, you know, no match would be made.

20 Q. And so did you have that opinion about the limits
21 of the technology itself when the department was
22 first considering procuring its own technology?

23 A. I understood the technology by itself could not
24 identify a suspect by itself. It will populate,
25 as I've testified to, a number of photographs of

1 possibles, and so it still was a great tool and
2 we have used that technology since we acquired
3 our own and I'm aware of certain cases where
4 based on the technology use, based on the review
5 of the analyst and then supported by another
6 analyst and a supervisor, that we identify the
7 right suspect in a violent crime situation.
8 Several times that has happened on high profile
9 type cases, but, again, only whenever a match
10 was made by the analyst, it was still not enough
11 to go out and make an arrest. That in itself
12 would not do it. It would have to be a full
13 investigation and there would be other issues
14 coming out of the investigation that would
15 corroborate that this suspect was, in fact, a
16 suspect at the scene.

17 Q. Okay. So were you aware at the time the
18 department was considering procuring the
19 technology, that facial recognition technology
20 has a higher false match rate when it's used on
21 photos of darker skin people than it does on
22 photos of lighter skin people?

23 A. I have heard that and, again, I've already
24 testified that the technology by itself, so
25 photograph number one, the computer said this is

1 the likely match. More times than not it is not
2 the likely match. It takes an analyst. The
3 analyst has to do their due diligence based on
4 their training to determine what is the best
5 selection and it's generally not the number one
6 photo. I don't know, in fact, off the top, I
7 don't know maybe in a couple of rare instances
8 where photo number one was the right photo that
9 the technology picked.

10 Q. I understand that. I understand that as it was
11 described earlier in prior testimony that with
12 an analyst involved, the technology is a tool in
13 an investigation and it could support an
14 investigation. I'm talking about the technology
15 itself. Aside from an analyst reviewing the
16 technology's results, were you aware at the time
17 of procuring the technology that facial
18 recognition technology itself tends to have a
19 higher false match rate for people with darker
20 skin than it does for people with lighter skin?

21 A. I don't know when I heard it. Yes, I have heard
22 it, but, again, if that is a fact, what was
23 compelling is the work that goes on when the
24 technology populates a number of photographs, so
25 in the times that we would make a match consistent

1 with our policy, more times than not when we did
2 so, when we did so, generally it was the right
3 match and if we couldn't make the match, again,
4 as I testified to earlier, there are layers of
5 review because there's a human factor involved
6 and even though an analyst may have the best of
7 intentions, having layers of review certainly
8 gives more assurance that the match is the right
9 match and I'm speaking of the Detroit Police. I
10 can't speak to how other agencies would deploy
11 the technology. I can't testify to if they had
12 layers of review or there was a supervisor. I
13 don't know the answer to that.

14 Q. Okay. And just to make sure, when you say, and
15 you said this a few times, when you say, "As
16 I've said in prior testimony or as I testified
17 to earlier," do you mean within this deposition
18 or in other depositions or public testimony?

19 A. As I've already testified at the beginning of
20 this deposition, I don't have any recall as to
21 ever having to provide testimony relative to
22 this technology in a lawsuit. I am specifically
23 referencing, when I say, "As I've testified
24 before," questions that you've asked me that
25 I've asked and answered.

1 Q. Okay. I just wanted to make that clear for the
2 record. Okay. So let's move on from why the
3 department chose to procure this DataWorks
4 technology and let's talk about implementation.
5 So once this contract with DataWorks was approved,
6 what role did you play as chief in implementing
7 or rolling out the technology within the DPD?

8 A. I can't specifically say the timeline, but we
9 developed policy and that policy continued to
10 evolve over time because it was controversial
11 and there was some people in the community that
12 rejected its use. It was important to develop a
13 rigorous policy. We did that. We didn't do it
14 unilaterally. Again, policy is finally reviewed
15 by the police commission. The final policy, as
16 I recall, was reviewed and unanimously, as I
17 recall, voted on -- strike that. I'm not certain,
18 but the majority of the board members voted to
19 approve the policy that was developed by the
20 agency, us, the department.

21 Q. Okay. But let's -- the policies that you're
22 talking about, they weren't approved and
23 implemented right as soon as the contract was
24 approved, right?

25 A. I don't recall when and how long after. Again,

1 prior to acquiring our own technology, we did
2 use the technology, but used it through the
3 Michigan State Police.

4 Q. Okay.

5 A. We don't over -- I have no jurisdiction over the
6 Michigan State Police.

7 Q. Right. So after you procured your own technology,
8 do you recall notifying DPD personnel that they
9 now have this new tool on their tool belt in-house?

10 A. I am certain we put out a special order talking
11 about the use of the technology, talking about
12 the levels of review. I just don't recall when
13 that took place or how it was disseminated, but
14 practically whenever we adopt a new practice to
15 notify, we put out a memo special order to alert
16 every member of the department about the use of
17 facial recognition.

18 Q. Okay. And do you recall you or other department
19 leadership encouraging DPD personnel to use
20 facial recognition technology once you had
21 bought it for use in-house?

22 A. I don't know if I would use the word encouraging.
23 It was another tool in the toolbox in conducting
24 follow-up investigations to violent crimes,
25 because that was part of our policy when we did

1 acquire, we decided that we would only use the
2 technology as a follow-up to violent crimes.

3 Q. Okay. And did you provide any warnings, and
4 setting aside the policies that we're just about
5 to talk about after this, once the technology
6 was procured and rolled out, did you provide any
7 warnings to DPD personnel that the technology by
8 itself isn't reliable?

9 A. I don't recall ever putting that out, but, again,
10 as I've stressed and testified to, that we
11 didn't use the technology by itself. It was a
12 process and the most important part of it was
13 the human factor behind the technology and an
14 officer in the field was not going to be part of
15 that process. An investigator doing a follow-up
16 investigation based on a review hopefully by a
17 supervisor or their manager would say yes, we
18 think that we could pursue using -- the final
19 approval of using the technology came from the
20 unit itself because they may get a request and
21 they may determine that this doesn't meet the
22 conditions for using facial recognition.

23 Q. So all of this double-checking and the human
24 aspect of it, was that communicated to DPD
25 personnel once the technology was rolled out

1 that we now have this tool, but this is still a
2 human process?

3 **A. I don't have an answer for you on that because I**
4 **don't recall. We talked about the use of the**
5 **technology, but, again, as I've already testified**
6 **to, an officer working in the field was not**
7 **going to use the technology unilaterally and**
8 **rely on the technology to provide a match. We**
9 **had a special unit and only that unit would make**
10 **the decision first whether or not the technology**
11 **would be used.**

12 Q. And that special unit, are you referring to the
13 CIU, the Crime Intelligence Unit?

14 **A. That's correct.**

15 Q. Was that unit in place before facial recognition
16 began being used at the police department?

17 **A. I would say yes.**

18 Q. Okay. So once the Detroit Police Department
19 procured facial recognition technology, they added
20 that to CIU's portfolio of existing possibilities?

21 **A. As best that I can recall.**

22 Q. Okay. I want to talk about some of those policies
23 that you mentioned, but before I move to there,
24 I just want to wrap this part up. So you say
25 that the Detroit Police Department through

1 DataWorks had its own in-house process for
2 running facial recognition searches, right?

3 **A. As I've testified, we developed policy, our**
4 **policy, the policy of the Detroit Police**
5 **Department on how we would deploy and use the**
6 **technology. That was not DataWorks. That was**
7 **the Detroit Police Department.**

8 Q. Right.

9 **A. Our policy, I'm certain, is very different than**
10 **other agencies that use the policy and I've**
11 **already testified to that.**

12 Q. Right, no, and we're going to talk about
13 policies in just a sec. I just want to just
14 make sure that I understand the full landscape
15 of facial recognition technology at this point
16 in time. And these can just be yes or no
17 answers unless the answer is not yes or no, it's
18 not as simple as that. Did Detroit Police
19 Department have its own facial recognition
20 capabilities provided by DataWorks?

21 **A. As I've testified, that was the firm that we**
22 **ultimately through a selection process that was**
23 **conducted by the procurement office of the City**
24 **of Detroit and once we acquired it, we developed**
25 **policy because it was technology that we were**

1 using in-house.

2 Q. Okay. And in addition to the in-house technology,
3 you also have the capability of requesting
4 facial recognition searches from the Michigan
5 State Police, right?

6 A. We could have, except I don't recall after we
7 launched our own, I don't remember the timeline.
8 I'm not saying we didn't, in addition to having
9 our own, that we didn't on occasion go outside
10 to the Michigan State Police, but the idea was
11 that we didn't have to go outside because we had
12 our own technology. We had the trained
13 analysts, but maybe during the early stages of
14 deploying the technology -- I'm not even going
15 to testify to that because I don't know. I just
16 do know that the whole idea that we would have
17 our own technology and, therefore, we wouldn't
18 need to go to the Michigan State Police, but
19 there could have been an overlap period. It's
20 likely, I just don't recall.

21 Q. Okay. So other than your in-house technology
22 and searches through the Michigan State Police,
23 were you aware of any other avenues for the
24 department to run facial recognition searches,
25 whether it was a different agency, a different

1 company, a different vendor, different software,
2 are you aware of anything else other than those
3 two outlets?

4 **A. No, I'm not aware.**

5 Q. Okay. Let's move on to these policies that keep
6 coming up in conversation. So I'm going to
7 introduce Exhibit B.

8 (Marked Exhibit B.)

9 Q. (Continuing, by Mr. Wadood) Do you see this
10 document on your screen?

11 **A. Yes.**

12 Q. Okay. Do you recognize this document?

13 **A. Not off-hand.**

14 Q. Okay. So based on just this cover page, this
15 looks like a Detroit Police Department training
16 directive on the use of traffic light mounted
17 cameras and facial recognition technology. Does
18 that look right?

19 **A. Yes.**

20 Q. And it looks like on the top right it's dated
21 April 9th, 2019, is that right?

22 **A. If that's what it says, yes.**

23 Q. Okay. So you don't recall this training
24 directive at all?

25 **A. We, the department puts out many training**

1 directives, special orders and I might have
2 misstated earlier, maybe even with the use of
3 facial recognition technology came out as a
4 training directive.

5 Q. And not a special order?

6 A. I call it a special order. I might have mixed
7 up police departments. I've been with enough of
8 them, so yeah.

9 Q. So since you don't recall this training
10 directive, you don't recall having a role in
11 developing it or approving it?

12 A. I am certain based on the date that I was aware
13 of it at the time and reviewed it and so I just
14 don't have specific recall.

15 Q. Okay. Let's scroll down to the last page that
16 starts with use of facial recognition technology.
17 You'll see here there's a short policy on the
18 use of facial recognition technology. It says
19 that, "Facial recognition may only be used in
20 support of an active or ongoing criminal or
21 homeland security investigation." Did I read
22 that correctly?

23 A. That is correct.

24 Q. So this section here doesn't limit facial
25 recognition to any particular types of crimes,

1 any particular types of felonies, does it?

2 A. I don't see it delineated here, but if this was
3 an early training document, I think because of
4 the course of discussion with the Board of
5 Police Commissioners, we may have enhanced the
6 policy to just include violent crimes, so that
7 could have been an earlier directive, but I also
8 know there's a directive out there that isolated
9 the use of the technology to violent crimes because
10 of some of the concerns raised by the community and
11 by the Board of Police Commissioners as I recall.

12 Q. Right. And we will get to that subsequent
13 policy shortly. Just as of now, as of April
14 2019 the document we're looking at, it doesn't
15 look like this limited facial recognition to any
16 particular violent crimes, did it?

17 A. Again, I told you at the beginning when you showed
18 me, I didn't have any independent recollection of
19 this document, so I didn't know what specifically
20 was in it and so now that you say that was there
21 and it didn't limit the use of any active criminal
22 investigation, but I do know a subsequent
23 policy, that would not have sufficed.

24 Q. Okay. Right, but at this point in time, putting
25 the subsequent policy aside, which we will look

1 at in just a few minutes, at this point in time,
2 April 2019, there was no such limit on the types
3 of crimes you can use facial recognition on, right?

4 **A. Reviewing this document that I have no recall,**
5 **if that's what it says, I don't have any**
6 **independent recollection of it.**

7 Q. Okay. So like I said, this document is dated
8 and like the document now shows, this document
9 is dated April 9th, 2019. Do you recall any
10 earlier written policies at the department
11 regarding facial recognition technology?

12 MR. CUNNINGHAM: Earlier than what?

13 Q. (Continuing, by Mr. Wadood) Earlier than
14 April 9th, 2019?

15 **A. I have no independent recollection. I know that**
16 **we had a use of technology policy. It was more**
17 **of a blanket policy that would -- and I can't**
18 **specifically state what was in that, and that**
19 **may have even pre-dated me. Again, we're**
20 **talking about a directive that came out, what,**
21 **four years ago and I've been involved in a**
22 **number of policies over my time, so I just don't**
23 **have specific recall for it. I don't sit around**
24 **here now as a retired police chief thinking**
25 **about policies I may have reviewed or adopted.**

1 Q. That's absolutely fair. In this deposition
2 we're talking about what you know and what you
3 recall and what you understand based on a review
4 of documents, so just to make sure I have you
5 clear, you don't recall any written policy
6 before the one we're looking at on the screen
7 right now?

8 **A. Not off-hand, but I did just cite a blanket**
9 **technology policy. I think we started delineating**
10 **the facial recognition because of a lot of the**
11 **concern over the use of it.**

12 Q. Okay. And that general use of technology policy
13 didn't specifically discuss facial recognition
14 technology, did it?

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

16 (Marked Exhibit C.)

17 Q. (Continuing, by Mr. Wadood) Okay. I'm going to
18 move on to Exhibit 3 -- or Exhibit C. Do you
19 see this new document on the screen?

20 **A. Yes.**

21 Q. Okay. Do you recognize this document?

22 **A. Not off-hand.**

23 Q. Okay. Based on the cover page, it looks like
24 it's a crime intelligence unit standard
25 operating procedures. Is that right?

1 A. That's correct.

2 Q. And it looks like it was revised on April 1st,
3 2019, is that right?

4 A. According to the document, yes.

5 Q. Are you aware that the Detroit Police Department's
6 Crime Intelligence Unit operated under standard
7 operating procedures?

8 A. Many of our units had SOPs or standard operating
9 procedures. I have no specific recall of the
10 content of the SOP for crime intelligence.

11 Q. Right. Content aside, were you aware that the
12 CIU follows its own set of SOPs?

13 A. I wouldn't say -- well, as I've already testified
14 to, many units already have their own SOPs and
15 again at some point I may have reviewed that
16 document once it became effective and then once
17 it was revised, I'm sure I reviewed it. I don't
18 recall.

19 Q. Sure. So you don't have any specific recollection
20 that the CIU had its own set of SOPs?

21 A. I'm suggesting to you a lot of units have SOPs,
22 not every unit. I just don't have any
23 independent recollection of this SOP.

24 Q. Okay. So I'm going to jump down to Section 8 of
25 this SOP. So it looks like this Section 8 has

1 to do with facial recognition, right?

2 **A. It looks that way.**

3 Q. And you don't have any recollection of this
4 specific section as it was revised in 2019?

5 **A. I have no recollection. That would make it**
6 **again four years ago.**

7 Q. Right. Okay. And like you said for Exhibit B,
8 you have no recollection of any earlier written
9 policies before April 2019 on facial recognition
10 other than the general use of technology policy?

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

12 Q. Okay. So then up until April of 2019, is it
13 your understanding that DPD personnel were able
14 to use facial recognition technology in-house
15 without needing to follow any specific written
16 policy other than the general use of technology
17 policy?

18 **A. I don't recall the department deploying the**
19 **technology without some type of policy. There**
20 **were discussions, there were revisions, and, again,**
21 **a lot of it had to do with, and I've testified**
22 **to this several times in this deposition, that**
23 **there was a review by the police commission and**
24 **based on that review and suggested changes, I'm**
25 **sure we made some modifications. I'm not**

1 **certain what. I don't recall.**

2 Q. Okay. But do you recall why it took, what was
3 it, 1.5, two years between the passing, the
4 approval of the contract and the passage of
5 these policies? Do you know why it took a
6 couple years to develop those policies?

7 **A. I do not know.**

8 Q. Okay. Does the review process for department
9 policies, review of the department policies
10 usually take that long?

11 **A. I'm not certain. I don't recall. I just don't**
12 **recall about this. This policy was unique**
13 **because of what I've already testified to.**
14 **There was certainly some controversy associated**
15 **with it and so it didn't happen in a short time.**
16 **Two years, I'm not familiar with that length of**
17 **time, so I don't recall.**

18 Q. Okay. But putting aside this specific facial
19 recognition technology, generally speaking, do
20 new department policies usually take one and a
21 half to two years to go through the approval
22 process?

23 **A. It depends on the policy. Again, I don't recall**
24 **that it took two years. It may well have taken**
25 **two years. I don't have that independent**

1 recollection of length of time of that policy or
2 any policy.

3 (Marked Exhibit D.)

4 Q. (Continuing, by Mr. Wadood) Okay. Let's move
5 onto Exhibit D then. Can you see this new
6 document on your screen?

7 A. I do.

8 Q. Do you recognize this document?

9 A. It looks familiar, yes.

10 Q. Okay. Was this the document you reviewed in
11 preparation for this deposition?

12 A. I did look at that document, yes.

13 Q. Okay. So this looks like a manual directive on
14 facial recognition, right?

15 A. That's correct.

16 Q. Number 307.5?

17 A. Correct.

18 Q. It looks like it was a new directive, right?

19 A. Correct.

20 Q. Effective September 19th, 2019, right?

21 A. Correct.

22 Q. So do you recall any earlier written manual
23 directive on facial recognition before this
24 September 2019 one?

25 A. I'm unaware of any earlier facial recognition

1 **manual directives.**

2 Q. Okay. Let me scroll down to Section 5 of this
3 manual directive. Let's look at 5.2, "Members
4 shall not use facial recognition technology
5 unless that technology is in support of an
6 active or ongoing Part 1 Violent Crime
7 investigation, (e.g. robbery, sexual assault or
8 homicide) or a Home Invasion 1 investigation."
9 Did I read that correctly?

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

11 Q. And was this the limitation to violent crimes
12 that you were mentioning before?

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

14 Q. Okay. Do you remember why this policy change
15 occurred between April and September of 2019
16 where it was limited to certain crimes?

17 **A. As I've already testified to, there was controversy**
18 **surrounding the use of the technology. We took**
19 **community input, Board of Police Commissioners**
20 **input, input from critics, so we wanted to make**
21 **sure that in order to satisfy all sides, that we**
22 **would only use it for violent crimes.**

23 Q. But why was that -- so I understand you received
24 some criticism about the technology. There was
25 controversy surrounding facial recognition in

1 Detroit and around the country, so why was the
2 response to that controversy this limit on
3 particular crimes instead of some other limit or
4 some other prohibition?

5 A. It was something that we collectively agreed on
6 that because of the seriousness of violent
7 crimes, robbery, homicide, for example, that
8 people would more readily embrace the use of it
9 as a tool, particularly if it ended up resulting
10 in a violent predatory criminal being taken off
11 the street. Again, it's a lead only, a tool,
12 but it was a very useful tool and I many times
13 would say in the past we would use archaic mug
14 books that victims looked through and it was a
15 time-consuming process and many times not
16 effective. Sometimes it was effective and
17 that's only provided that the person had been
18 arrested in the past.

19 Q. Okay. Let's move down to 5.4. It looks like it
20 lays out the process for requesting facial
21 recognition technology. It explains how you
22 request the technology, how you handle photographs,
23 how CIU performs the facial recognition searches
24 and how you handle an investigative lead. That
25 looks to be, that all looks to be an expansion

1 of the April 2019 policy, right?

2 **A. Yes, it does.**

3 Q. Okay. Do you remember what motivated the
4 department to expand facial recognition
5 technology process as it was laid out here?

6 **A. As I've already testified to, we were in**
7 **negotiation or conversations with the Board of**
8 **Police Commissioners, community activists and we**
9 **wanted to make sure that we had a final policy**
10 **that people would embrace and understood, not**
11 **that everyone would agree, because there's still**
12 **folks that don't agree with facial recognition,**
13 **but that said, we wanted to make sure that we**
14 **had a very strong policy and I feel that the**
15 **policy that we ultimately developed is probably**
16 **one of the more rigorous policies associated**
17 **with the use of facial recognition.**

18 Q. Mm-hmm. So since in September 2019 the
19 department limited the types of crimes facial
20 recognition can be used on, you can imagine that
21 there may have been searches run prior to
22 September 2019 on non-violent crimes, right?

23 **A. I am certain there were searches, but, again,**
24 **that was only developed in response to some of**
25 **the concerns that came from the community and**

1 **the Board of Police Commissioners and that was**
2 **the fifth time I made that statement.**

3 Q. Right. So was there some sort of retroactive
4 review of facial recognition searches that were
5 conducted before September 2019 to see if they
6 would comply with the new policy?

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

8 Q. Okay. Did you as chief instruct anyone that
9 they could no longer rely on facial recognition
10 searches that were run prior to this policy?

11 **A. I don't recall ever saying that.**

12 Q. Okay. And you're aware that the Shinola
13 investigation at the heart of this case, the
14 charge in that case was of retail fraud in the
15 first degree?

16 **A. I am.**

17 Q. Okay. And so under the September 2019 policy,
18 that crime would not have been eligible for
19 facial recognition, is that right?

20 **A. It would not have.**

21 Q. But prior to September 2019 it would have?

22 **A. Restate your question.**

23 Q. But prior to September 2019 the Shinola
24 investigation and the alleged crimes involved in
25 that investigation would have been eligible for

1 facial recognition?

2 **A. I believe so. As I understand that crime and**
3 **the time period, that was taken through the**
4 **Michigan State Police and we didn't have**
5 **specific policy, as I understand, relative to**
6 **that. Had that occurred once we purchased our**
7 **own technology and developed policy, it would**
8 **have been a violation of department policy, and**
9 **so as far as I recall based on the timeline, it**
10 **was done solely through the MSP. I can't tell**
11 **you what MSP's policy was.**

12 (Marked Exhibit E.)

13 **Q. (Continuing, by Mr. Wadood) Okay. Let me move**
14 **on to the next exhibit. This is Exhibit E. Do**
15 **you recognize this document?**

16 **A. I recognize my initial, which was my initial.**

17 **Q. Okay. So it looks like this is the transmittal**
18 **of a written directive on facial recognition**
19 **that was, you know, that went through the**
20 **approval process in July of 2019. Does that**
21 **look right?**

22 **A. That's correct.**

23 **Q. Okay. But it was never formally adopted in July**
24 **of 2019, is that right?**

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

1 Q. Okay. Do you recall there being earlier
2 iterations of the facial recognition technology
3 policy, the manual directive policy before
4 September of 2019?

5 A. As I indicated, I don't recall. You've shown me
6 several documents that predates this one, so given
7 my review based on this deposition, there would
8 have been an earlier iteration of the policy, so
9 I don't have any independent recollection.

10 Q. Okay. Independent of the document you see on
11 your screen, do you recall going back and forth
12 with the Board of Police Commissioners on policy
13 revisions for the facial recognition manual
14 directive?

15 A. I just testified moments ago that there was a
16 lot of back and forth with the police commission,
17 possibly even City Council at some point, so
18 I've already asked -- I was asked the question
19 and I answered it.

20 Q. Okay. And so it took some time for that final
21 September 2019 policy to be approved and
22 implemented, given the back and forth, right?

23 A. I don't recall the time. I would suppose so,
24 given the back and forth.

25 Q. Okay. And so let's take this draft policy as an

1 example and scroll down to Section 4.2. This
2 looks to be the same limitation that's in the
3 final September 2019 policy, right, that it's
4 limited to Part 1 violent crimes and to Home
5 Invasion 1 crimes?

6 **A. That's right.**

7 Q. Okay. So it looks like the department was aware
8 that there needed to be limits on facial
9 recognition technology use earlier than
10 September 2019, right, and that's why you went
11 back and forth with the Board of Police
12 Commissioners?

13 **A. Again, as I testified, it was a conversation**
14 **between the commission. They reviewed, in some**
15 **instances I don't know specifically what they**
16 **wanted, but ultimately the final product if this**
17 **is the final policy relative to facial recognition.**
18 **There were a lot of discussions surrounding it.**

19 Q. So during the course of those discussions during
20 the course of that back and forth, did you or
21 any other department leadership implement any
22 interim policies or trainings or special orders
23 regarding the proper use of facial recognition
24 technology while this policy, the formal policy
25 was being worked out?

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

2 Q. Okay. So also why did the department continue
3 to use facial recognition technology while the
4 policy governing it was still in the approval
5 process?

6 **A. I don't recall why, but clearly as I've already**
7 **testified to, we were using facial recognition**
8 **technology through the Michigan State Police, so**
9 **it wasn't technology that we just started using**
10 **once we acquired our own software, so I don't**
11 **know the why, but we were already using the**
12 **technology. It wasn't like new technology to**
13 **the department. What was new is that we had our**
14 **own.**

15 Q. Right, but like you testified earlier, you have
16 no control over MSP's own policies. You only
17 have control over the department's policies, is
18 that right?

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

20 Q. So while the department's own policy on facial
21 recognition was going through the approval
22 process, couldn't the department have paused the
23 use of facial technician technology while the
24 policy was being approved?

25 **A. I don't know why we would pause it. We were**

1 already using the technology.

2 Q. Right. So during you're saying during --

3 A. I don't recall why we didn't pause it. The only
4 thing I can think of is that we were already
5 using the technology prior to acquiring our own
6 facial recognition software, and we already had
7 a policy in place, not necessarily specific to
8 facial recognition, but a technology policy of
9 some sort.

10 Q. Okay. So let's talk generally from September
11 2019 onwards. Were there any updates, from
12 September 2019 until you left the department in
13 June of 2021, were there any subsequent updates
14 to the September 2019 manual directive?

15 A. I don't recall.

16 Q. Okay. Setting policies aside, what about training?
17 When the DPD began to roll out facial recognition
18 technology in-house, did you feel that it was
19 important to train personnel about how to
20 properly use the technology?

21 A. As I've testified earlier in this deposition,
22 the only person using the technology were
23 members of the Crime Intelligence Unit and not
24 every member in that unit had the authority to
25 use the technology, so it was important that the

1 analysts were trained, the supervisors in the
2 unit were trained, but not every member of the
3 unit was using the technology, and as I've
4 already testified to, an officer in the field
5 couldn't just come into the Crime Intelligence
6 Unit and start deploying and using the technology.

7 Q. So you're saying that only the relevant folks in
8 the Crime Intelligence Unit were trained on how
9 to use facial recognition technology?

10 A. I could not as the Chief of Police use the
11 technology. As I've testified to, the analysts,
12 members of that unit, were the only ones that
13 could use it.

14 Q. Right. And I'm talking specifically about training.

15 A. I'll say it again, they were educated on the
16 technology, but not the use in terms of actually
17 going through the process the analysts go
18 through. I've testified to the fact that the
19 analysts had to go through the FBI's school for
20 facial recognition. I did not go through that
21 school. It's a specific skill.

22 MR. CUNNINGHAM: If there's some kind
23 of ambiguity you're trying to clear up, I don't
24 think the chief is getting what the ambiguity is
25 and I'm not getting it either, if you could

1 please rephrase.

2 MR. WADOOD: I'm about to move on to a
3 different question.

4 Q. (Continuing, by Mr. Wadood) Let's put the use of
5 facial recognition technology aside and talk
6 about facial recognition technology in general.
7 Were people outside the Crime Intelligence Unit
8 trained on facial recognition technology in
9 general? Whether or not it has to do with the
10 technical use of which buttons to press and how
11 to run a search, were people outside of CIU
12 trained on facial recognition technology in any
13 way?

14 A. You showed me a document, a training directive
15 that delineated a manual that every department
16 member has access to, and when new training
17 directives would come out, they would be
18 disseminated. Whether or not every member of
19 the police department read it, understood it,
20 what was most important is the people that were
21 using the technology understood how to use it.
22 It doesn't matter if a detective out in the
23 7th Precinct doing a follow-up investigation
24 wants to, you know, have a review through facial
25 recognition. He or she could do that. Ultimately

1 it would be left up to the analysts to decide
2 whether or not it met the established criteria,
3 not the detective in the field, not me as the
4 Chief of Police. I mean I understand basically,
5 but I couldn't go through and run the technology,
6 so it's not even practical and your questions
7 are somewhat ambiguous and repetitive and just
8 to cut right to it, of course they were aware of
9 the technology. They did not execute on their
10 own running the technology. They couldn't do
11 it. I couldn't do it as the Chief of Police.

12 Q. No, I understand that, so let's talk about that
13 detective you were talking about or detectives
14 in general. Like you said, like you've testified,
15 they're not the ones pressing the buttons and
16 running the technology. They are, however, the
17 ones requesting that a search be run by the CIU,
18 is that right?

19 A. They can, yes.

20 Q. Okay. And so were detectives trained on how to
21 request a search, for example?

22 A. Every member of the department received information.
23 The detectives were aware of the technology.
24 Supervisors, supervisory detectives were aware
25 of the technology, as well as the command officers

1 of the stations were aware, and so they don't
2 make the early decisions because they don't have
3 the specific training, so the detective might
4 say I have this image and I want to take it over
5 to the Crime Intel Unit. Ultimately the Crime
6 Intel Unit trumps whether or not they will
7 execute a search using the technology, so it's
8 okay that the detective or police officer as
9 part of the investigation takes it over to CIU,
10 but that's not the final decision. CIU, based
11 on their training, makes a decision whether or
12 not the technology will be used, just like with
13 the Michigan State Police. The department might
14 take an image to the Michigan State Police, but
15 Michigan State Police can deny or approve using
16 the technology.

17 Q. Right. And so you say that at least on the
18 investigative side, detectives were aware of the
19 technology, supervisors were aware of the
20 technology. What do you mean by aware? How
21 were they made aware of the technology?

22 A. We've talked about this. It was a training
23 directive. Detectives were aware that there was
24 a technology. It's not like we acquired the
25 technology. It doesn't even make sense, I mean

1 if someone is doing an investigation, certainly
2 we want them to know what tools are at their
3 avail, so they know that CIU has the technology
4 and they can take the image as part of the
5 investigative work over to CIU and they can have
6 a discussion. As I've testified to several times,
7 they make the determination whether or not the
8 technology will be used, not the detective in
9 the field and not the -- or MSP makes the
10 decision, not the person bringing the image.

11 Q. Okay. I'm looking back on the screen at
12 Exhibit B, which is the training directive you
13 mentioned. I'm struggling to find out if I were
14 a detective how to request a facial recognition
15 search as far as any mention of CIU or an e-mail
16 address box or anything like that, so what I'm
17 asking is not necessarily whether detectives
18 were trained on how to use the technology. I'm
19 asking if there was any training, any discussion
20 on how to request a search, and understanding of
21 how this whole process works because what I'm
22 looking at at least doesn't tell me that.

23 A. I am certain they were made aware of it,
24 detectives. I would have monthly, bi-monthly
25 meetings with my command team. We would discuss

1 a number of issues. Sometimes those issues were
2 discussed. I'm sure this came up a number of
3 times and I'm certain that during those meetings
4 we discussed what steps have to be taken. Do I
5 have independent recollection? I do not, but it
6 is -- we have meetings, staff meetings and
7 sometimes information is communicated during
8 those staff meetings, not necessarily written in
9 this document.

10 Q. So you don't have any independent recollection
11 of an actual training to detectives that this is
12 how you run or how you request a facial
13 recognition search?

14 A. If the deputy chief overseeing the detective
15 unit had a meeting solely on facial recognition,
16 I don't have any independent recall. I may have
17 even directed, I don't recall, I may have
18 directed that the detective chief officer
19 conducts a meeting with all of the detective
20 supervisors in the department and they did have
21 meetings on a regular basis to talk about
22 different issues. I'm certain that happened.
23 When, I can't tell you. I wasn't sitting in
24 those meetings, but I have sat in meetings with
25 my executive team to have conversations about a

1 number of different policy decisions. I am
2 certain that I briefed out and gave feedback to
3 the executives in the department so they could
4 take that information back to the people under
5 their command.

6 Q. And is that briefing to your leadership team and
7 command officers, is that usually written in
8 some form of e-mail or is that more verbal phone
9 calls, person-to-person conversations?

10 A. The meetings are usually in person.

11 Q. Okay. Let's take a break for a few minutes and
12 we can come back.

13 A. If you want to plow through because I want to
14 wrap this up and if I've got to come back, so be
15 it, so if you have some other pressing things
16 that you want to ask me, I would strongly
17 suggest you do that.

18 Q. I am attempting to get us through all this
19 material by four p.m. and this break is only
20 going to be a few minutes, so let's take a
21 three-minute break and come back at 2:43.

22 MR. CUNNINGHAM: Okay.

23 (Recess 2:40 p.m. to 2:44 p.m.)

24 MR. WOOD: Let's go back on the
25 record then.

1 Q. (Continuing, by Mr. Wadood) Okay. Chief Craig,
2 last question I have for you on the training
3 front is are you aware of something called the
4 detective school?

5 A. I am.

6 Q. Can you tell me what that is?

7 A. **It's a school training new detectives,**
8 **detectives who are recently promoted.**

9 Q. Okay. And some of the witnesses in this case
10 have previously testified that the detective
11 school started sometime in the last few years.
12 Do you have a more specific time period during
13 which the detective school started?

14 A. **I do not. The detective rank did not exist when**
15 **I was appointed in 2013. I created that position**
16 **and subsequent to the creation, it was a promotion**
17 **and like other ranks, whether it's lieutenants,**
18 **sergeants, and now detectives, they all have to**
19 **attend a school, if you will, basic training.**

20 Q. Okay. What year did you start the detective
21 position?

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

23 Q. Was it before 2019?

24 A. **Most likely. I just don't recall when.**

25 Q. Okay. And do you recall if the detective school

1 started earlier than 2020?

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

3 Q. Okay. Do you remember what the detective school
4 covered?

5 **A. I don't have any specific recollection of basic
6 investigative techniques, but I didn't sit
7 through a class myself. I probably looked at
8 the curriculum, but I don't recall specifically
9 what was instructed.**

10 Q. Okay. Did you have any role in creating the
11 detective school? I know you had a role in
12 creating the detective position, but did you
13 have any role in creating the school itself?

14 **A. I gave direction to my staff to create a school
15 just like for the sergeants and lieutenants, and
16 they recommended the curriculum. Ultimately I
17 approved it.**

18 Q. Okay. And do you know if any investigative
19 positions, such as detective who entered that
20 role before the school started, do you know if
21 they had to go back and take the school?

22 **A. I'm unaware of that.**

23 Q. Okay.

24 **A. There may have been -- I want to say this as a
25 qualifier. Even though I created the rank of**

1 detective and it was a promotion, prior to --
2 prior to the detective rank, there were police
3 officers working in investigative assignments.
4 I am not certain if they went through any kind
5 of training prior to the establishment of the rank.

6 Q. Okay. And were those investigative police
7 officers rolled over into the detective rank
8 once it was created?

9 A. No, there was a test. Some police officers
10 stayed in the detective assignments because we
11 didn't have enough detectives to fully staff
12 every detective unit in the city, so it was a
13 combination of police officers and detectives
14 working in detective assignments.

15 Q. Okay. So now that we've laid out the policy and
16 training landscape at the Detroit Police Department
17 to the extent we could have, let's bring the
18 Shinola investigation back in. So for the sake
19 of your time, I want to fast forward to your
20 earliest involvement in the Shinola investigation.
21 Can you tell me when that was?

22 A. I don't recall when. I was made aware of it.

23 Q. Do you know if you were made aware of it while
24 the investigation was underway?

25 A. I think it was after the issues were raised by

1 your client and it was brought to the attention
2 of the department is probably when I first heard
3 about the investigation.

4 Q. Okay. So you didn't hear about the investigation
5 until after Mr. Williams was arrested and released
6 from custody and his charges were dropped?

7 A. That was probably when I was made aware of it.
8 Again, as I testified to earlier, I am not
9 briefed on every single investigation that's
10 conducted by the Detroit Police Department,
11 particularly a theft investigation. That
12 generally would never come to me. A homicide,
13 yes. A rape, yes, but when it comes to a theft
14 in general, I probably would not know about that
15 unless a particular area of the city is having a
16 significant number of thefts, that might be
17 something we would talk about during our crime
18 briefings, but other than that, no.

19 Q. So then why did this particular theft come to
20 your attention or why was it brought to your
21 attention?

22 A. Because of the allegations that were made by
23 your client I'm assuming, I don't recall when,
24 wrongful arrest, and then when, in the interest
25 of time, I'll go right into it, when I became

1 aware of it, I publicly made the statement that
2 I felt the detective's investigation was sloppy
3 and but I didn't solely blame the detective
4 because I subsequently learned that he was a new
5 investigator and but I also learned that he
6 submitted a warrant to the prosecutors and they
7 approved it, so no doubt the courts felt there
8 was probable cause to believe a crime had been
9 committed. My concern was less about
10 constitutional because the fact that the court
11 signed off on it or the prosecutor signed off on
12 it suggested it was constitutional there was
13 probable cause to arrest your client based on
14 the review by the prosecutors and the courts.
15 However, that's not the standard I had set in
16 the police department. I set a standard of
17 excellence, and for me, I couldn't understand
18 how in a case like this that the witness was not
19 an eyewitness. It was a witness who looked at a
20 videotape sometime later and then it was based
21 on her review who identified your client. I
22 felt again striving for excellence in the police
23 department, that a case like this, especially a
24 newer detective, couple of questions came to
25 mind. Where was the supervisor? Where was the

1 manager. Why wasn't there some early intervention
2 keeping along the lines of excellence? Now,
3 again, subsequently the case was approved for a
4 warrant and in that investigative report certainly
5 it delineated in the investigative report that
6 the security officer who ultimately identified
7 your client looked at this videotape, I don't
8 know, four, six days later, I don't recall the
9 time, and they made a decision that the arrest
10 would be probable cause. Okay. So but I had a
11 personal issue because I felt there could have
12 been more scrutiny at the beginning. Didn't
13 mean it was an illegal arrest because we as
14 police officers don't make charging decisions.
15 We might make an arrest for probable cause, but
16 when it comes to charging decisions or getting a
17 warrant, that is not our decision and the courts
18 made that decision, as I recall.

19 Q. So then as far as your knowledge and recollection
20 goes, let's focus on your -- on the scrutiny and
21 the excellence that you require of your
22 department, and let me just go down real quickly
23 and just confirm. Do you recall how you found
24 out about the Williams case. Did any particular
25 person tell you about it?

1 A. I don't recall. When I became aware of it, I
2 know I wanted to know more, and so of course I
3 had my staff give me a full briefing, and so,
4 again, I tend to look through issues through a
5 lens of excellence and this was a new detective
6 and I was less concerned about the new detective
7 as I was concerned about a review at a higher
8 level because he was a new detective. A more
9 experienced detective probably would not have
10 approached it that way. I don't think it was
11 anything nefarious on the part of this new
12 detective. I just felt more scrutiny should
13 have been placed, and the other thing I will
14 add, that policy regarding facial recognition
15 came after this incident. As you've already
16 alluded to through your questioning, because it
17 was a theft investigation, this would have been
18 outside of our policy, but that policy, as I
19 understand it, did not exist.

20 Q. Okay. So let me take that one piece at a time.
21 So you said you asked your staff to brief you on
22 the details of the investigation, is that right?

23 A. Yes.

24 (Marked Exhibit F.)

25 Q. (Continuing, by Mr. Wadood) I threw up a document,

1 Exhibit F on the screen. Do you recognize this
2 document?

3 **A. Not off-hand, but it came from the assistant**
4 **chief and I probably requested the information,**
5 **but I don't have any specific recall of this**
6 **particular memorandum.**

7 Q. Okay. Let me just scroll to the bottom and read
8 the conclusion for you. It says -- this is
9 again from Assistant Chief White, now Chief
10 White. "While the specific circumstances of
11 this case are not determined, I firmly believe
12 that our current Policy Directive prevents any
13 similar case to occur in the future." I'm
14 assuming at this point in time, this memo is
15 dated July 2020, by current policy directive,
16 Chief White likely was referring to that
17 September 2019 policy we looked at?

18 **A. It appears so, yes.**

19 Q. So based on what you've just testified, you
20 would agree with Chief White's conclusion here?

21 **A. I would.**

22 Q. That under the September 2019 policy Mr. Williams
23 would not have been arrested?

24 **A. Well, again, it would have been outside of our**
25 **current policy. It was a theft investigation,**

1 so that alone would not justify the use of
2 facial recognition.

3 Q. All right. So let's just assume that the
4 Shinola investigation did involve a Part 1
5 crime. Let's say the Shinola thief brandished a
6 gun and it was a robbery. Would it still have
7 been possible under the September 2019 policy
8 which covers robbery, would it still have been
9 possible that facial recognition technology
10 falsely identified that person as Robert Williams?

11 A. You want me to speculate, so I'm going to give
12 you an answer based on the speculation. As I've
13 indicated with facial recognition, I can't speak
14 on what the MSP did or didn't do. I wasn't
15 there. I don't run MSP, but I have every bit of
16 confidence in the way we deploy the facial
17 recognition, certainly with the layers of review
18 that are baked in to when a match is made,
19 again, one analyst who is doing the initial
20 work, a second analyst who confirms it, and then
21 a supervisor who approves it. I would believe
22 in that case it would have stopped, but I can't
23 speak on what the MSP does in terms of layers of
24 review. I have no idea, but you're asking me
25 something on speculation. We're still talking

1 about human error. Do I think that in every
2 instance a human behind reviewing the technology
3 alone would get it wrong? That's the whole idea
4 by placing in layers of review because it's
5 highly unlikely, at least we hope, that three
6 people are going to get it wrong and I have a
7 very high amount of confidence in the individual
8 who was the supervisor in that unit. He was
9 very thorough and I'm certain that if an analyst
10 got it wrong, he would have stopped it or
11 another analyst would have, but I did not get
12 any reports of that happening.

13 Q. Okay. And other than the memo on the screen
14 that you're looking at, do you recall any other
15 documents or reports that were sent to you
16 regarding the Shinola investigation?

17 A. I do not.

18 Q. Okay. So I know you said you made some public
19 comments about the case, about the sloppy
20 investigative work. I'm going to get to that in
21 a second. Before I move to that, did you do
22 anything else internally within the department
23 such as institute new reforms in response to the
24 Shinola investigation and what happened to
25 Mr. Williams?

1 A. I don't recall. I know we had a number of
2 discussions. I think collectively we agree had
3 we been operating with our current policy, with
4 our current staff, well-trained staff, this
5 would not have happened, but, again, I can't
6 speak to the MSP's investigation, but, again, I
7 stress that despite what I refer to as a sloppy
8 investigation, I should have been less critical
9 of the officer and more critical, which I was
10 ultimately more critical of supervision and
11 management.

12 Q. Okay. Let's move on to those public critiques.
13 I want to make sure I have all the public
14 comments down on paper, so you testified about
15 what happened in this case to the Detroit City
16 Council's Public Health and Safety Committee, is
17 that right?

18 A. I don't recall.

19 MR. CUNNINGHAM: No. Objection to your
20 categorizing that as testimony.

21 Q. (Continuing, by Mr. Wadood) You spoke to the
22 Detroit City Council's Public Health and Safety
23 Committee in June of 2020 about this case, is
24 that right?

25 A. I don't recall.

1 Q. Did you testify or speak to -- did you speak to
2 the Board of Police Commissioners on July 9th,
3 2020 about this case?

4 A. I do recall briefing the Board of Police
5 Department -- Board of Police Commissioners
6 regarding this case and it may have been even
7 beyond the one time. I know there were several
8 discussions, as I've testified, several
9 discussions with the board about facial
10 recognition. I am certain that one of the
11 discussions centered on this case.

12 Q. Okay. But you don't recall any discussions with
13 the City Council about this case?

14 A. If there's documentation that says I did it, I'm
15 not saying I didn't do it. I have no independent
16 recollection, as I've already testified to.

17 (Marked Exhibit G.)

18 Q. (Continuing, by Mr. Wadood) Okay. I'm going to
19 throw up Exhibit G. This looks like a transcript
20 of a Board of Police Commissioners meeting
21 July 9, 2020, is that right?

22 A. Yes.

23 Q. Okay. I'm going to scroll down to page 55 on
24 the transcript. Okay. So if you'd like, I can
25 scroll up to confirm that this is you speaking

1 as you'll see on page 47, line five, your
2 discussion begins at this Board of Police
3 Commissioners meeting. Do you see that?

4 **A. I see it.**

5 Q. Okay. So you say later on in your remarks at
6 the end of page 55, "So one of the things as I
7 started out, as you know, this tragic situation
8 involving the arrest of Mr. Williams should not
9 have happened. Had the Board of Police
10 Commissioners' policy that was adopted ten
11 months ago been in place, this would not have
12 happened. We know that.

13 What I can tell you, as clearly as I
14 know the facts of this case, this was clearly
15 sloppy, sloppy investigative work. There's no
16 other way for me to say it but that way."

17 So you've already mentioned in this
18 deposition that you thought the investigative
19 work in this case was sloppy. Do you recall
20 what about Detective Donald Bussa's investigative
21 work in this case was sloppy?

22 **A. I had some concerns that we were using not an**
23 **eyewitness, but a witness that viewed an image**
24 **of a theft days after the event, and so I had**
25 **concerns as to how would we use someone who**

1 wasn't at the scene. That was my core concern,
2 however, as I've testified to, according to the
3 courts, it did not make this an unconstitutional
4 arrest. I just felt from my view that we should
5 not have used a witness who wasn't an eyewitness.
6 It would have been different if she was deployed
7 at Shinola at the time the theft occurred. She
8 saw the suspect and then subsequently looked at
9 a video and said, "Yeah, that was the suspect I
10 saw commit the crime," so that was my concern.

11 Q. So you're clearly a very experienced police
12 executive. Can you tell me why it's an issue
13 that someone who is not an eyewitness, someone
14 who wasn't even on the scene of a crime, can you
15 tell me why it's an issue that someone like that
16 is used in a photo line-up?

17 A. I can't tell you why. I don't know why. I
18 wasn't the detective. I wasn't the supervisor
19 running the detective unit. Again, I made a
20 judgment based on my own personal experience,
21 but that said, it had to do with striving for
22 excellence and I didn't think that was good
23 police work.

24 Q. Right. So I'm not asking you why that person
25 was used in this case. I'm asking you generally

1 speaking from your experience as police chief, why
2 is it an issue of excellence or lack of excellence,
3 why is it a problem for a detective to use someone
4 who is not an eyewitness in a photo line-up?

5 A. I guess that's based on my years of training. I
6 have not personally heard of a scenario like
7 this. I'm not saying that you can't use a
8 video, as we have many times to solve crimes
9 and, but, again, you've got a person who is not
10 an eyewitness, that basically what would have
11 made this security guard more of a witness than
12 the investigator. Let's say if the investigator
13 had pulled the images and based on images that
14 captured a suspect in the store at the time
15 taken items and there was an effort to identify
16 him or her, I just felt like she's not an
17 eyewitness, my personal opinion, my personal
18 judgment and I just felt it wasn't good
19 detective work.

20 Q. Okay. I understand. So you're saying there's
21 little to no difference between Catherine Johnston
22 the security consultant, that non-eyewitness
23 looking at the video and me looking at the video
24 as far as who is a better witness?

25 A. Right, I don't know the value. Again, if the

1 security guard had been on scene and was a
2 direct eyewitness, to me that's different.

3 Q. Okay. So let's move on just a little bit in the
4 transcript. You say the other big concern, this
5 is on line seven of page 56. "The other big
6 concern that I didn't talk about much in the
7 public media was that I'm deeply concerned about
8 the lack of failed oversight concerning this case.

9 I cannot understand and will not accept
10 command-level personnel who are not aware of the
11 key issues emanated out of their command. And
12 in this instance, how did one not know that there
13 was a new detective who used facial recognition
14 before the policy and it just went over to the
15 Prosecutor's Office where the Prosecutor's
16 Office ultimately signed?"

17 So can you tell me what those failures
18 in oversight were that you were talking about?

19 A. I've already testified to it, the fact that it
20 appears on its face this new detective didn't
21 have any supervisory -- no, in fact, I think the
22 detective did, in fact, go to the supervisor and
23 the supervisor suggested take it to the prosecutor.
24 They make the final decision, so the prosecutor
25 based on my review of the investigator's report

1 knew that this was not a direct eyewitness, this
2 security officer.

3 Q. I'm not talking about the prosecutor. I'm
4 talking about the DPD supervisors in this case,
5 where were their failures in this case?

6 A. Well, the number one failure is he's a new
7 officer and I just felt something as important
8 as using facial recognition, they should have at
9 least run it by -- I'm not in disagreement with
10 I guess it was a lieutenant he went to and said,
11 well, let the courts determine it. Well, I
12 still would have had a concern over eyewitness
13 versus somebody who days later looks at an image
14 and says, "Yep, this is the right person."
15 That's my opinion, okay, so that's the failure
16 in my mind, and just so I can cut through this
17 instead of going through this lengthy conversation
18 about it, I did end up deappointing the command
19 officer in this case, not solely for this. It
20 was a pattern and practice in his command of not
21 paying attention to those things that I think
22 are critical in running an effective command.
23 There were things that kept coming up. It just
24 so happened this was the one thing that took me
25 to the place where I said, you know, he's not

1 involved to the degree I would want him involved
2 in providing accountability and oversight in his
3 command.

4 Q. Okay. So you're saying that was then Captain,
5 now Lieutenant Rodney Cox?

6 A. Yes.

7 Q. Okay. So you're saying that the reason you
8 deappointed now Lieutenant Cox was not just his
9 failure to oversee the Shinola investigation, it
10 was his general failure to oversee cases in the
11 3rd Precinct?

12 A. Right, unaware of what was going on in his
13 precinct in general.

14 Q. Okay. I'll move on to kind of discipline issues
15 in a little bit. Let me just get through this
16 transcript as quickly as possible. So you also
17 mention at the top of page 57 and you say, "We
18 now know that the image or the photograph that
19 was used in facial recognition was blurry. And
20 that under current policy, a blurry image would
21 not be used in facial recognition. But in this
22 instance it was used."

23 So at the time of the Shinola
24 investigation, let me see if I get this straight,
25 so the detectives at that time of the investigation

1 weren't being trained on what is or isn't a
2 quality input image for facial recognition?

3 A. I can't say whether they were trained or not,
4 but the fact is that I testified or I briefed
5 the commission as it's pointed out based on
6 current policy a blurry photograph could not be
7 used and so -- okay. So it couldn't be used, so
8 I just, you know, put criticism towards that,
9 but, again, it comes back to what I've testified
10 continuously through this deposition is that
11 it's more the call of the analyst to determine
12 whether or not the photograph is good enough for
13 an evaluation. Now, again, I am not the expert.
14 I am not the analyst. I'm just saying it was
15 baked into our new policy. I don't know what
16 the Michigan State analyst did or did not do.

17 Q. Okay. But you said that under the current
18 policy an image like this would not have been --
19 blurry images aren't accepted, right?

20 A. I've testified to that, so am I not being clear?

21 Q. So which policy are you talking about? Are you
22 talking about the policy we looked at, the
23 September 2019 policy?

24 A. I talked about blurry pictures not being used,
25 whatever policy that is, I don't know which one.

1 All I'm saying is it's in one of those policies
2 and, again, it's the analyst who makes the
3 decision whether or not the image is good enough
4 for a process in the software.

5 Q. Right, and that's what I'm asking you, which
6 policy is this prohibition on blurry images?

7 A. I don't know. I'm telling you it's in one of
8 them. I've seen it. I remember it and for me
9 to articulate it at a police commission hearing,
10 we know that blurry photographs are not -- but
11 the analyst makes that final decision. They
12 might look at it and say I think we can get a
13 match on this.

14 Q. So you don't know which policy. You know there
15 is a policy?

16 A. Or it could have been a discussion. I don't
17 recall. It's four years ago.

18 Q. Mm-hmm.

19 A. And I made that statement at the commission
20 because I knew, instinctively knew that blurry
21 photos are generally not satisfactory for a run
22 in the software, I just know that. Now, whether
23 it's written or not, maybe I misspoke.

24 Q. Okay. But your understanding today is that if
25 there were a policy prohibiting blurry images

1 from being used --

2 **A. Maybe. Ultimately, I'm going to say it for the**
3 **sixth time, the analyst ultimately makes a decision**
4 **as to whether a photograph meets the criteria,**
5 **not the Chief of Police. I can have an opinion,**
6 **but there have been conversations about blurry**
7 **images not being -- so I don't know what photograph**
8 **the analyst from MSP had. Maybe it was a**
9 **different photograph that I saw. Don't know.**

10 **Q. Okay. Let me power through this transcript.**
11 **Page 58, top of the page you say here that,**
12 **"What was left out, and what I'm advising you of**
13 **today, the person that made the pick in the**
14 **photo array was not a direct witness.**

15 In fact, the security staff member
16 wasn't even there when the theft took place."

17 We already talked about this issue, right?

18 **A. Yes, we did, asked and answered.**

19 **Q. (Continuing, by Mr. Wadood) All right. I'm**
20 **moving forward.**

21 **A. I can't see it on my screen anyway. You can**
22 **just read it. I don't know what happened, but**
23 **anyway.**

24 **Q. Moving on to the same page line 14, you said,**
25 **"If we had the policy in place today, it would**

1 have been a direct violation of policy." This
2 is in reference to the use of a non-eyewitness.

3 **A. I could have misspoke even there. It wouldn't**
4 **have even met, under our current policy, it was**
5 **a theft. If for no other reason, it's a theft.**

6 **Q. So you're saying this search, it's not that the**
7 **search or the arrest warrant wouldn't have been**
8 **issued because of the eyewitness issue. It**
9 **wouldn't have even gotten there because a facial**
10 **recognition search wouldn't have been run on a**
11 **theft crime?**

12 **A. Under current policy, how many times do I have**
13 **to say it? Under current policy we wouldn't**
14 **have done it, but as I understand the timeline,**
15 **that policy didn't exist, so it wouldn't have**
16 **happened, and if it would have happened, it**
17 **would have been a direct violation of policy.**

18 **Am I missing something?**

19 **Q. And that's what I'm trying to understand. You're**
20 **talking here on page 58 about eyewitnesses and**
21 **we're talking about the policy that you said you**
22 **testified to multiple times is a policy about**
23 **facial recognition.**

24 **A. Look, my reference to eyewitness, that was my**
25 **personal judgment call. I would have preferred,**

1 as I've testified, that I would have wanted
2 involvement by supervision to say why are we
3 using -- at least ask the question. Now, of
4 course, the prosecutor and the judge made
5 another decision based on what they were
6 presented, and to the detective's credit in his
7 investigative report, he delineated that this
8 security guard was, in fact, a non-eyewitness.
9 He said it in his report.

10 Q. Okay. We'll get to that in a little bit.

11 A. We've already gotten to it.

12 Q. Okay. We'll get to it again if there's a
13 specific question that you haven't answered.
14 Let's move on to page 65. Now, this is then
15 Assistant Chief White, now Chief White talking.
16 He says, "So you take the investigative lead.
17 You then have to inquire whether or not your
18 suspect had an opportunity to commit the crime
19 that they're being accused of. And that can be
20 as simple as, did they have the availability?
21 Did they have the timeline? Were they at work?
22 And looking at this investigation from that
23 standpoint, those things were not done, and
24 that's a violation of our policy, our policy of
25 investigations." I believe you've already

1 testified earlier in this deposition that you
2 agree with Mr. or with Chief White's conclusion
3 here that those steps weren't taken in this
4 investigation, right?

5 **A. Yes.**

6 Q. And you agree that those would be crucial steps
7 to take in an investigation?

8 **A. Yes.**

9 Q. Even with a facial recognition search being done?

10 **A. There needs to be appropriate steps. We're**
11 **talking about two different things here and I**
12 **think part of my frustration, to be honest with**
13 **you, you're expecting me to testify on, one, why**
14 **the MSP decided -- they don't work for me, so**
15 **part of what's going on here, we got a policy**
16 **that can happen after, we got a situation that**
17 **we've -- I've testified and I'm sure others have**
18 **saying that under our current policy, it would**
19 **have been against our policy to even, you know,**
20 **initiate or execute a facial recognition probe.**
21 **We just wouldn't have done it, and if it was**
22 **done, it was outside of department policy.**

23 Q. Right. So I think you're thinking that I'm
24 asking a question that's bigger than itself.
25 All I'm asking about is these specific steps

1 that Chief White mentions here, and like you
2 mentioned before, facial recognition requires a
3 human process, so what I'm asking you is that
4 even with a facial recognition search being done
5 in the case, a case, not specifically this case,
6 a case, would you agree that these steps are
7 important steps to take even after a search has
8 been done?

9 MR. CUNNINGHAM: Chief Craig, Ramis is
10 highlighting a portion of his transcript as he's
11 speaking. Are you able to see what he's
12 highlighting?

13 **A. No, I don't see it, no.**

14 Q. (Continuing, by Mr. Wadood) I've also dropped
15 the document in the Zoom chat and you're free to
16 open that document independently on your computer
17 as well. Are you able to see the document?

18 **A. There are several documents here, so --**

19 Q. It's Exhibit G.

20 **A. Okay.**

21 Q. Scroll down to the 17th page of the document
22 which there's multiple pages per page of the
23 transcript. It's one of those kind of
24 documents, page 65 of the transcript itself.

25 **A. It says it's 22 of 25 pages.**

1 Q. Okay. I'm not sure which document you're
2 looking at. I'm going to try once again. If
3 you go back to the Zoom chat that we're talking
4 in, I'm going to try to open the document again.

5 **A. I can't. My phone went off. Something happened**
6 **here and I can't get it. Okay? Yeah, I got it**
7 **back now.**

8 Q. Okay. Awesome. So I'm highlighting this
9 section here.

10 **A. Right.**

11 Q. Again, this is what I was talking about, subsequent
12 investigative steps, do they have the ability,
13 did they have the timeline, were they at work.
14 Looking at this investigation from the standpoint
15 Chief White is talking about the Shinola
16 investigation, I'm asking you do you agree with
17 Chief White, he argues important steps to take
18 in an investigation after a facial recognition
19 result has been returned?

20 **A. I don't disagree, but I don't recall. This was**
21 **a different kind of case. He's talking about**
22 **the now versus what was done before, so I don't**
23 **have an opinion on that at all.**

24 Q. Okay. I'll move down to page 68. Now, this is
25 Lawrence Garcia, then the corporation counsel at

1 the city talking, and he says, "In many instances
2 we can't go into this level of detail because
3 there's a litigation pending or anticipated. We
4 do anticipate a lawsuit given the media reports
5 connected to this incident.

6 So normally, a lot of this level of
7 detail would not be something that we'd want to
8 go into in an open meeting. However, this is an
9 exceptional case. I'm not a cop, but of course
10 Chief Craig is, and he said this is not an
11 indefensible case, so we would be conceding
12 liability. And there's no harm in speaking
13 frankly about the facts of this case."

14 So what about this case, the Shinola
15 investigation, to you made it such a clear case
16 for conceding liability?

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

18 MR. CUNNINGHAM: I'm going to object to
19 the form of that question because you've read
20 somebody else's statement.

21 **A. Yeah, I have no comment relative to Mr. Garcia's**
22 **statement.**

23 Q. (Continuing, by Mr. Wadood) Okay. Setting aside
24 Mr. Garcia's statement, what about this case was
25 exceptionally bad to you?

1 A. I've already testified I felt it didn't meet a
2 standard of excellence based on the new detective's
3 using a non-eyewitness and the lack of oversight
4 in the command, however, you know, certainly the
5 courts said it was probable cause based on what
6 was written by the detective. I would have
7 liked to have thought that someone could have
8 intervened maybe, but that didn't change the
9 court's opinion. The courts said it was
10 constitutional.

11 Q. And I'm talking about, again, I'm talking about
12 your understanding of the case and so was this
13 case, were the issues in this case exceptionally
14 bad to the point where it's not --

15 A. I'm not going to let you put words in my mouth.

16 Q. It's a question. You can disagree with me.

17 A. But I already said it was sloppy. Some things
18 could have been done different. I don't know
19 how many ways you want me to articulate it. Do
20 I think it should have been a more thorough
21 review at the supervisory and maybe even at the
22 command level because facial recognition was
23 being used? Certainly, certainly, but, again, I
24 recognize he was a new detective and it was an
25 outside -- what made it more problematic was an

1 outside agency. Obviously the agency doing the
2 run felt it was sufficient and so --

3 (Marked Exhibit H.)

4 Q. (Continuing, by Mr. Wadood) Okay. I'm going to
5 move on to a different document. This is
6 Exhibit H.

7 A. And I've got a hard out before four because I
8 have something else, just so you know, so if
9 you're not going to wrap it up, then --

10 Q. I understand. We're getting towards four and
11 we're getting towards the end. Okay. Do you
12 recognize this document?

13 A. I've seen a similar document. I don't have
14 specific recall about this one, no.

15 Q. When you were giving remarks to the Board of
16 Police Commissioners, was there a presentation,
17 a power point presentation given to the board
18 alongside your remarks?

19 A. I don't recall. There may have been, but I
20 don't recall. I've made numerous presentations
21 over the eight years I was there. Some the
22 presentation would include video, but I don't
23 recall specific on this.

24 Q. Okay. So you don't recall this document at all?

25 A. Not off-hand.

1 Q. Okay. So other than your comments to the Board
2 of Police Commissioners and any potential comments
3 to the City Council, do you recall any other
4 public comments you made regarding the Shinola
5 investigation?

6 **A. I don't recall, but I could have been interviewed**
7 **by the media.**

8 Q. I'm just asking for your recollection. If you
9 don't recall, you don't recall.

10 **A. I could have. I don't recall, but I could have.**

11 Q. So you don't recall any other than the City
12 Council or the BOPC?

13 **A. Well, I didn't recall the City Council, as I've**
14 **already testified to.**

15 Q. Other than the police commission and any comment
16 to the City Council, you don't recall any other
17 public comments?

18 **A. I do not.**

19 Q. Okay. So there was an internal affairs
20 investigation into what happened in the Shinola
21 investigation, right?

22 **A. I'm assuming so, yes.**

23 Q. And I don't want to read between the lines. Do
24 you recall or don't recall that investigation?

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

1 Q. Okay.

2 **A. I don't recall the outcome.**

3 Q. Okay. And you don't recall calling for an
4 investigation, any internal affairs investigation?

5 **A. I may have. I probably did, but I don't recall
6 doing it.**

7 Q. Okay. Do you recall or are you aware that some
8 DPD personnel were formally disciplined as a
9 result of that internal affairs investigation?

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

11 Q. Okay. Setting aside the internal affairs
12 investigation itself, do you recall if Detective
13 Donald Bussa was disciplined in any way for his
14 involvement in the Shinola investigation?

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

16 Q. Okay. Do you recall if Detective Levan Adams
17 who was the detective in charge of the case
18 before Detective Bussa, do you recall if he was
19 disciplined in any way as a result of -- whether
20 or not it was a result of the internal affairs
21 investigation?

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

23 Q. Okay. And it's totally fine if your answer is
24 the same after I show this document. We do this
25 to refresh people's memory if ever it's helpful.

1 I'm showing Exhibit J.

2 (Marked Exhibit J.)

3 Q. (Continuing, by Mr. Wadood) This is an official
4 reprimand of Detective Adams which was the
5 result of a Notice of Discipline that came out
6 of the internal affairs investigation into this
7 case. You don't recall this line of discipline?

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

9 Q. Okay. How about Lieutenant Barbara Kozloff, do
10 you recall Lieutenant Kozloff being disciplined
11 or any action taken against her in response her
12 involvement in the Shinola investigation?

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

14 (Marked Exhibit K.)

15 Q. (Continuing, by Mr. Wadood) Okay. Again, just
16 to refresh your memory, Exhibit K, this is a
17 Notice of Discipline for neglect of duty of
18 Lt. Barbara Kozloff. It's a two-day suspension.
19 You don't recall any discipline of this sort
20 against Lieutenant Kozloff?

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

22 Q. Moving on to Captain Cox, then Captain Cox, now
23 Lieutenant Cox. Do you recall any discipline
24 taken against Lieutenant Cox for his role in the
25 Shinola investigation?

1 **A.** **As I've testified to, I recall that he was**
2 **deappointed from the rank of captain to lieutenant,**
3 **not solely because of this investigation, but**
4 **because of a series of performance failures in**
5 **my judgment and my team's judgment.**

6 **Q.** **Okay.**

7 **A.** **I don't recall if that was the extent of it.**

8 (Marked Exhibit L.)

9 **Q.** (Continuing, by Mr. Wadood) So I'm showing
10 exhibit, what are we at now, L, showing you
11 Exhibit L. So you don't recall any suspension
12 or reprimand of Lieutenant Cox for neglect of duty?

13 **A.** **I don't recall specifically, no.**

14 **Q.** Okay. So focusing on that deappointment, I'm
15 showing you Exhibit M. This is the letter through
16 which you deappointed Lieutenant Cox, is that
17 right?

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

19 **Q.** Okay. And you've already testified as to the
20 reasons of his deappointment, that it was not
21 just his failure to properly supervise the
22 Shinola investigation. It was for other
23 failures in the 3rd Precinct, is that right?

24 **A.** **I've testified to it, yes.**

25 **Q.** Okay. I think we're almost done with plenty of

1 time left over. Let's just take another two to
2 three-minute break just to make sure I have
3 everything I need.

4 **A. Can we try to get, if it's a few more minutes, I**
5 **do have a hard out, so I'd appreciate some**
6 **consideration. Can we just get through it?**

7 Q. I promise you we will get through it by 4:00.
8 This is how I'm making sure. I'm talking to my
9 team, making sure there's anything left. If
10 there is, we'll come back for another few
11 minutes, get you out of here before 4:00. If
12 there's nothing left, then we're done, so let's
13 come back at 3:36.

14 MR. CUNNINGHAM: All right. Sounds good.

15 (Recess 3:33 p.m. to 3:34 p.m.)

16 MR. WADOOD: Back on the record.

17 Q. (Continuing, by Mr. Wadood) One final thing for
18 you, just to close out our last conversation
19 about Lieutenant Cox's deappointment. You said
20 that his deappointment was not just because of
21 the Shinola investigation, it was for a
22 multitude of reasons. Can you explain some of
23 the other reasons more specifically that you
24 chose to deappoint Lieutenant Cox?

25 **A. I cannot go into -- I can't recall specifically.**

1 In general it was lack of performance as a
2 command officer.

3 Q. And what does that lack of performance entail as
4 far as being a command officer?

5 A. Accountability or lack of proper management
6 oversight, but I can't go into the specifics.
7 I've considered in my judgment he was one of the
8 weaker command-level officers and he just never
9 came up to a level of where I thought he needed
10 to be and so I made the decision, and certainly
11 this was one of many things and I can't remember
12 all of those things because it didn't just start
13 at this. It was before that.

14 Q. Okay. And without getting into any specific
15 cases or investigations, I respect that, you had
16 mentioned issues with accountability and issues
17 with management, and so I'm wondering
18 accountability to whom as a commanding officer?

19 A. Well, holding his staff accountable to make sure
20 that they're striving towards excellence. It's
21 just that simple. That's what I testified to.

22 Q. Outside of the Shinola investigation, what
23 didn't he do?

24 A. I don't recall specifics. He was not someone
25 that I and the executive team viewed as a strong

1 command officer and a lot of it in general was
2 his inability to effectively provide managerial
3 oversight.

4 Q. Okay. And how did you communicate these issues
5 to then Captain, now Lieutenant Cox?

6 A. Sometimes they were communicated by his deputy
7 chief and assistant chief, sometimes me directly.
8 It could have been during what we call our
9 CompStat meeting where we talk about crime
10 issues and his unawareness of what was going on
11 in terms of his precinct, and in fairness to
12 that, it's a lot more than that. I just don't
13 specifically recall each and every thing, so his
14 deappointment, it wasn't just because of this.
15 I think I just want to make that point clear.

16 Q. Right. And I'm not talking about specifics.
17 Are there any general trends you saw?

18 A. I've already testified. I don't know what more
19 you want me to say. He didn't reach the
20 standard that I thought was appropriate for his
21 level in the organization generally.

22 Q. Okay. And then at the point of his deappointment,
23 I know I showed you his letter, his deappointment
24 letter in Exhibit M. Was there any additional
25 line of communication other than this letter

1 where you told him he's being deappointed and
2 why he's being deappointed?

3 **A. I don't recall what other information was given**
4 **to him before the letter. I am certain he knew**
5 **about this prior to the official -- this just**
6 **was an official notification, as it delineates.**

7 **Q. Right. Setting aside what he may or may not**
8 **have known, I'm asking --**

9 **A. What do you mean may or may not? Well, I'm sure**
10 **he knew, but this was just --**

11 **Q. I'm not asking that.**

12 **A. I don't know what you want me to say.**

13 **Q. And I'm not asking you what he knew. I'm asking**
14 **what you knew. As far as did you have any**
15 **conversations with Captain Cox about his**
16 **deappointment outside of this letter?**

17 **A. I more than likely did. Some things I didn't**
18 **delegate. I probably did it with another**
19 **executive member of the team. Do I recall when,**
20 **where, time of day? No, I don't. Do I remember**
21 **what I exactly said to him? No, I don't.**

22 MR. WADOOD: Okay. Those are all the
23 questions I have. With a whole 20 minutes left.
24 Mr. Cunningham?

25 **A. That's so generous. That's very generous.**

1 MR. CUNNINGHAM: I have no questions.
2 We can get the chief out of here as soon as we can.

3 MR. WADOOD: All right. Enjoy the rest
4 of your day, Chief.

5 (Deposition concluded at 3:41 p.m.)

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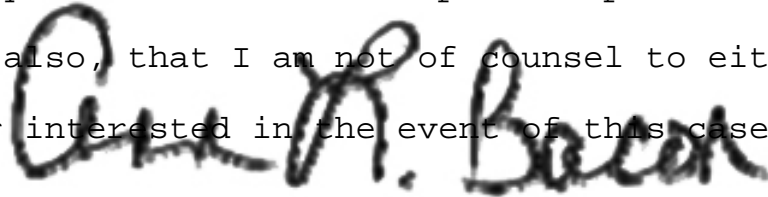
24

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 Macomb County

25 My commission expires: 6/29/23

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