

**Christopher Graveline**

**02/09/2023**

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

ROBERT JULIAN-BORCHAK WILLIAMS,  
Plaintiff,

vs. Civil Action

No. 21-10827

HON. LAURIE J. MICHELSON

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

\_\_\_\_\_ /

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The Deposition of CHRISTOPHER G. GRAVELINE,  
Taken at 2 Woodward Avenue, Suite 500,  
Detroit, Michigan,  
Commencing at 9:44 a.m.,  
Thursday, February 9, 2023,  
Before Dale E. Rose, CSR-0087

1 APPEARANCES:

2

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6 Local Rule 83.21

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22 ALSO PRESENT:

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24

25

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1 Detroit, Michigan  
2 Thursday, February 9, 2023  
3 About 9:44 a.m.

4 CHRISTOPHER G. GRAVELINE,  
5 having first been duly sworn, was examined and  
6 testified on his oath as follows:

7 EXAMINATION

8 BY MR. ELLIS:

9 Q. I'm deposing you today in connection with  
10 Mr. Williams' lawsuit against the City of Detroit  
11 for his wrongful arrest. My name is William  
12 Ellis representing Mr. Williams in this case  
13 under Local Rule 8321 under supervision by Mike  
14 Steinberg.

15 Before we begin, I'd like to just say  
16 some introductory words, lay out some ground  
17 rules before we can get going.

18 Does that sound good to you?

19 **A. Absolutely.**

20 Q. So for ground rules just want to make sure that  
21 we understand each other and that the court  
22 reporter understands both of us, so let's agree  
23 to the following:

24 We won't interrupt each other, so  
25 please wait until I finish asking a question

1 before you give an answer and I'll wait until  
2 you're done with your answer before I ask a  
3 question, does that sound okay?

4 **A. Yes, it does.**

5 Q. And please only give verbal answers, is that  
6 okay?

7 **A. Yes.**

8 Q. If you don't understand my questions, please ask  
9 for clarification?

10 **A. I will do that.**

11 Q. And then Mr. Cunningham might object to some of  
12 my questions, but unless he instructs you not to  
13 answer, you'll need to go ahead and answer, is  
14 that clear?

15 **A. I understand.**

16 Q. Next, just some definitions. "DPD" or "the  
17 department", when I say that I'm referring to the  
18 Detroit Police Department, is that clear?

19 **A. Yes.**

20 Q. "CIU" means the DPD's Crime Intelligence Unit, is  
21 that clear?

22 **A. Yes. Sorry, there's other litigation where CIU**  
23 **means something else with Wayne County. We never**  
24 **refer to it as CIU in house, so I had to mentally**  
25 **get there.**



1 Q. How do you refer to it as in house?

2 A. **Crime Intel.**

3 Q. And by "MSP", I mean the Michigan State Police?

4 A. **Yes.**

5 Q. When I say "the Shinola investigation", I'm  
6 referring to the October, 2018 theft of five  
7 watches at Shinola that ultimately led to  
8 Mr. Williams' arrest, is that clear?

9 A. **Yes.**

10 Q. With "FRT" I mean facial recognition technology?

11 A. **Okay.**

12 Q. And then FRT, just so we have a common  
13 definition, is a computer program or algorithm  
14 that takes an input photo, compares it against  
15 one or more stored images and attempts to produce  
16 an output with one or more possible matches or  
17 investigative leads, okay?

18 A. **Okay.**

19 Q. When I say "IA interviews" I'm referring to the  
20 Garrity interviews conducted by Sgt. Dominic  
21 Davidson and Sgt. Lisa Porter in 2020 assessing  
22 the Shinola investigation, okay?

23 A. **Okay.**

24 Q. Great. Lastly, breaks. You're free to take  
25 breaks, I only ask that you please answer any

1 question on the table before taking that break,  
2 okay?

3 **A. Okay.**

4 **Q. Great. So please identify yourself for the**  
5 **record, your name and current position?**

6 **A. Sure. My name is Chris or Christopher Graveline.**  
7 **I am the director of Professional Standards and**  
8 **Constitutional Policing for the Detroit Police**  
9 **Department.**

10 **Q. And how long have you been with DPD?**

11 **A. Four years.**

12 **Q. And what did you do before DPD, just a brief**  
13 **overview?**

14 **A. I was a federal prosecutor here in Detroit in the**  
15 **Eastern District of Michigan where I was the**  
16 **chief of the Violent Organized Crime Unit for the**  
17 **U.S. Attorney's Office.**

18 **Prior to the U.S. Attorney's Office I**  
19 **was a trial attorney with the Department of**  
20 **Justice in Washington, D.C.**

21 **Prior to that an assistant Wayne County**  
22 **prosecutor here in Detroit and prior to that I**  
23 **was an Army JAG officer for approximately seven**  
24 **years.**

25 **Q. Thank you. And then specifically at DPD can you**

1 walk me through the positions that you've had  
2 since you joined the department?

3 A. I've had the same position since I've joined the  
4 department. What my position entails is I  
5 supervise Internal Affairs, Force Investigations  
6 and the Integrity Unit. For the first two and a  
7 half years I also ran the Disciplinary  
8 Administrative Unit.

9 So when an investigation was completed  
10 it would be sent to Disciplinary and I ran that  
11 unit as well. When Chief White became chief he  
12 thought it would be better if the person running  
13 the investigation was probably not running  
14 discipline as well, and so we bifurcated that and  
15 that went under the Professional Development  
16 Bureau, but I still run the IA and all the  
17 investigative entities there.

18 Q. And then what town and county do you live in?

19 A. I live in Berkley, Michigan which is in Oakland  
20 County.

21 Q. And have you ever had your deposition taken  
22 before?

23 A. Yes.

24 Q. Do you understand that you're under oath today?

25 A. Yes.

1 Q. Is there anything that would prevent you from  
2 thinking clearly or testifying truthfully today?

3 A. No.

4 Q. And then I'm deposing you today as the 30(b)(6)  
5 witness. As such, you speak for the City of  
6 Detroit, is that your understanding?

7 A. Yes.

8 MR. CUNNINGHAM: In his capacity as  
9 director of the Professional Standards Bureau.

10 MR ELLIS: And for the record can you  
11 explain what you mean by "in his capacity"?

12 MR. CUNNINGHAM: Sure. He will be  
13 testifying -- his testimony will be limited to  
14 his capacity as the director of Professional  
15 Standards.

16 MR. ELLIS: And will he be prepared to  
17 speak on the topics that we agreed upon earlier  
18 and were in the Deposition Notice consistent with  
19 the 30(b)(6) rule?

20 MR. CUNNINGHAM: Yes, he will, in his  
21 capacity as the director of Professional  
22 Standards.

23 MR ELLIS: Unless you are willing to  
24 say that he will not be prepared, we'll continue  
25 normally as far as a 30(b)(6) deposition.

1 MR. CUNNINGHAM: Sounds excellent.

2 BY MR ELLIS:

3 Q. So unless otherwise noted, when asking you a  
4 question I'm asking for the official position of  
5 the City of Detroit, not your opinion in your  
6 personal capacity, is that clear?

7 A. Yes. And if I can't answer that or I can only  
8 give my personal opinion, I will let you know  
9 that.

10 Q. Okay, perfect. And do you understand that the  
11 answers you provide today are binding on the  
12 City?

13 A. Yes.

14 DEPOSITION EXHIBIT 1  
15 30(b)(6) deposition notice  
16 WAS MARKED BY THE REPORTER  
17 FOR IDENTIFICATION.

18 Q. So I'm entering an exhibit, Exhibit 1. Do you  
19 recognize this document?

20 A. I do.

21 Q. This is the 30(b)(6) Notice of Deposition for the  
22 City of Detroit as Defendant in this lawsuit,  
23 correct?

24 A. That is correct.

25 Q. And it lists the topics on which the Plaintiff

1 has requested the City to produce 30(b)(6)

2 deponents, is that correct?

3 **A. That is correct.**

4 Q. Could you please take a look at Items 1, 2, 3, 4,

5 5, 7, 14, 15 and 19 in this document and I can

6 repeat that list.

7 MR. CUNNINGHAM: 1, 2, 3, 4, 5, 7.

8 MR. ELLIS: 14, 15 and 19?

9 MR. CUNNINGHAM: 14, 15, 19.

10 **A. Okay.**

11 BY MR ELLIS:

12 Q. You've been designated to testify on behalf of

13 the City of Detroit on those topics, correct?

14 **A. That is correct.**

15 Q. Great. And you are expected to be reasonably

16 prepared to speak to those topics, is that your

17 understanding?

18 **A. It is my understanding.**

19 Q. And just to be abundantly clear, you're prepared

20 to testify today on behalf of the City of Detroit

21 on Items 1, 2, 3, 4, 5, 7, 14 and 15 and 19?

22 **A. I am.**

23 Q. Perfect. What preparations did you do for this

24 deposition?

25 **A. I read over our Internal Affairs investigation.**

1 I sat down with Mr. Cunningham from City Law  
2 Department and we have gone over various policies  
3 and procedures that he thought might come up  
4 during this deposition.

5 Q. And which documents or materials specifically  
6 did you review?

7 A. Off the top of my head I know we looked at the  
8 facial recognition policy obviously, the training  
9 directive that led to the facial recognition  
10 policy, our policy on arrests, probable cause,  
11 various policies.

12 I would say probably about 12 different  
13 policies and procedures. I've left them back in  
14 my office today. I mean, our preparation  
15 occurred last week.

16 Q. And did you bring any documents or notes with you  
17 this morning?

18 A. I did not.

19 Q. And did you speak with anyone in addition to  
20 Mr. Cunningham in preparation for this?

21 A. No.

22 Q. And if you could estimate about how long did you  
23 spend preparing for this deposition?

24 A. Approximately an hour.

25 Q. So moving on, before we kind of dive into some of

1 the details, just some overarching introductory  
2 questions.

3 You are aware of the Shinola  
4 investigation that led to the arrest of our  
5 client, Mr. Williams?

6 **A. I am.**

7 Q. And are you aware that DPD Det. Donald Bussa was  
8 the lead investigator for most of the  
9 investigation?

10 **A. Time-wise I think it was probably Levan Adams,**  
11 **about -- it's close, 50/40 -- yeah, 50/48. The**  
12 **one detective had it for, what, about a day or**  
13 **something along those lines.**

14 Q. So simply put, Det. Donald Bussa was the lead  
15 investigator for a portion of the investigation?

16 **A. Yes.**

17 Q. And shortly before Det. Bussa took over the case  
18 the previous detective in charge, Levan Adams,  
19 submitted a facial recognition request as part of  
20 this investigation?

21 **A. That is correct.**

22 Q. And the Plaintiff, Robert Williams, was  
23 identified by FRT as an investigative lead?

24 **A. That is correct.**

25 Q. And Det. Bussa used the investigative lead as the



1 basis for a photographic lineup?

2 **A. That is my understanding, yes.**

3 Q. And based solely on that facial recognition  
4 search and that photographic lineup he then  
5 submitted a warrant request for Mr. Williams?

6 **A. The only thing I probably -- solely. I want to**  
7 **be careful. I would probably defer to Det. Bussa**  
8 **if he said solely, but that was the main portion**  
9 **-- based on my understanding the main portion was**  
10 **the FRT lead, then went to the lineup, yes, but I**  
11 **want to be careful about "solely" there.**

12 Q. And we'll get into the details.

13 **A. Right.**

14 Q. And Mr. Williams was arrested based on that  
15 warrant, correct?

16 **A. That is correct.**

17 Q. And the charges against Mr. Williams were  
18 eventually dropped?

19 **A. That is correct.**

20 Q. And was that because it turned out that  
21 Mr. Williams was not the right suspect?

22 **A. That is correct.**

23 Q. Does the City of Detroit acknowledge that  
24 Mr. Williams was misidentified in an  
25 FRT-generated investigative lead for the October,

1 2018 Shinola theft?

2 **A. Yes.**

3 Q. Does the City of Detroit acknowledge that  
4 Det. Bussa submitted a warrant request without  
5 sufficient evidence to establish probable cause  
6 of Mr. Williams' involvement in the October, 2018  
7 Shinola theft?

8 **A. No.**

9 Q. According to the City of Detroit did Det. Bussa's  
10 method of conducting the investigation comply  
11 with the U.S. Constitution?

12 **A. Yes.**

13 Q. Does the City of Detroit acknowledge that Robert  
14 Williams was arrested with insufficient evidence  
15 of any connection to this Shinola incident?

16 **A. We acknowledge that he was arrested pursuant to a  
17 lawfully-obtained warrant.**

18 **After further investigation based on  
19 that warrant we determined that there was  
20 insufficient evidence and dismissed that warrant  
21 at that time.**

22 Q. Now, some overarching questions about policy  
23 process here at DPD. Could you explain how DPD  
24 disseminates official policies to its officers?

25 **A. They generally speaking will highlight,**

1 especially if it's a change in policy, through a  
2 teletype. What a teletype is, it goes out over  
3 e-mail and they're to be read at roll call for  
4 all officers.

5 Generally speaking you can find -- not  
6 general speaking. You can find all of our  
7 policies in our intranet web page that is the  
8 opening page. Whenever you open up one of the  
9 City of Detroit police computers you open up the  
10 server, that is the opening page, the intranet  
11 web page.

12 All of our policies are published  
13 there.

14 DEPOSITION EXHIBIT 2

15 Written Directive System, 101.1

16 WAS MARKED BY THE REPORTER

17 FOR IDENTIFICATION.

18 Q. And then just to look at one of those, entering  
19 Exhibit 2. Could you identify this exhibit?

20 A. Yes, this is the Detroit Police Department policy  
21 101.1 entitled Written Directive System.

22 Q. And can you explain in general terms what it is?

23 A. This is one of our initial policies that let's  
24 our Detroit Police members know how we  
25 disseminate policy, what the various different

1 types of policies are.

2 So, for example, personnel orders,  
3 executive orders, directives, policies, and it's  
4 a general explanation to our members about what  
5 the various types of policies or notifications  
6 are and how we go about notifying members of  
7 those directives.

8 Q. And the effective date is September 23, 2014?

9 A. That is correct.

10 Q. And then just on Page 1 under 101.1 - 2 Policy,  
11 the manual states that,

12 "The provisions of the department's  
13 directives govern all personnel of the  
14 Detroit Police Department. Each  
15 individual member is responsible for  
16 knowing and abiding by these  
17 provisions" .

18 Is that correct?

19 A. That is correct.

20 Q. How many pages approximately would you say is the  
21 entirety of the department's directives? An  
22 estimate is fine.

23 A. I've never printed them out. When you say  
24 "directives", you mean everything to include just  
25 policy or training directives and --

1 Q. Let's start with just policy.

2 A. My estimation would be approximately 250 to 300  
3 pages.

4 Q. And then with the training directives as well --

5 A. I would probably increase that by another 100 to  
6 200 pages.

7 Q. And then if you have a sense what level of  
8 education does the average officer have at the  
9 DPD?

10 A. I think that's a difficult question to answer.  
11 What you minimally need to have is a high school  
12 diploma, but I think you will find a wide  
13 variety. Both Chief White and Chief Craig have  
14 placed a high value on continuing education  
15 within the Detroit Police Department.

16 We regularly have -- and we have  
17 programs that run through the city where officers  
18 get their college bachelor's degrees, master's  
19 degrees. Some -- there are several members who  
20 are lawyers as well, so it's a wide variety.

21 I think you could go all the way from  
22 high school all the way up to advanced degrees.

23 In terms of percentages, it's tough for  
24 me to say what the average officer would be, but  
25 I would say the average officer more than likely

1 has at least an associate's degree and  
2 potentially working on a bachelor's degree.

3 Q. And within just detectives would you say -- is it  
4 a similar level of education or perhaps a  
5 slightly higher level of education?

6 A. I think with detectives I think in my experience  
7 that's where you start seeing that ladder start  
8 happening.

9 So the way promotions work in the  
10 Detroit Police Department, it's promotional  
11 testing and so once you're within the Detroit  
12 Police Department for X number of years -- I  
13 forget what that is -- whether it's two or three  
14 you can take the promotional test.

15 So we could have detectives with as  
16 little as three to four years on. So those are  
17 the individuals who I would think are just  
18 starting some of the associate's and maybe a  
19 bachelor's degree level, but I know some of our  
20 more experienced detectives have quite a bit of  
21 education and many of them have bachelor's  
22 degrees if not master's degrees.

23 Q. And then back to the directive system. About how  
24 frequently are updates sent out, you mentioned  
25 through the teletype system and they're posted on

1 the internet?

2 A. If I can just use the face of this document as an  
3 example, so what you see here at the top is the  
4 effective date is the date that this policy was  
5 initially published.

6 Then it has a review date. It's either  
7 annually or you'll see sometime biannually.  
8 We'll review all policies at that point.

9 If there are changes in the policy we  
10 don't -- what we do is we publish those in  
11 italics within the policy.

12 So let's say the effective date -- so  
13 essentially what this is saying right here  
14 annually and you see no italics in the rest of  
15 it, this has not changed since September 23,  
16 2014, this policy.

17 If there are changes you would see --  
18 let's say there was changes today. February 9,  
19 2023, and you would see italicized words through  
20 this entire document showing what has changed  
21 since the initial publication date of September  
22 23, 2014.

23 Q. Now, moving back to communicating those changes  
24 to the department, you mentioned through the  
25 teletype system and then also at roll call.

1 Is there a mechanism in place to  
2 confirm that sworn members have in fact read the  
3 update?

4 A. So in our MAS system which is Management  
5 Awareness System, when you first sign in it shows  
6 you you have X number of policies to read and you  
7 can go through and check the policies.

8 Now, how accurate that is -- so, for  
9 example, if you went on my MAS profile right now,  
10 when I first was hired in four years ago I have  
11 not been checking all the policies I've read  
12 through the years, so it will show that I have 91  
13 policies to read. I have read those policies, I  
14 just haven't checked the box.

15 So how accurate is that is going to be  
16 dependent on did the officer check the box after  
17 they've read the order or the directives in the  
18 MAS system.

19 Q. Now, with the MAS system then is there a process  
20 in place for supervisors to review whether those  
21 under their command or supervision have in fact  
22 read, so if an officer had a lot of unread for  
23 example?

24 A. There's the potential for that, yes. In the  
25 Management Awareness System you -- if you're a



1 supervisor when your page opens up it will show  
2 all of the people you supervise.

3 You can click on any of their profiles  
4 and then see that same information.

5 Q. And so are officers subject to discipline if they  
6 do not read the manual?

7 A. No, they are expected to have read the manual.  
8 So, for example, you will never find anyone  
9 disciplined because in the MAS system that policy  
10 number has not been checked off.

11 But if you're out on the street and you  
12 violate that policy, yes, you're going to be  
13 disciplined for ignorance of rules and orders.  
14 You are assumed to know and have read the orders  
15 that have been published.

16 Q. So just to clarify, reading or not reading the  
17 manual is not considered misconduct, but later  
18 violating what is written in that manual could be  
19 subject to discipline?

20 A. Yes. I guess the biggest clarification point is  
21 in the MAS system -- I just don't want you to  
22 rely on the MAS system, like oh, they didn't  
23 check that.

24 Well, that's on the individual officer.  
25 That doesn't mean they didn't read it. The MAS

1 system is imperfect in that sense.

2 It's not like an automatic check mark  
3 oh, I've read the policy, so it automatically  
4 updates in MAS. No, it doesn't do that.

5 So that's why we would never discipline  
6 somebody for that.

7 Q. And are sworn members tested periodically on  
8 their understanding of the manual in any way?

9 A. No.

10 Q. And were the measures you described with the MAS  
11 system, teletype or roll call updates, were those  
12 measures in place at the time of the Shinola  
13 investigation?

14 A. Yes.

15 Q. And then stepping back from the updates, how does  
16 DPD ensure that officers read the manual in the  
17 first instance?

18 A. Well, when you're in the academy you are tested,  
19 so in the academy you are tested on your  
20 knowledge of DPD policy as well as the law and if  
21 you fail, then you don't become a police officer.

22 Q. And are seminars summarizing important changes  
23 mandated?

24 A. No, that's what the teletypes are. So we don't  
25 bring people in from their various precincts. We

1 expect our sergeants and our lieutenants to  
2 disseminate the information.

3 Q. And is anything done or are there any resources  
4 available to help officers digest the information  
5 and make it more accessible, especially if some  
6 are more complicated than others?

7 Is there a resource for that?

8 A. I would first, in the first instance, point to  
9 their supervision and the chain of command,  
10 sergeants, lieutenants, captains and commanders  
11 at their individual precincts.

12 They are also afforded a 40-hour  
13 training once a year as part of the certification  
14 process which includes a legal update and then  
15 I'm available for any questions or concerns about  
16 policies.

17 Q. And we mentioned -- or you mentioned earlier that  
18 officers who take actions that violate the  
19 directives could be subject to discipline.

20 Is there a review procedure in place to  
21 ensure that officers are following the manual?

22 So outside of report of a specific  
23 violation are there specific reviews?

24 A. So what we expect our supervisors to do in the  
25 precincts on a daily, weekly basis is to do

1 random reviews of body-worn camera, so that's one  
2 of the jobs of a sergeant or lieutenant is to do  
3 periodic random reviews of body-worn cameras of  
4 the people that they supervise to ensure  
5 compliance with the law and our policies.

6 In addition, we have a Civil Rights  
7 Division who does randomized body-worn camera  
8 reviews to catch or to identify any issues that  
9 we might be having.

10 Q. Now, specific to detectives, at the time of the  
11 Shinola investigation did DPD require new  
12 detectives to complete any sort of specialized  
13 training for the role?

14 A. I am not sure at the particular time of the  
15 Shinola incident. I do know that we have a  
16 detective school for people who are now currently  
17 being promoted to the rank of detective.

18 Q. So you have -- DPD has a detective school  
19 requirement now?

20 A. Yes.

21 Q. And at the time of the Shinola --

22 A. I just don't know. And just in fairness, I know  
23 Det. Bussa did not go to that training. I don't  
24 know if the training was available or it was  
25 cancelled because of some event that was going on

1 or we didn't have it. I don't know that.

2 Q. And generally speaking is there a shortage of  
3 detectives at DPD?

4 A. I'd have to take a look at what our posted  
5 numbers are against detectives. I would probably  
6 say currently yes, probably just because it's  
7 cyclical. So what I mean by "cyclical" is we'll  
8 promote usually sergeants and detectives  
9 together.

10 After about three or four months  
11 depending on retirements and various other things  
12 we have shortages. So then we then promote the  
13 next group of 10 or 12.

14 Generally speaking, that's how many  
15 detectives are going to be promoted is 10 or 12,  
16 so it's been two months since our last promotion,  
17 so if you looked at our numbers of detectives  
18 that we're supposed to have as opposed to what we  
19 have right now, I would imagine we're probably  
20 somewhere in that minus 8 to 9 category right now  
21 before our next promotion.

22 Q. So is there any pressure to get new detectives  
23 into the job?

24 A. By the time we get down to minus 12 then, yes,  
25 like everybody is like we need some more

1           **detectives and that's why we promote.**

2           Q.    And could you give me a sense as to just the  
3           duration of that cycle?  You said it was  
4           cyclical.

5                                Is it a year, six months?

6           A.    **It all depends.  When I say it all depends, we've**  
7           gone through certain time periods where a whole  
8           bunch of people decide to retire or resign so  
9           they can get paid more at a different police  
10          departments.

11                               We just signed a brand new contract  
12          that pays our folks a lot more and we have seen  
13          the number of people resigning or retiring go way  
14          down.

15                               So I would imagine our promotion cycles  
16          are going to get longer as opposed to shorter  
17          right now.

18          Q.    Do you have any sense of where DPD was in that  
19          cycle in 2019?

20          A.    **2019, it would only be speculation; I don't know.**

21          Q.    And generally speaking would you agree that  
22          detectives require a separate skill set than  
23          being a patrol officer?

24          A.    **Yes.**

25          Q.    And would you agree that it requires specialized

1 training?

2 **A. Yes.**

3 Q. Do supervisors know what training their  
4 detectives have completed?

5 **A. I don't want to speak for them, but I would  
6 imagine they do. That's part of supervision.**

7 Q. So would it be fair to say that Det. Bussa and  
8 Det. Adams' supervisors would have had knowledge  
9 of the training that the two detectives under  
10 their command had received?

11 **A. And I don't want to speak for them, but that's  
12 part of the supervision. I mean, you need to  
13 know what people have, especially as they're new,  
14 if they're newer.**

15 **The reason I tend to pause is I  
16 supervise people, they've been detectives and  
17 sergeants for 10, 12 years. Have I gone back to  
18 see did they get sergeant, detective training 10,  
19 12 years -- no, I haven't.**

20 **I assume that they did. They've been  
21 doing their job for 10 to 12 years, but I've not  
22 double-checked on the training.**

23 Q. So with a typical new detective it would be fair  
24 to say that the supervisor should be aware --

25 **A. Right.**

1 Q. -- whether they've gone to the detective  
2 specialized training course or what type of  
3 in-house training they're providing to their  
4 people -- okay.

5 And I believe you mentioned this  
6 earlier for Det. Bussa, but the DPD is aware that  
7 both Det. Bussa and Det. Adams did not have  
8 formal detective school training, is that  
9 correct, in 2019?

10 **A. I don't know about Det. Adams. I agree with**  
11 **Det. Bussa, he did not.**

12 Q. Was anyone at DPD disciplined for Det. Bussa's  
13 lack of training?

14 **A. Not that I'm aware of -- well, wait a minute.**  
15 **Capt. Cox might have been. I believe our IA**  
16 **finding in the end was that Capt. Cox failed to**  
17 **provide the necessary guidance and training for**  
18 **the detectives under his supervision.**

19 Q. And we'll get into that in a bit more detail  
20 later.

21 Does DPD require detectives to receive  
22 any formal racial bias training before taking on  
23 the role of detective currently?

24 **A. I'm unaware, I don't know.**

25 Q. And in 2019?



1 A. I don't know. I will say this. As part of our  
2 40-hour training, our annual training for all  
3 officers, there's an implicit bias class that is  
4 part of that 40-hour training.

5 So every member of the -- sworn member  
6 of the Detroit Police Department does receive  
7 implicit bias training on that recent annual  
8 basis.

9 Q. And could you tell me a little bit more about the  
10 40-hour program? So that's an annual  
11 requirement, is it a --

12 A. It's an annual requirement. Right now it's a  
13 24-hour program simply because of COVID. COVID  
14 really kind of put a hamper on -- or hampered our  
15 ability to get large numbers of people together.

16 So when you have a 2,200 person  
17 department the way that we go about training is  
18 we bring in approximately 30 to 50 officers on a  
19 weekly basis and they go through a number of  
20 classes.

21 The classes that we are currently  
22 training on -- one, you have to get qualified on  
23 your weapon, so there's an entire day just out at  
24 the range.

25 But for some of the classroom

1 instruction I do a two-hour long block. I know  
2 they do diversity, equity and inclusion training.  
3 I don't know how long that block is.

4 I know they get implicit bias training  
5 and then there's a couple of other classes as  
6 well that are on different days than I teach; I'm  
7 not sure about those.

8 MR ELLIS: And then, Pat, just on the  
9 detective training at some point we would like a  
10 designee who can speak to the detective school  
11 requirements that are in place in 2019.

12 MR. CUNNINGHAM: Okay, I don't -- we'll  
13 see.

14 MR. ELLIS: Well, for the record we  
15 would request that and it was in our original  
16 topic list.

17 MR. CUNNINGHAM: I note your request.

18 BY MR ELLIS:

19 Q. Moving on, does DPD use photographic arrays or  
20 photographic lineups as a tool to identify  
21 suspects of alleged crimes?

22 A. We do.

23 Q. Is there a difference between the terminology  
24 photographic array and photographic lineup?

25 A. No, not that I'm aware of.

1 Q. Does the DPD use single photo show-ups as a tool  
2 to identify suspects of alleged crimes?

3 A. Not on a regular basis, but I'm not going to say  
4 we don't. We talk about potential show-ups  
5 although often times it's in the context of  
6 photographs.

7 It could be an in-person show-up, but I  
8 would say that those are very infrequent.

9 Q. And given their infrequency under what  
10 circumstances would it be acceptable to use a  
11 show-up?

12 A. I have to go back and take a look at my training  
13 and I tape this about six -- when I say "tape", I  
14 videotaped this training for our detectives and  
15 whatnot about six to eight months ago.

16 But there's fairly strong Michigan case  
17 law that talks about when police officers are at  
18 the scene of an incident and is it permissible to  
19 bring an eyewitness to the scene to take a look  
20 at someone who's in custody.

21 And the law is you can. You have to  
22 make sure it's not suggestive and you can't be  
23 using terms of, "Do you recognize this person as  
24 the person of the crime?" or various other rules.

25 But in-person show-ups can be done. I

1 mean, I think our basic training is be careful  
2 because it's very easy to become suggestive when  
3 the person is standing there in handcuffs and  
4 like, "Is this the person?"

5 So it's frowned upon, but it is  
6 available under Michigan law.

7 Q. And you mentioned especially being careful with  
8 in-person show-ups.

9 With single photo show-ups is there a  
10 similar caution?

11 A. Sure, I mean, just showing someone a picture, one  
12 picture, and saying, "Is this the guy?"

13 Once again, it would depend on what was  
14 said, how it was presented. I mean courts are  
15 going to try to evaluate that in all those  
16 various ways.

17 And so I don't think there's an  
18 absolute bar that you can't do that, but I think  
19 courts are going to when you go through the check  
20 list of things that make a lineup or a  
21 photographic identification suggestive, one of  
22 those things, "Is that the only picture you  
23 showed them?"

24 And when you say, "Yes" -- okay, well,  
25 that's not the best practice to use.

1           DEPOSITION EXHIBIT 3  
2           "Eyewitness Identification and Lineups"  
3           203.11  
4           WAS MARKED BY THE REPORTER  
5           FOR IDENTIFICATION.

6 Q.    So I'm showing you another exhibit, this is  
7        Exhibit 3. Can you explain what this document  
8        is?

9 A.    Yes, it is Detroit Police Department Policy  
10       Directive 203.11, Eyewitness Identification and  
11       Lineups.

12 Q.    The policy is dated October 1, 2014?

13 A.    That is correct.

14 Q.    So it would have applied during the Shinola  
15        investigation?

16 A.    Yes, it would have.

17 Q.    Could you please read 203.11-2 Policy on Page 1,  
18        just that paragraph?

19 A.    "Members shall strictly adhere to this directive  
20        in order to maximize the reliability of  
21        identification, minimize unjust accusations and  
22        conform to established legal procedures".

23 Q.    And to fulfill that policy was it DPD's position  
24        at the time of the Shinola investigation that  
25        officers should avoid procedures that may be

1 unnecessarily suggestive of a specific  
2 photograph?

3 **A. Yes.**

4 Q. Was it consistent with DPD policy at the time for  
5 the lead investigator or officer in charge to be  
6 present during a photographic lineup?

7 **A. I'm just taking a quick look, but I'm not aware  
8 of any bar to the officer in charge being  
9 present.**

10 Q. Could you explain why -- I'm sorry, could you  
11 repeat that?

12 **A. I'm not aware of any bar that the officer in  
13 charge cannot be present. It is typically our  
14 advice to the officers to get another detective  
15 or another investigative sergeant to conduct the  
16 lineup simply to avoid any types of accusations  
17 of improper pointing out, improper suggestive  
18 conduct that would invalidate an identification,  
19 but I'm not aware of an specific bar like no, you  
20 cannot be in there, officer in charge.**

21 **Sometimes you're the only person  
22 available and so you're going to do it and our  
23 counsel is don't do anything that would be unduly  
24 suggestive. So I don't think there's any bar to  
25 it, but it's our advice that we go and obtain a**

1 different person to do it to protect against that  
2 very type of allegation.

3 Q. When you say "our advice", if it's not formally  
4 in the policy is that through training or --

5 A. That's through training. I train to that as well  
6 as I think it is at least, -- well, I don't see  
7 it in the policy, so I know I train to it.

8 I also know that multiple of our  
9 investigative units to include Homicide also that  
10 is their advice to all of their detectives and  
11 sergeants.

12 Q. So would you say -- is it fair to say that any  
13 reasonable officer at DPD conducting a lineup  
14 would have known about the risks of a head  
15 investigator being present during the lineup?

16 A. Any officer? I don't know if I can say any  
17 officer, but in your Detective Bureau you should  
18 be aware of that.

19 Q. So any detective?

20 A. Any detective should be aware of that.

21 Q. And does DPD leadership know if lead  
22 investigators do in fact from time to time remain  
23 in the room during a lineup?

24 A. That's a broad question about DPD leadership I  
25 don't know who exactly you're talking about there

1 in terms of DPD leadership.

2 Q. Or, to clarify, does -- is DPD aware that lead  
3 investigators sometimes remain in the room during  
4 a photographic lineup?

5 A. I would say this. I would not be surprised, but  
6 that's not the counsel that they normally get.  
7 If it can be avoided -- you know a lot of our  
8 training and policy is what our best practices  
9 are.

10 There are situations where if there's  
11 no one else available, here's how you go ahead  
12 and conduct it in a constitutionally permissive  
13 way.

14 Q. And the training would be that if there's no one  
15 available, it would be better for the lead  
16 investigator to conduct the lineup than to wait  
17 and have another officer do it?

18 A. It's all depends. I mean, availability of  
19 witnesses -- I mean sometimes witnesses are very  
20 tough to come by and so you might be looking for  
21 this witness for months.

22 You get them, they're not walking out  
23 of that room of a lineup and if there's no other  
24 detectives there, guess what, the officer in  
25 charge, you're conducting that lineup.



1                   Just do it in a constitutionally  
2 appropriate way. I mean, that would be our  
3 advice to our officers. Don't let that person  
4 who you've been trying to track down for six  
5 months and now you finally have them, don't let  
6 them walk out the door.

7 Q. And if a witness were readily available, would  
8 you advise an officer to wait?

9 A. Potentially. I mean, it all depends on the  
10 circumstances of the case, but best practice is  
11 to have someone other than the officer in charge  
12 of the case to do the photographic lineup.

13 Q. Has DPD disciplined any officers for being the  
14 lead investigator in the room during a  
15 photographic lineup?

16 A. Not that I'm aware of.

17 Q. Was it consistent with DPD policy at the time of  
18 the Shinola investigation for a lead investigator  
19 to conduct the photo array?

20 A. I don't think it's the policy. I mean, what this  
21 discussion is really talking about is what is a  
22 best practice as opposed to what's the policy.

23                   The policy is I think constitutionally  
24 officer in charge can conduct a photographic  
25 lineup, no problem, and it will be

1 constitutionally permissive.

2 What we're talking about is a best  
3 practice and to avoid any accusations of undue  
4 influence.

5 Q. So it would not violate policy formally for the  
6 lead investigator to conduct a photo array?

7 A. Correct.

8 DEPOSITION EXHIBIT 4  
9 eyewitness ID policy writing guide  
10 WAS MARKED BY THE REPORTER  
11 FOR IDENTIFICATION.

12 Q. We're entering Exhibit 4. And DPD provided that  
13 policy writing guide through discovery. Could  
14 you identify the document for me?

15 A. Its title is "Law Enforcement Eyewitness  
16 Identifications: A Police Writing Guide", adopted  
17 2012, updated December 22, 2015.

18 It is a State Bar of Michigan document.

19 Q. Thank you. And could you turn to Page 7. Under  
20 "Conduct a Photographic Lineup", could you please  
21 read Bullet Point 2?

22 A. "Photographic lineups shall be conducted by a  
23 blind administrator who is unaware of  
24 the suspect's identify. If a blind  
25 administrator is impracticable, a

1           blinded method, i.e. the folder shuffle  
2           method, shall be employed."

3   Q.   And then, again, turning to the next page  
4       under "Commentary for Writers", that first  
5       sentence, begins "Blind administration..."

6   A.       "Blind administration is the only way to  
7           guarantee the absence of inadvertent  
8           influence and/or suggestiveness in the  
9           procedure, therefore preserving the  
10          integrity of eyewitness identification  
11          evidence.  If a blind administrator is  
12          not available, a method that 'blinds'  
13          the administrator such as the folder  
14          shuffle method shall be used to protect  
15          the integrity of the procedure".

16   Q.   So does DPD agree with these two  
17       recommendations?

18   A.   I would say that -- well, to say we agree that  
19       blind administration is the only way to guarantee  
20       the absence of inadvertent influence or  
21       suggestiveness, I don't agree with that sentence.

22               I believe that you can conduct a live  
23       photographic array in a constitutionally  
24       permissive way without having a blind  
25       administrator.

1 I would agree that the best way to  
2 conduct photographic lineups is a blind test, but  
3 that is the best practice, not necessarily -- if  
4 you don't do it that way, it's not  
5 constitutionally permissive.

6 Q. So to clarify, conducting a non-blind  
7 photographic lineup doesn't formally violate DPD  
8 policy?

9 A. It does not.

10 Q. Did DPD policy at the time of the Shinola  
11 investigation require officers to video record  
12 the administration of the photo array?

13 A. I don't know.

14 Q. And do they require video recording now?

15 A. No, it does not.

16 Q. So it would be consistent with DPD policy to not  
17 video record the administration of a photo array?

18 A. Correct.

19 Q. And turning back to that Exhibit 4, if you could  
20 turn to Page 6, could you read the first two  
21 sentences under the second commentary for  
22 writers?

23 A. The, "Preparing a complete ..."?

24 Q. Yes, that paragraph right there.

25 A. "Preparing a complete and accurate record of

1 the outcome of the identification  
2 procedure is important to preserve the  
3 evidentiary value of the live or photo  
4 lineup. Video recorded documentation  
5 (with audio) is the preferred method.  
6 Documentation and records are important  
7 for any subsequent court hearing or  
8 legal proceeding. Law enforcement  
9 officials shall protect as evidence  
10 photo lineup pictures in the order of  
11 presentation".

12 Q. So does DPD agree that video recorded  
13 documentation would be the preferred method for a  
14 photo lineup?

15 A. It is not within our policy, so I would say no,  
16 we do not.

17 Q. Are you familiar with the practice of asking a  
18 witness to indicate her confidence level in an  
19 identification?

20 A. That can be done sometimes, yes.

21 Q. Is it required by DPD policy to ask for the  
22 confidence level of a witness?

23 A. It is not.

24 Q. So at the time of the Shinola investigation was  
25 it consistent with DPD policy to not ask a

1 witness to indicate their confidence level in an  
2 identification contemporaneous with that  
3 identification?

4 **A. DPD policy does not mandate that you ask the**  
5 **witness their level of confidence.**

6 Q. And back to the same exhibit, could we look to  
7 Page 5 [sic]. Could you read the first bullet  
8 point under "Document Eyewitness Identification  
9 Procedures".

10 Let's see here, that might not be the  
11 right -- sorry, Page 6. The first bullet point,  
12 yes.

13 **A. "Instructions to witnesses shall be read from the**  
14 **Eyewitness Identification form which shall also**  
15 **include a witness' affirmation of his or her**  
16 **confidence statement".**

17 Q. So just to clarify, DPD policy does not require  
18 this sort of affirmation?

19 **A. That is correct.**

20 **DEPOSITION EXHIBIT 5**  
21 **"Photographic Show-up Instructions"**  
22 **WAS MARKED BY THE REPORTER**  
23 **FOR IDENTIFICATION.**

24 Q. And entering Exhibit 5. DPD also provided this  
25 document in discovery.

1 Can you confirm that these are  
2 photographic show-up instructions?

3 **A. I can.**

4 Q. Do these instructions include a question about  
5 confidence level?

6 **A. They do not.**

7 Q. Was it consistent with DPD policy at the time of  
8 the Shinola investigation to allow a witness to  
9 view a photo or video of the suspect while  
10 participating in the photo lineup?

11 **A. I would say no, you do not let them view a photo  
12 or video at the same time they're looking at the  
13 photo lineup.**

14 Q. And could you point to where that is articulated  
15 in the manual?

16 **A. Well, I think it's going to be in a couple of  
17 different places here. One I would say it is  
18 encompassed under 203.11-3(a) of the last  
19 sentence, "Witnesses should never be shown only a  
20 photograph of the suspect."**

21 So if you're showing them a photograph  
22 while they're looking at six other photographs  
23 that would be showing them only a photograph of  
24 the subject.

25 And then it's implied in (c), "Each

1 witness should view the photographs alone so that  
2 other witnesses would not be influenced or open  
3 to suggestion".

4 And then it is also implied in  
5 Paragraph 5,

6 "In any lineup or show-up the  
7 proceeding must be conducted in a fair  
8 manner so as not to be unduly  
9 suggestive of the suspect. Officers  
10 should refrain from making any remarks  
11 once the witness begins to view the  
12 photos. This is important as any  
13 remarks could be interpreted as an  
14 attempt to influence the  
15 identification".

16 MR. CUNNINGHAM: Let's take a  
17 break for a minute.

18 (A recess was taken).

19 BY MR ELLIS:

20 Q. Back on the record. So back to Directive No.  
21 203.11. You just mentioned your interpretation  
22 of 203.11-3(1)(a), "The witness should never be  
23 shown only a photograph of the suspect"?

24 A. Yes.

25 Q. Does that not mean that they should never be



1 shown a single photo?

2 **A. What I was saying is that when you're conducting**  
3 **a photographic lineup there should be multiple**  
4 **photographs. I think your question was, should**  
5 **they ever be allowed to view a single photo or**  
6 **video as part of this whole thing and then shown**  
7 **a photographic lineup.**

8 That is showing someone a single photo  
9 then. Like -- because you've allowed them to  
10 take a look at a photo and then like, "Here's six  
11 people. Which one of these people is this  
12 person?", right, type of thing.

13 **Q. So to clarify, the policy doesn't say they**  
14 **shouldn't be shown a separate photo in addition**  
15 **to the 6-pack?**

16 **A. I'm sorry, can you repeat that?**

17 **Q. The policy does not say that they should not be**  
18 **allowed to view a separate photo in addition to**  
19 **the 6-pack.**

20 So, for example, a witness -- it  
21 doesn't say that a witness should be prohibited  
22 from taking a photograph out of their wallet and  
23 looking at the lineup to compare it in the room?

24 **A. They should never do that because -- so, I mean**  
25 **-- so here's what we say. Witnesses should never**

1 be shown only a photograph of the suspect.

2 So "of the suspect". So if you have a  
3 photograph of the suspect and you show that to  
4 them and then turn to a 6-pack, you have shown  
5 them a photograph of only the suspect then.

6 Q. And what if they are the ones who produce the  
7 photo, not the officer conducting the photo  
8 array, is that prohibited in the policy?

9 A. It is not prohibited in the policy. I mean, this  
10 is part of the issue in terms of working with  
11 people and citizens, right.

12 They can do certain things that we  
13 would prefer them not to do and then we have to  
14 do the best we can do to make sure that we still  
15 do a competent procedure.

16 Q. And then one other clarification point too just  
17 interpreting 203.11(3), the bullet point "c",  
18 "Each witness should view the photographs alone  
19 so that other witnesses will not be influenced or  
20 open to suggestion"?

21 A. Right.

22 Q. Does that mean that if you have multiple  
23 witnesses who are participating in a photographic  
24 lineup, each one should participate in a lineup  
25 separate from the others?

1 **A. That's correct.**

2 Q. Was it consistent with DPD policy at the time of  
3 the Shinola investigation to rely on an  
4 investigative lead generated by facial  
5 recognition technology as the sole basis for  
6 conducting a lineup?

7 **A. Yes.**

8 Q. And was it consistent with DPD policy at the time  
9 to inform a witness prior to a photo lineup that  
10 facial recognition technology had been used to  
11 identify the suspect?

12 **A. Is it consistent with policy? I don't -- I think**  
13 **the policy was silent as to that.**

14 Q. And does DPD have any concerns about telling a  
15 witness that FRT was the basis of the  
16 investigative lead going into a photographic  
17 lineup?

18 **A. Not necessarily.**

19 Q. And did DPD photo lineup policy at the time of  
20 the Shinola investigation provide any specific  
21 guidance on the use of investigative leads  
22 generated by FRT?

23 **A. I'm sorry, which policy? I think you just said**  
24 **did the eyewitness policy say that.**

25 Q. So within the context of photographic lineups did

1           DPD policy provide any specific guidance on the  
2           use of an investigative lead generated by FRT?

3   **A.   No.**

4   Q.   Turning back to 203.11, could we look to Bullet  
5           Point 7 on Page 2 and it says,

6                   "Where a witness identifies the suspect  
7                   through the use of photographs the  
8                   'totality of the circumstances' test is  
9                   used to determine whether the  
10                  photographs utilized are not  
11                  unnecessarily suggestive of any  
12                  particular suspect".

13                         Is that correct?

14   **A.   That is correct.**

15   Q.   Could you tell us under this policy which factors  
16           should be included in that totality of the  
17           circumstances analysis?

18   **A.   Sure.  I mean, we would take a look at were the  
19           people dressed in similar clothing or clothing  
20           that would be unduly suggestive.  You would be  
21           taking a look at face shape, be taking a look at  
22           various facial features that would be hopefully  
23           consistent between individuals.**

24                         Obviously you would be taking a look at  
25           the race of the person.  You wouldn't put in five

1           Caucasians and one African-American, be like who  
2           would this be.

3                        You would be taking a look at the  
4           presence or non-presence of tattoos, of various  
5           different facial features and you try to as  
6           closely as possible make the six photographs as  
7           close as possible.

8    Q.    Now, again on Directive 203.11 the title of the  
9           directive is "Eyewitness Identification and  
10          Lineups", correct?

11   A.    Yes.

12   Q.    And under the Purpose section it says, "The  
13          purpose of this directive is to establish the  
14          proper guidelines for obtaining reliable  
15          eyewitness identification...", is that correct?

16   A.    Yes.

17   Q.    What does DPD mean by "eyewitness" in this  
18          directive?

19   A.    An eyewitness would be someone who -- I guess we  
20          don't define it, but an eyewitness is someone who  
21          could identify the person that we are trying to  
22          identify.

23   Q.    Are there any other parameters for what that  
24          means? So, for example, would someone who was  
25          not at the scene of an incident and only saw the

1 suspect on surveillance footage qualify as an  
2 eyewitness under DPD policy at the time of the  
3 Shinola investigation?

4 **A. I'm not aware of anywhere where we define**  
5 **eyewitness. I would say that someone who only**  
6 **had viewed the person on video is not as strong**  
7 **as someone who has seen the person face to face.**

8 Q. But using that person would not be formally  
9 prohibited?

10 **A. It would not be formally prohibited.**

11 Q. Under 203.11-3 (1)(a) it uses the term "witness"?

12 **A. Yep.**

13 Q. Does that refer to eyewitness or is it ambiguous?

14 **A. I would say it is ambiguous. It doesn't say**  
15 **eyewitness, so -- but you're only showing a**  
16 **photographic lineup to someone who has had some**  
17 **opportunity or some way to identify the person in**  
18 **the lineup.**

19 Q. So let's turn to photo array training that was in  
20 place at the time of the Shinola investigation?

21 **A. Yes.**

22 Q. Did detectives receive training on photo arrays  
23 and photo lineups?

24 **A. During 2019, yes, I believe we were training**  
25 **during the 40-hour block about eyewitness**

1 identification. It wasn't until the second half  
2 of 2019 that I took over the training, it was a  
3 different person at that point.

4 So I can't say for the first six months  
5 whether eyewitness was definitely being taught,  
6 although it was her packet of information that  
7 she handed over to me that I began training off  
8 of, so my assumption is she had trained for the  
9 first six months as well.

10 Q. And do you still have that packet that she  
11 provided you with in the turnover?

12 A. I would have to go back and take a look whether I  
13 have the 2019 version. I know I've made  
14 modifications to it through the years, so I know  
15 I have a packet of slides on eyewitness  
16 identification.

17 I just can't say whether I have the one  
18 that she handed to me back in 2019.

19 Q. And could you tell us a little bit more what that  
20 training looked like?

21 A. Sure. It's approximately 30 slides, maybe 40  
22 slides, PowerPoint slides. It covers the  
23 different types of identifications you can do,  
24 whether they're show-ups, whether they're  
25 photographic lineups, in person lineups.

1                   What are the legal requirements to make  
2 any of those constitutionally permissible, how do  
3 you go about setting up a photographic lineup.

4                   We discuss the use of the 6-pack which  
5 a lot of our precincts still use. We discuss the  
6 blind method that Homicide uses with the  
7 envelopes.

8                   And then we talk about various items  
9 that could raise issues, whether it's juveniles,  
10 whether it's -- any of those types of things.

11 Q. And was the propriety of relying on an  
12 investigative lead generated by facial  
13 recognition technology specifically included in  
14 that training?

15 A. No.

16 Q. And I believe you said you were unsure on whether  
17 the eyewitness issue was included in that  
18 training?

19 A. Eyewitness being --

20 Q. How to define and pick an eyewitness?

21 A. No, we don't cover that.

22 Q. And was the propriety of having a witness view a  
23 separate photo like we talked about, would that  
24 have been included in the training?

25 A. We talk about what are suggestive or



1 non-suggestive things. I don't believe I've ever  
2 told anyone though "Don't show them a photo right  
3 before they view the 6-pack."

4 I don't think that's part of the  
5 training.

6 Q. Would that be in your view because it would be so  
7 obvious to a reasonable officer not to do that or  
8 not to allow that?

9 A. It's just never really crossed my mind, so I've  
10 never seen that happen before.

11 Q. And was the propriety of having a lead  
12 investigator or investigator in charge in the  
13 room during the lineup included in the training?

14 A. We talk about it, but as I've answered here, we  
15 talk about why it's the best practice to have  
16 someone else. It's not constitutionally  
17 prohibited to do it yourself.

18 Q. And on the subject of video recording or audio  
19 recording the administration, was that included  
20 in your training?

21 A. Where it's discussed in our training is if it's a  
22 live lineup it is statutorily required in  
23 Michigan to have a live lineup recorded.

24 Photographic lineup, no, we don't talk about it.

25 Q. And recording confidence levels, whether or not

1 to do that, was that included in the training?

2 **A. No.**

3 Q. And are detectives trained on the totality of the  
4 circumstances --

5 **A. Yeah.**

6 Q. -- analysis that we talked about?

7 **A. Yes.**

8 MR ELLIS: And I actually think if it's  
9 all right with everybody, could we take a  
10 five-minute break?

11 MR. CUNNINGHAM: Sure.

12 (A recess was taken.)

13 BY MR ELLIS:

14 Q. So, moving on, how does DPD define probable  
15 cause in the context of seeking a warrant?

16 A. Probable cause is -- we have a policy about  
17 arrests. We define probable cause as the  
18 reasonable belief that someone has committed, is  
19 committing or is about to commit the offense.

20 Q. And are detectives taught to analyze the  
21 available evidence according to this definition  
22 before seeking a warrant?

23 **A. Yes, I can say that about detectives. I can say**  
24 **that because all officers, they're all trained on**  
25 **that standard prior to arrests.**

1 Q. And at the time of the Shinola investigation what  
2 training did DPD provide to detectives  
3 specifically on the subject of probable cause?

4 A. They are trained every year as part of the annual  
5 -- well, first there's the academy training and  
6 they're trained about the law and probable cause,  
7 but then every year as part of our annual legal  
8 training I cover the 4th Amendment as what is  
9 necessary to conduct an arrest.

10 Q. And did the training differ for detectives from  
11 the probable cause training that a typical patrol  
12 officer or sworn member would receive?

13 A. So that training is all together and so I try to  
14 cover different circumstances that apply to both  
15 patrol officers and detectives, so we cover both  
16 probable cause arrests as well as arrests and  
17 warrants and what you're looking for.

18 Q. So the training for detectives on the subject  
19 doesn't differ substantively from what a patrol  
20 officer would receive?

21 A. I can't speak to all training, but just my  
22 training does not differ.

23 Q. And typically are patrol officers allowed to seek  
24 warrants?

25 A. Generally speaking, no. What they'll do is they

1 will make an arrest and then do the determination  
2 whether it's going to be a not-in-custody warrant  
3 or in-custody warrant, but then it goes to our  
4 detectives in the Precinct Detective Unit, the  
5 PDU.

6 I will say this. There's -- it's not  
7 just detectives and sergeants back there, there's  
8 also police officers that we assign in and train  
9 up as detectives, so your patrol officer today  
10 could be assigned to a PDU tomorrow and work in  
11 those cases, so that can happen as well.

12 Q. And does DPD distinguish between the reasonable  
13 suspicion standard and the probable cause  
14 standard?

15 A. Yes.

16 Q. Could you explain the difference between the two  
17 standards for us?

18 A. Sure. Reasonable suspicion is articulable facts  
19 based upon the officers experience and expertise  
20 that makes one believe that criminal activity is  
21 afoot and needs to be investigated, while  
22 probable cause is the reasonable belief that the  
23 person is committing, is about to commit or has  
24 committed the offense.

25 Q. And are officers trained on the differences

1 between these two standards?

2 A. Yes, we talk at length about detention as opposed  
3 to custody as opposed to arrest and what the  
4 various things that have to happen in those  
5 various contexts.

6 Q. And how are detectives taught to account for  
7 exculpatory evidence when assessing probable  
8 cause?

9 A. I think that's -- the training is essentially the  
10 totality of the circumstances test, right? I  
11 mean, you're looking at all the evidence and then  
12 once you believe you have the amount of evidence  
13 while also weighing any exculpatory evidence,  
14 then you make your decision on probable cause.

15 DEPOSITION EXHIBIT 6

16 "Arrests", 202.1

17 WAS MARKED BY THE REPORTER

18 FOR IDENTIFICATION.

19 Q. Entering Exhibit 6. Could you identify this  
20 document, please?

21 A. This is Detroit Police Department Directive  
22 202.1, entitled "Arrests".

23 Q. And the effective date of this policy is November  
24 5, 2014?

25 A. Correct.

1 Q. So was it in effect at the time of the Shinola  
2 investigation?

3 A. **Yes, it was.**

4 Q. Could you read the definition of probable cause  
5 under 202.1-3.4 ?

6 A. **"A reasonable belief that an individual has  
7 committed, is committing or is about to commit an  
8 offense".**

9 Q. And could you also read 3.6, reasonable  
10 suspicion?

11 A. **"The facts and circumstances that existed at the  
12 time of the stop that could lead a reasonable  
13 officer to believe that criminal activity was (or  
14 had been, or was about to be) afoot".**

15 Q. And turning to the previous page under arrests  
16 the directive states that, "An arrest is lawful  
17 when supported by probable cause", correct?

18 A. **That is correct.**

19 Q. And the policy also states that, "An arrest is a  
20 seizure of greater scope or duration than an  
21 investigatory or Terry stop," is that correct?

22 A. **That is accurate.**

23 Q. Now, turning back to the next page, under 3.2  
24 under Terry stop the directive explains that a  
25 Terry stop is a limited seizure, correct?

1     **A.     That is correct.**

2     Q.     So the Terry stop in contrast to the probable  
3            cause required for an arrest merely requires  
4            reasonable suspicion, is that correct?

5     **A.     That is accurate.**

6     Q.     So is it fair to say that reasonable suspicion is  
7            a lower standard than probable cause in the sense  
8            that less evidence may be required to meet the  
9            threshold of reasonable suspicion?

10    **A.     That is correct.**

11    Q.     And just a couple of clarification questions so  
12            that we fully understand.  If an officer has  
13            sufficient evidence to meet the requirements of  
14            probable cause, so necessarily they have  
15            sufficient evidence to meet reasonable suspicion?

16    **A.     That is correct.**

17    Q.     And if an officer has sufficient evidence to meet  
18            the requirements for reasonable suspicion they  
19            may not necessarily have sufficient evidence to  
20            meet the threshold of probable cause?

21    **A.     That is correct.**

22    Q.     And I know you said sworn members and detectives  
23            receive around the same amount of training for  
24            probable cause.  Just to clarify, detectives are  
25            also trained on the difference between those two

1 standards, is that right?

2 **A. That is correct.**

3 Q. And looking at the two definitions, they do read  
4 very similarly. Does DPD provide continuing  
5 training for the officers to help make sure that  
6 they understand the distinction?

7 **A. Every year.**

8 Q. That's part of the 40 --

9 **A. 40-hour training, yes. We spend a lot of time**  
10 **going over reasonable suspicion and probable**  
11 **cause.**

12 Q. And are DPD officers subject to discipline if  
13 they, for example, conduct an arrest with merely  
14 reasonable suspicion, but not probable cause?

15 **A. It would depend on the circumstances, so every**  
16 **arrest is reviewed by a supervisor prior to a**  
17 **person being entered into the detention center,**  
18 **the Detroit Detention Center, DDC.**

19 So on a probable cause arrest officers  
20 might bring someone in, describe to the sergeant  
21 at the desk of the DDC and that sergeant could  
22 say, "I don't think you have enough probable  
23 cause" and release the person and the person is  
24 on their way.

25 We might take a look at that situation



1 to see what it is, but the officers just might  
2 have been mistaken that they had enough or  
3 there's just a genuine disagreement on whether  
4 there was enough.

5 Those officers would not be  
6 disciplined. If they simply arrested somebody  
7 and had zero probable cause and what are we doing  
8 here, then yes, that would trigger an internal  
9 investigation and then yes, they could be  
10 disciplined.

11 Q. So, again, generally speaking if there's a  
12 borderline question given how similar these  
13 standards are they likely would not be subject to  
14 discipline?

15 A. They would not be subject to discipline.

16 Q. But in egregious cases --

17 A. They would be, an investigation would occur and  
18 we would discipline them.

19 DEPOSITION EXHIBIT 7

20 transcript of deposition of Officer Stevie

21 Posey 11-22-22

22 WAS MARKED BY THE REPORTER

23 FOR IDENTIFICATION.

24 Q. Entering Exhibit 7. This is the transcript of a  
25 deposition of DPD Officer Stevie Posey taken on

1 November 22, 2022, correct?

2 **A. Yes.**

3 Q. And could you turn to Page 10, I've got the mini  
4 pages here, but Page 10 of the mini pages.

5 **A. Okay.**

6 Q. And could you please look to Line 24 to 25. Is  
7 Stevie Posey a detective with DPD's 3rd Precinct.

8 **A. Yes.**

9 Q. And then let's turn to Page 56. Looking to Line  
10 6 to 10. Det. Posey defines probable cause as,  
11 "Basically reasonable suspicion of a crime that  
12 has been committed or about to happen."

13 Is that correct?

14 **A. Just one second. I got it.**

15 Q. Page 56, Lines 2 to 10 should give you the  
16 context.

17 **A. Okay. Yes, he defines it as "Basically  
18 reasonable suspicion of a crime that has been  
19 committed or about to happen".**

20 Q. And is that an accurate definition under DPD  
21 policy?

22 **A. It is not. He has inaccurately included  
23 suspicion for belief, so the actual definition on  
24 a probable cause is reasonable belief of a crime  
25 that has been committed or about to happen.**

1                   And then we further define about to  
2                   happen in the footnote of our policy.

3                   DEPOSITION EXHIBIT 8  
4                   transcript of Part 1 of deposition  
5                   of Det. Donald Bussa, 10-24-22  
6                   WAS MARKED BY THE REPORTER  
7                   FOR IDENTIFICATION.

8           Q.    Entering Exhibit 8.  This is a transcript of a  
9                   deposition of DPD Officer Donald Bussa taken on  
10                  October 24, 2022, is that correct?

11          A.    **That is correct.**

12          Q.    Please turn to Page 11, Line 13.

13          A.    **Yes.**

14          Q.    Donald Bussa identifies himself as a detective,  
15                  correct?

16          A.    **That is accurate.**

17          Q.    And let's turn to Page 40, Lines 23 to 25 and  
18                  then on to Page 41, Lines 1 to 6?

19          A.    **Okay.**

20          Q.    Det. Bussa defines probable cause as "a  
21                  preponderance of the evidence, 51 percent, 51  
22                  percent --" I believe that should be "rule", not  
23                  role, is that correct?

24          A.    **Yes, that was what he says.**

25          Q.    And Det. Bussa explains that that was the

1 definition he came into the detective role with,  
2 is that correct, Lines 4 to 6?

3 **A. Yes, that is accurate.**

4 Q. And Det. Bussa further explains that this is the  
5 definition that he continues to hold today, is  
6 that correct?

7 **A. Yes.**

8 Q. And is his definition of probable cause an  
9 accurate definition under DPD policy?

10 **A. I wouldn't call it inaccurate. Preponderance of**  
11 **the evidence means -- he's mixing civil terms**  
12 **with criminal terms, but probable cause is more**  
13 **likely than not, so more likely than not is a**  
14 **little bit more than 50 percent, right.**

15 So I think if you take a look at a lot  
16 of the case law they don't define it as that  
17 because he's mixing civil with criminal, but the  
18 criminal standard of probable case is more likely  
19 than not, and so it's not entirely inaccurate.

20 I personally wouldn't phrase it this  
21 way, but I wouldn't necessarily say he's that far  
22 off the mark, let's put it that way. At least  
23 he's thinking in the right terms.

24 Q. So it's not an accurate definition of the formal  
25 policy, but in DPD's view it's not totally off

1 the mark?

2 **A. That's correct.**

3 **DEPOSITION EXHIBIT 9**

4 **transcript of deposition of**

5 **Det. Benjamin Atkinson, 11-9-22**

6 **WAS MARKED BY THE REPORTER**

7 **FOR IDENTIFICATION.**

8 Q. This is Exhibit 9 and this is a transcript of the  
9 deposition of DPD Officer Benjamin Atkinson taken  
10 on November 9, 2022, is that correct?

11 **A. That is accurate.**

12 Q. Please turn to Page 6, Lines 19 to 22.

13 Mr. Atkinson identifies himself as a detective  
14 with DPD, is that correct?

15 **A. That is true.**

16 Q. And let's turn to Page 31 and look to Lines 19 to  
17 23. When asked to define probable cause  
18 Det. Atkinson states, "That the person I'm  
19 talking to, you have reason to believe that the  
20 person on that time and date committed the  
21 offense," is that correct?

22 **A. That is correct.**

23 Q. Is Det. Atkinson's definition of probable cause  
24 consistent with DPD's policies?

25 **A. I'd like to talk to him and ask him some**

1 questions about it. Clearly it's not just a  
2 reasonable belief -- well, it is reasonable  
3 belief, that's actually our standard, not just a  
4 reason to believe.

5 So I would like to clarify with him,  
6 "What do you mean by that? Was it a reason to  
7 believe or reasonable belief and what do you  
8 define reasonable belief to be?"

9 So it's one of those -- I think picking  
10 that particular quote out I have some follow-up  
11 questions for Det. Atkinson, but I think he's  
12 trying to articulate what our policy is, maybe in  
13 an inartful fashion.

14 Q. And to clarify then, having a reason to believe  
15 would be different than the reasonable belief  
16 standard?

17 A. Yes, that is correct.

18 Q. Now, does DPD recognize that the value of  
19 evidence degrades over time?

20 A. Depends on the evidence. What I mean by that --  
21 I'm not trying to be tricky here - is if I have  
22 video, the video doesn't degrade over time.

23 A witness' memory degrades over time.  
24 So it all depends on the type of evidence we're  
25 talking about.

1 Q. Sure. So some specifics, so does an on-the-scene  
2 witness' recollection degrade over time in terms  
3 of evidentiary value?

4 **A. It can.**

5 Q. Does physical evidence such as fingerprints or  
6 DNA evidence, would that degrade over time  
7 evidentiary?

8 **A. Not necessarily. However, whenever you have**  
9 **those things -- I've been in cases where suddenly**  
10 **the amount of testing available, the sample**  
11 **available, that can degrade over time.**

12 **But generally speaking DNA and**  
13 **fingerprints are pretty steady constants in the**  
14 **evidentiary realm.**

15 Q. And generally speaking aside from certain types  
16 of digital evidence which you've suggested, would  
17 the overall value of on-the-scene investigating  
18 decrease over time?

19 **A. Yes.**

20 Q. So is it better for a DPD investigator to go to  
21 the scene of the crime as soon as feasible?

22 **A. Yes.**

23 Q. Under DPD policy are officers instructed to  
24 consider the gap in time between an incident and  
25 the investigation when assessing the quality of

1 evidentiary information?

2 **A. Yes.**

3 Q. And with an ongoing investigation does DPD have  
4 department-wide procedures in place for  
5 transferring a case from one detective to  
6 another?

7 **A. Yes.**

8 Q. What do those procedures look like?

9 **A. Generally it's in house within the precinct, but**  
10 **the procedures are when you're losing a detective**  
11 **either through re-assignment or the person is**  
12 **leaving the department they have these cases and**  
13 **they need to be transferred to someone else.**

14 **They have supervisors, so in a Precinct**  
15 **Detective Unit they have a sergeant, lieutenant**  
16 **and usually the captain of the precinct are the**  
17 **supervisors and it is their responsibility to**  
18 **ensure that those cases are then transferred over**  
19 **to someone else.**

20 **Do I think -- I don't believe the**  
21 **department has a formal checklist of make sure**  
22 **these 10 things happen in the transfer, but it is**  
23 **the supervisor's responsibility to ensure a**  
24 **proper transfer has occurred.**

25 Q. Now, moving on to the processes related to



1 submitting a warrant request, under DPD policy at  
2 the time of the Shinola investigation were  
3 officers expected to only submit warrant requests  
4 that included enough information to meet the  
5 requirements of probable cause?

6 **A. Not just the Shinola request. At all times we're**  
7 **only supposed to be submitting warrant requests**  
8 **that we believe have met the probable cause**  
9 **standard.**

10 Q. And in general terms what are officers trained to  
11 include in that warrant request?

12 **A. As many of the facts as necessary to establish**  
13 **probable cause. They are not necessarily**  
14 **instructed to add all facts in, but a sufficient**  
15 **amount of facts that they believe justify**  
16 **probable cause.**

17 Q. Are they instructed to include both inculpatory  
18 and exculpatory information?

19 **A. In terms of training, I don't know, I can't**  
20 **answer that.**

21 Q. So there's no formal training that they should  
22 include exculpatory evidence?

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

24 Q. And also in the training vein at the time of the  
25 Shinola investigation did detectives receive

1 specific training on the requirements of warrant  
2 requests?

3 **A. Yes. I mean so the training that I'm speaking of**  
4 **there is probably in-house training. So there's**  
5 **the formal training at DPD, but there's also the**  
6 **in-house training.**

7 So I get elevated to the rank of  
8 detective, I'm going to be working with a more  
9 seasoned detective. I'm not just going to type  
10 up my investigator's report without someone  
11 showing me this is how we go about doing this,  
12 this is how you put your facts together.

13 Then you also have supervisors who then  
14 also review that as well. So there's in-house  
15 training as well as -- or on-the-job training as  
16 well as formal training.

17 **Q.** So just to clarify, so when you say "in-house  
18 training" you mean on-the-job training from  
19 colleagues and supervisors?

20 **A. That is correct.**

21 **Q.** Which is less formal?

22 **A. Less formal, yes.**

23 **Q.** And for the formal training what does that look  
24 like for the warrant requests?

25 **A. That I don't know, I do not do training on that.**

1 Q. Are officers subject to disciplinary action if  
2 they submit a warrant request that does not meet  
3 the minimum requirements of establishing probable  
4 cause?

5 A. I have never seen anyone disciplined for that.  
6 Generally speaking that would be caught by the  
7 supervisor. Supervisors review the  
8 investigator's report before going over to the  
9 Prosecutor's office.

10 So if a supervisor said, "Hey, listen,  
11 this doesn't meet it, you need more," they'll  
12 just send it back and more investigation happens.

13 Q. Okay, so are officers subject to disciplinary  
14 action if a warrant request is rejected for lack  
15 of probable cause?

16 A. I've just never seen that. That's one where  
17 you're mentored through like you need to do more  
18 investigation on this avenue, that avenue, those  
19 types of things.

20 Q. Do you know how often DPD warrant requests are  
21 rejected by the Prosecutor's Office?

22 A. The numbers, no. I chuckle because -- well, one  
23 of DPD's frustrations is how often Wayne County  
24 rejects our warrant requests with the only  
25 explanation being "in the best interests of

1 justice."

2 And we're like okay, how does that help  
3 us. That's one of our frustrations. That's why  
4 I chuckle, so --

5 Q. Do you have a sense of -- not specific numbers,  
6 but maybe some percentage ranges?

7 A. No, I don't. I mean -- I don't have any specific  
8 hard numbers on that, no. And the reason, it's  
9 tough to pin down -- it's a floating thing.

10 So, for example, if you talk about a  
11 Homicide warrant, we've submitted Homicide  
12 warrant submissions and often times the Wayne  
13 County Prosecutor's Office won't deny it. What  
14 they do is they send it back with a to do list.

15 So is that technically a denial, no,  
16 but it's not signed either. So they send it back  
17 with 10 things and then we come back with whether  
18 we can accomplish those 10 things or not.

19 So especially in like a broader case,  
20 it's not uncommon for the Wayne County  
21 Prosecutor's Office to send us a to do list to  
22 do, so I wouldn't categorize that as denial.

23 Then there's other cases they just deny  
24 and sometimes when we reach back out to them like  
25 hey, we didn't like this or we didn't think that

1 met probable cause, although honestly I can't  
2 remember too many -- well, when I say not too  
3 many. So one of the issues we have sometimes  
4 there's multiple people in a car with a gun.

5 So they will be like no, I don't think  
6 you have probable cause on that person, but I'm  
7 going to sign on this person.

8 So yeah, that's a long-winded answer  
9 for I can't really give you a concrete number  
10 there.

11 Q. If no concrete number, would you say, for  
12 example, the iterative process you were talking  
13 about, does that occur in 50 percent of cases, 10  
14 percent of cases or --

15 A. No, I can't -- I would say it's a minority of  
16 cases, not the majority of cases, but I can't  
17 give you a number.

18 Q. Would that be the same for denials or are denials  
19 fewer than the iterative --

20 A. The majority of our warrants that we send over  
21 are signed, or affirmed by the Wayne County  
22 Prosecutor's Office.

23 Whether that number is above 60  
24 percent, 70 percent, 80 percent, I don't know,  
25 but the majority are signed.

1 Q. And how often are the warrants rejected by  
2 magistrates later in the process?

3 A. After the Wayne County Prosecutor's Office has  
4 signed off on them, I'm not aware of all that  
5 many.

6 Q. And does DPD track this information so the  
7 denials, the to do list, the acceptances, is that  
8 tracked?

9 A. In some units, yes. So, for example, Homicide is  
10 intently aware of every case and every to do list  
11 and every item. If you're a Precinct Detective  
12 Unit, if you get the denial you're probably not  
13 doing a ton of follow-up on it. You're just like  
14 okay, they denied it and then that's the end of  
15 it.

16 Where Homicide, no, we're going to be  
17 having this conversation about what's going on  
18 here. So some units, yes, we track it minutely  
19 and others yeah, not as much I would think.

20 Q. So the tracking really depends on the precinct or  
21 units?

22 A. I would think the unit more. The Precinct -- the  
23 further away you get from the top -- at  
24 headquarters where you got Homicide and SVU or  
25 whatnot, we're going to be pressing, we're going

1 to be pressing really hard.

2 If Wayne County doesn't sign on a B&E  
3 case, okay, we got another B&E case we got to get  
4 up and whatnot, so there's not going to be the  
5 same pushback.

6 Q. And does DPD keep track of the reasons for  
7 rejection or is that also dependent on the unit?

8 A. Depending on the case and the type of crime. So  
9 for example, we have been tracking very closely  
10 denials of CCW arrests and the reasons for that.

11 We're interested in that, one, because  
12 if our officers don't have sufficient probable  
13 cause we want to know why.

14 Is it a search issue, is it a training  
15 issue, is it something I can address during  
16 training or is it just the Wayne County  
17 Prosecutor's Office isn't signing it because  
18 they're not in love with the case.

19 And so sometimes there's nothing that  
20 can be done, that was the case, and so there it  
21 is.

22 Q. And does DPD track the reasons for rejection for  
23 facial recognition technology-specific warrants?

24 A. Well, I want to be careful. I don't know that  
25 personally. The reason I can assume that we do

1 is we have reporting requirements.

2 Under our facial recognition policy we  
3 have reporting requirements to the Board of  
4 Police Commissioners about how many times we've  
5 done that, and we keep very close tabs about how  
6 and in what cases facial recognition is being  
7 conducted.

8 DEPOSITION EXHIBIT 10  
9 warrant submission, etc.

10 WAS MARKED BY THE REPORTER  
11 FOR IDENTIFICATION.

12 Q. Entering Exhibit 10. Could you identify this  
13 document for the record?

14 A. Yes, this is the warrant submission and  
15 investigator's report in the case in question  
16 identifying Robert Williams as the suspect in a  
17 retail fraud investigation.

18 Q. And could you please turn to Page 3. This page  
19 indicates that the prosecutor is authorizing the  
20 issuing of a warrant against Mr. Williams,  
21 correct?

22 A. Yes.

23 Q. And turning back to Page 1, the cover page, could  
24 you please take a moment to read the details of  
25 the investigation section, just let me know when



1 you're done.

2 **A. Okay.**

3 Q. Given what you know of the Shinola investigation  
4 did Det. Bussa leave out any required information  
5 under DPD policy at the time?

6 **A. No.**

7 Q. Should the warrant request have included  
8 information on the quality of the surveillance  
9 footage that is used to run the facial  
10 recognition search?

11 **A. No, it's my understanding that the video was sent  
12 along with this warrant submission, so that would  
13 be up to APA Gillis to assess for herself the  
14 quality of the video.**

15 Q. And should the warrant request have included  
16 information on the reliability of the facial  
17 recognition technology that was used?

18 **A. No, that is not a requirement.**

19 Q. Should it include that a face is occluded by a  
20 hat?

21 **A. No, that is not required.**

22 Q. That the -- should it have included information  
23 related to the lighting the image used?

24 **A. No, those were all attached to this warrant  
25 submission, so we would leave that up to the**

1 Wayne County Prosecutors to make their own  
2 assessment on that.

3 Q. And same with the pixel count?

4 A. Correct.

5 Q. And with the position of the face relative to the  
6 camera?

7 A. Correct.

8 Q. And related to any shadow issues?

9 A. Correct.

10 Q. And as you said, you believe that it was  
11 included. As a matter of policy, should the  
12 warrant request have included the video footage  
13 from Shinola's surveillance system?

14 A. Well, based on what's been handed to me, it  
15 appears that a still photo -- so I don't know if  
16 the video itself went over, but the still photo  
17 went over as well as the investigative leads.

18 I would have included the video as  
19 well, but it appears that they took a screenshot  
20 of that camera and submitted it as part of the  
21 investigator's report.

22 Q. And should the investigator's report have  
23 mentioned that Katherine Johnston was not a  
24 direct witness?

25 A. I would have liked to have seen that in the

1 circumstances here. It is -- once again, it was  
2 attached. The shoplifting crime report which  
3 does identify that she wasn't an eyewitness, that  
4 she witnessed it through the CCTV footage later  
5 on.

6 So would I have liked to see that in  
7 the write-up in front just to be clear? Yeah, I  
8 would have liked to have seen that, but I think  
9 it's also incorporated in the statement that was  
10 attached to the warrant submission.

11 Q. So when you say you would have liked to have seen  
12 it in the details of investigation, do you mean  
13 that it violated policy or it violated best  
14 practices or --

15 A. No, I don't think we violated policy on it  
16 because, as we talked about before,  
17 investigators' reports don't have to include  
18 every fact that you know.

19 So I don't think it violated policy.  
20 What I'm talking about, I would have liked to  
21 have seen it -- I think that would have been a  
22 good fact to include.

23 So if I was Det. Bussa's supervisor I  
24 would have been like, "Why don't we put that  
25 right up front to make sure that they're aware of

1 it."

2 But in the attachment it does refer to  
3 how she saw this and so is it -- I would have --  
4 as a supervisor I would have said, "Let's put it  
5 up there", but I don't think it violated policy  
6 because we did attach this as well.

7 Q. Should the details of investigation on the front  
8 page have mentioned that Katherine Johnston  
9 didn't physically work at the Shinola store?

10 A. Not necessarily, no.

11 Q. And should it have mentioned that she had never  
12 seen the suspect in person?

13 A. No, not necessarily.

14 DEPOSITION EXHIBIT 11

15 transcript of Detroit Board of Police

16 Commissioners meeting 7-9-20

17 WAS MARKED BY THE REPORTER

18 FOR IDENTIFICATION.

19 Q. Could you identify this document for me?

20 A. The front page reads Detroit Board of Police  
21 Commissioners, regular meeting, Thursday, July 9,  
22 2020 at 3 PM, virtual meeting technology.

23 Q. And could you please turn to mini Page 47 and  
24 could you identify the speaker after Chairman  
25 Bell?

1 A. Chief Craig.

2 Q. And then turning to Page 55 could you read the  
3 sentences on Lines 20 to 22 out loud?

4 A. "So one of the things as I started out as  
5 you know this tragic situation  
6 involving the arrest of Mr. Williams  
7 should not have happened. Had the  
8 Board of Police Commissioners' policy  
9 that was adopted 10 months ago been in  
10 place, this would not have happened.  
11 We know that".

12 Q. So, to be clear, Chief Craig is talking  
13 about the Shinola investigation as to Williams'  
14 arrest, is that correct?

15 A. That is correct.

16 Q. And let's turn to Page 58. Could you read Lines  
17 1 to 8 beginning with the sentence, "So the  
18 warrant..."

19 A. "So the warrant was requested and for  
20 whatever reason that prosecutor signed  
21 it based on what that prosecutor was  
22 told, a photo array identification.  
23 What was left out and what I'm advising  
24 you of today, the person that made the  
25 pick in a photo array was not a direct

1                   witness."

2    Q.    So in this meeting Chief Craig is  
3           acknowledging that Katherine Johnston's role as a  
4           non-direct witness should have been disclosed in  
5           the investigator's report?

6    A.    That -- yes, that it had been left out of the  
7           investigator's report, correct.

8    Q.    But that doesn't violate policy?

9    A.    Not in the investigator's report.    Since there  
10           was the attachment that documented her statement  
11           I don't think that that violated policy.

12                   We did not find that it violated policy  
13           after our investigation.

14   Q.    Turning to mini Page 59, could you identify the  
15           next speaker on Line 7?

16   A.    That would be me.

17   Q.    And turning to Page 62, could you read Lines 13  
18           to 22 starting with, " This is ..."

19   A.    "This is the investigator's report that was  
20           submitted to the Wayne County  
21           Prosecutor's Office.    As you can see,  
22           it is approximately three paragraphs  
23           long.    Does not include many details  
24           other than the theft occurred at  
25           Shinola, what was taken from Shinola

1           and there was a video and the person  
2           from the security firm had picked out  
3           Mr. Williams as a perpetrator. Did not  
4           mention that it was not an in-person  
5           pick or any of that information."

6    Q.    So to be clear, should the investigator's  
7           report have included those details that you  
8           mentioned?

9    A.    **Yes. As I testified today, I would have included**  
10           **those in the investigator's report.**

11   Q.    Should the investigator's report have disclosed  
12           that the FRT "hit" was to an expired version of  
13           Mr. Williams' license?

14   A.    **I wasn't aware that that was what it was.**

15   Q.    If it were the case, should that have been in the  
16           investigator's report?

17   A.    **Not necessarily, but -- let me take a look here.**  
18           **Not necessarily, but it's a fact that one should**  
19           **consider, so I would have liked to have seen**  
20           **something along those lines if it was an expired**  
21           **version of his license.**

22   Q.    And should the investigator's report have  
23           disclosed that Johnston knew that DPD had  
24           identified a suspect through FRT when she  
25           performed the lineup?

1 A. No, not necessarily. That wasn't our concern,  
2 no.

3 Q. And that would not be the DPD's concern in an  
4 analogous present day case or investigator's  
5 report?

6 A. I don't believe that we require any detective who  
7 uses a facial recognition hit to put that into  
8 the investigator's report.

9 Q. Should the investigator's report have included  
10 any exculpatory details to the best of your  
11 knowledge?

12 A. Once again, I mean it's not our policy to include  
13 every exculpatory detail. I mean, that's where  
14 we start to get into well, you left out this one  
15 as opposed to this one.

16 The investigator's report is supposed  
17 to set forth the relevant facts on the case.  
18 With that being said, the entire warrant  
19 submission that's given to the Wayne County  
20 Prosecutor's Office gives the fuller picture.

21 It's not just what's in the  
22 investigator's report. So to say -- I would have  
23 liked to have seen some more details in the  
24 investigator's report. That's what I was  
25 referring to in my Board of Police Commissioners



1 statement.

2 I would say that this is not a model  
3 investigator's report. At the same time, do I  
4 think it violated our policy, no, I don't, and  
5 that's what we found in our investigation.

6 Q. And is there a continuing duty to disclose  
7 exculpatory information if it comes to light  
8 after a warrant request has been submitted?

9 **A. Absolutely.**

10 Q. Should Det. Bussa have taken steps to disclose  
11 that he had a suspect's license plate number that  
12 was not connected with Mr. Williams?

13 **A. Yes, he has a duty to disclose any exculpatory  
14 information.**

15 Q. And just to wrap up, are there other details that  
16 Det. Bussa should have included in the  
17 investigator's report going to DPD?

18 **A. No, other than what we identified, no.**

19 Q. And was Det. Bussa disciplined for submitting  
20 this warrant request?

21 **A. He was not.**

22 Q. Was Det. Bussa's reassignment to the Warrant  
23 Division disciplinary in nature?

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

25 Q. So let's turn back to the front page again.

1 A. I mean, just to clarify that last question, I'm  
2 not sure when he was reassigned. It is not  
3 unusual when we open up an investigation into a  
4 matter to reassign someone out of their job duty  
5 into a more administrative position within the  
6 department.

7 So that's a very common thing, so if  
8 today someone goes out and has an OWI, we would  
9 assign that person out from patrol duties into an  
10 administrative function and it is very common  
11 that we don't even leave them at their precinct,  
12 we send them to general assignment.

13 So we send them to the Detroit  
14 Detention Center while the investigation happens.  
15 So I don't think much can be taken from the fact  
16 that Det. Bussa might have been reassigned.

17 I would want to kind of see the dates  
18 of that, but that would be just part of our  
19 protocol during any internal investigation time  
20 period.

21 Q. So to clarify, protocol is if someone is under  
22 investigation related to an incident that's under  
23 investigation it's common to reassign them to an  
24 administrative role?

25 A. It is common. I don't want to say it's protocol

1 just because it depends on what we're  
2 investigating. We're investigating you for  
3 taking bribes, I'm going to need you to keep  
4 being out there so you can take some bribes so we  
5 can investigate you type of thing.

6 So it all depends on what the  
7 investigation is. In this particular case it  
8 would not surprise me if he had been reassigned  
9 out of the Detective Bureau so he's not doing any  
10 further investigation until we could have  
11 determined what was going on in this situation.

12 Q. And also to clarify, so those reassignments are  
13 not considered disciplinary in nature?

14 A. They are not disciplinary at all.

15 Q. So let's turn to the cover page again. Could you  
16 please look at the lower right-hand corner and it  
17 says supervisors officer underneath the  
18 signature, is that correct?

19 A. Yes.

20 Q. What is the significance of that?

21 A. All investigator's report prior to submission  
22 must be approved by a supervising officer.

23 Q. And at the time of the Shinola investigation what  
24 policy guidance did DPD have in place related to  
25 supervisory approval of a warrant request?

1 A. Essentially that you need to have a supervisor  
2 review and sign off on the investigation.

3 General speaking that would be your  
4 direct supervisor. In this particular situation  
5 the sergeant of the Precinct Detective Unit.

6 One of the deficiencies that we found  
7 in this particular investigation is that he took  
8 it to not his supervisor of the Precinct  
9 Detective Unit, he took it to Sgt. Saati.

10 With that being said, can Sgt. Saati  
11 review an investigator's report, yes. In one  
12 sense, sergeants and lieutenants are  
13 interchangeable within the -- it's not prohibited  
14 by policy. It's just not really great work.

15 Q. So to confirm, Sgt. Saati was an officer in  
16 Centralized Timekeeping, correct?

17 A. Yes, at the 3rd Precinct.

18 Q. Right and he had no specialized investigatory or  
19 detective training, is that correct?

20 A. I don't know that. He's been a sergeant for a  
21 long time, so he could have had it a decade ago,  
22 I don't know.

23 DEPOSITION EXHIBIT 12  
24 transcript of deposition of  
25 Ray Saati, 11-8-22

1           **WAS MARKED BY THE REPORTER**  
2           **FOR IDENTIFICATION.**

3    Q.    Entering Exhibit 12. Can you identify this  
4           exhibit?

5    A.    **This appears to be the deposition taken of Sgt.**  
6           **Ray Saati on November 8, 2022.**

7    Q.    And could you please turn to Page 11 and read  
8           Lines 20 to 24?

9    A.           **"Q. Now, what was your position at DPD on**  
10                **July 30, 2019?**

11            A.    **July 30 I was in Timekeeping.**

12            Q.    Okay, and prior to that time have  
13                you ever held an investigative role?

14            A.    **No."**

15    Q.    So here he confirms that he was in  
16           Timekeeping, correct?

17    A.    **Correct.**

18    Q.    And then he explains that he had never held an  
19           investigative role?

20    A.    **That is correct.**

21    Q.    And please turn to Page 14 and if you could read  
22           Lines 1 to 9 to yourself is fine. Just let me  
23           know when you're done.

24    A.    **Okay.**

25    Q.    So according to Sgt. Saati he had no

1           investigative training, is that correct?

2   **A.   That is correct.**

3   Q.   So despite his lack of training it was consistent  
4       with DPD policy for him to provide the  
5       supervisory sign-off on this warrant request?

6   **A.   Yes.**

7   Q.   So DPD did not prohibit officers who did not have  
8       any detective training from approving warrant  
9       requests?

10 **A.   That is correct, it does not.**

11 Q.   Did DPD prohibit detectives from seeking approval  
12       from those who did not have that training?

13 **A.   It did not.**

14 Q.   And did it prohibit detectives from seeking  
15       approval from officers that were not in their  
16       direct chain of command?

17 **A.   It did not.**

18 Q.   Has DPD since changed that policy related to  
19       supervisory approval of warrants?

20 **A.   Not that I'm aware of.**

21 Q.   And why is that?

22 **A.   Because our policy -- we try to make our policy**  
23 **as flexible as possible in order to cover a**  
24 **variety of circumstances. So what should happen**  
25 **does not necessarily mean that it's violation of**

1 policy because someone's supervisor might not be  
2 present or, let's say, the sergeant of the  
3 Precinct Detective Unit gets sick and is out on a  
4 six-month-long absence.

5 Does that mean we can't move a sergeant  
6 over, even though they might have limited or no  
7 investigative training, yes, we might, just to  
8 fill that role because we need a supervisor.

9 Once you're a sergeant within the  
10 Detroit Police Department you've had to study --  
11 in order to get promoted you have to study to  
12 pass the promotional exam.

13 You have to have scored higher than  
14 your peers. You're expected to know the policy  
15 and we need to be able to plug sergeants, in  
16 particular sergeants, but also lieutenants in  
17 whatever role we might need them to be.

18 And so while they might not have  
19 specific investigative training, yes, we might --  
20 we're not going to draft our policy to say you  
21 can't go to some sergeant. A sergeant is  
22 presumed to know what our policies and procedures  
23 are.

24 Q. And just to clarify, you mentioned with the  
25 flexibility that a sergeant has passed certain

1 exams for promotional purposes same as  
2 lieutenants and captains, etc.

3 But to clarify, Sgt, Saati had never  
4 passed the exam to be promoted to a detective?

5 **A. That is correct. Those are two different ranks**  
6 **altogether.**

7 Q. Right, and was Sgt. Saati subject to any  
8 disciplinary action for approving the warrant?

9 **A. He was not.**

10 MR ELLIS: Let's take a one-minute  
11 break.

12 (A recess was taken).

13 BY MR ELLIS:

14 Q. Moving on to discipline and the disciplinary  
15 structure here at DPD, could you describe DPD's  
16 disciplinary process when an individual officer  
17 or detective has engaged in misconduct?

18 **A. So if a member has been found to have sustained**  
19 **misconduct -- and the way that that happens is**  
20 **from three different potential sources.**

21 One is there can be an investigation by  
22 the Office of the Chief Investigator of the Board  
23 of Police Commissioners or BOPCOCI. They can  
24 conduct an investigation. Those are into citizen  
25 complaints that are non-criminal.



1                   And so if they found sustained  
2 misconduct they bring forward their investigation  
3 to the Disciplinary Administration.

4                   There can also be in investigation  
5 conducted by the Professional Standards Bureau  
6 which is IA or Force.

7                   If there's sustained misconduct there  
8 that gets forwarded to Disciplinary  
9 Administration Unit or if the command does their  
10 own investigation, command investigations are of  
11 the type of you're showing up late for work,  
12 you're insubordinate to your sergeant, those  
13 types of things.

14                   They're not criminal, but it's against  
15 kind of the good order and discipline of the  
16 department. Those get forwarded to the  
17 Disciplinary Administration.

18                   Disciplinary Administration is made up  
19 of a lieutenant, a sergeant and multiple police  
20 officers who review those investigations and then  
21 draft up what is known as a Notice of Discipline.

22                   The Notice of Discipline tracks our  
23 Code of Conduct and then based upon the severity  
24 of the misconduct we have a matrix, and that  
25 matrix defines -- so if it's -- has minimal

1 impact on the effectiveness of the department,  
2 it's Category A and so presumptive penalty would  
3 be a written reprimand.

4 If you did one of those infractions  
5 within two years, a similar type of infraction,  
6 that say you forgot -- you didn't have your  
7 body-worn camera on recording a citizen contact,  
8 that would be a Category A written reprimand.

9 If you did it twice within two years,  
10 then it would go to three days. So it's like a  
11 little matrix of -- kind of like a sentencing  
12 guideline matrix.

13 There's Category A, minimal impact; B,  
14 significant impact; C it begins to touch upon  
15 like the integrity of the department and/or  
16 yourself, and D which is usually the presumptive  
17 penalty is termination and that's for very  
18 serious misconduct.

19 Q. And then you mentioned Disciplinary Admin. On  
20 various documents we see DA No., is that what  
21 that is referring to?

22 A. Yes, that's Disciplinary Administration.

23 Q. And then could you explain to me what types of  
24 disciplinary action are on the table? You  
25 mentioned written reprimand. Are there

1 suspensions, demotions?

2 Could you just walk me through those  
3 options?

4 A. So the options are informal counseling which  
5 means you go back and someone talks to you about  
6 what happened and how that shouldn't happen  
7 again.

8 A formal written reprimand, those stay  
9 within an officer's file for a maximum of two  
10 years. Suspension and that suspension means you  
11 don't get paid, so that's a punishment, or  
12 termination of employment.

13 Demotion is something separate. If we  
14 want to demote someone, that is separate and  
15 distinct from the disciplinary process and so  
16 that is a completely separate thing.

17 Q. And you mentioned a written reprimand stays in an  
18 officer's employment file for up to two years?

19 A. Yes.

20 Q. How about suspension, starting there?

21 A. So that stays on your record -- so the way the  
22 Disciplinary maintains their records are if it's  
23 a written reprimand technically it falls off your  
24 record, but is there still a record in  
25 Disciplinary, yes, we can still see that 12 years

1 later you got that.

2 It's just not -- if someone were to ask  
3 us for that officer's disciplinary file we would  
4 not hand them that 12-year-old written reprimand.  
5 However, if the Prosecutor's Office asks us for a  
6 full accounting based on a Brady or Giglio check  
7 we would give them here's the full accounting.

8 So a written reprimand would go out of  
9 your personnel file for like a FOIA request or  
10 something along those lines.

11 A suspension, it's not like there's a  
12 piece of paper. It just says you've been  
13 suspended for three days and so that's always  
14 going to be in your personnel file.

15 And then those are the realm of what  
16 can be done.

17 Q. So just to clarify, the written reprimand remains  
18 in the internal disciplinary file?

19 A. Right.

20 Q. But it does not remain on their personnel file?

21 A. Well, and also like -- so, for example, if  
22 someone did a FOIA request for someone's  
23 disciplinary file, if it's a written reprimand  
24 from 10 years ago, you will not see that on the  
25 one that would be released on FOIA because

1 technically that's done and gone with.

2           However, the department maintains it  
3 because we have a separate constitutional  
4 obligation for Brady and Giglio. And so when the  
5 Prosecutor's Office is asking, we send over  
6 everything and say -- just so you know, there's  
7 this case that ended in a written reprimand.

8           And that might not be Brady or Giglio,  
9 but at least the prosecutors know okay, that's  
10 out there, and then they make their own Brady and  
11 Giglio determination.

12 Q. And you said that the suspensions will remain in  
13 the person's personnel file just by the nature of  
14 what it is?

15 A. Yes, so if you FOIA that, it doesn't matter if  
16 that happened 20 years ago, you're going to get  
17 that on your FOIA.

18 Q. And will that specify on your file what the  
19 suspension was for?

20 A. There will be a summary of it. It will say  
21 something along the lines of conduct unbecoming  
22 and probably a one-sentence description of that.

23 Q. And then the other option of informal counseling,  
24 is that in any way recorded or tracked?

25 A. No, because basically in the disciplinary history

1 like, once again for Brady or Giglio check, it  
2 will say was found sustained misconduct for  
3 failure to turn on body-worn camera, informal  
4 counseling was issued.

5 That will be the end of that.

6 Q. And does the department track the number of times  
7 that an officer might need informal counseling?

8 A. It's on the disciplinary history and it's also in  
9 MAS, the Management Awareness System.

10 Q. And is there a mechanism to take other efforts  
11 after a number of times if an officer has had to  
12 undergo informal counseling 10 times, at that  
13 point does it trigger some sort of additional  
14 supervision?

15 A. One of the things the department has started to  
16 do is identify officers who have a certain risk  
17 profile. And so we've started doing this over  
18 the last year and a half or so.

19 And one of the things that we look at  
20 are we take a look at various indicators that  
21 might say okay, this officer is not performing up  
22 to our standards. That could be sustained  
23 misconduct, that can be being involved in auto  
24 accidents, that can be citizen complaints,  
25 whatnot.

1           Now, the thing what we were trying to  
2 accomplish with that is you don't want to give  
3 just the same number for sustained misconduct and  
4 a not-sustained citizen complaint or a not -- or  
5 a non-preventable auto accident.

6           So we actually gave them numbers with  
7 sustained misconduct being a 2.0, then 1.7 for a  
8 preventable auto accident, all the way down to a  
9 .02 for a not-sustained citizen complaint.

10           Because we want -- if someone has 50  
11 citizen complaints we want that to kind of  
12 trigger something as well. And then once we've  
13 identified a certain pool of individuals, we've  
14 taken on advanced mentoring of those officers.  
15 We've done reviews of their body-worn cameras,  
16 what are they doing out there.

17           We will bring them in to talk to senior  
18 management within the department and try to  
19 mentor them up to a better standard of policing.

20 Q. And with this risk profile effort, you said it's  
21 been in place for about one and a half years?

22 A. Yes, it's close. I think -- I want to say it was  
23 December of 2021 that we sat down and first  
24 started kind of thinking through it.

25           I think we actually started getting it

1 off the ground in January of 2022, February,  
2 2022.

3 Q. And what prompted that new program or what was  
4 the reasoning behind doing that?

5 A. Chief White is very committed to providing the  
6 best possible service to the citizens of Detroit.  
7 We've been thinking about something along this  
8 line for a little bit, so how can we identify  
9 people that we need to train up or mentor better.

10 And so he really kind of put a focus on  
11 that after kind of doing his initial couple of  
12 months evaluation of the department, and that was  
13 one of the things.

14 I mean, I don't think there's any one  
15 thing that triggered it, but I mean there was  
16 some discussion about how we had some officers on  
17 the force who had 80 citizen complaints, but  
18 they're all not-sustained -- well, that should  
19 trigger something at some point, right?

20 Like we needed to have something, a  
21 mechanism in place, that kind of captures that or  
22 says hey, what are we doing on that.

23 And so that was one of the kind of --  
24 the genesis of it, but I wouldn't say it was the  
25 absolute starting point of it.



1 Q. And besides the risk profile program or effort,  
2 the other descriptions you gave about the basic  
3 disciplinary process, was that how it was at the  
4 time of the Shinola investigation?

5 A. Yes.

6 Q. And then one other follow-up. How do officers  
7 appeal disciplinary decisions?

8 A. Sure, so the process goes like this. The Notice  
9 of Discipline is issued to the officer. They  
10 have an option to accept that discipline, so it  
11 will go out with what's called a presumptive  
12 penalty on it.

13 They can sign the back of the form and  
14 say all right, I accept it, no big deal, I'll  
15 take my five-day suspension and I acknowledge  
16 that I did something wrong.

17 Or they can appeal it. Depending on  
18 the severity of the misconduct, that is either  
19 heard by a captain or a commander usually. It  
20 can be elevated up to a deputy chief or assistant  
21 chief, although we tend to try to keep the  
22 assistant chief and deputy chiefs for where  
23 suspensions of 15 days or more or termination of  
24 employment is on the line or something along  
25 those lines.

1           They then have a hearing in front of  
2           that command officer where the unions are  
3           there to represent their member. We can take  
4           evidence, we can hear arguments, all those types  
5           of things. Then the command officer decides what  
6           the punishment is.

7           It can remain at the presumptive  
8           penalty, it can be reduced down. It can't be  
9           elevated above the presumptive penalty though.

10          Once that's been done, pursuant to the  
11          contracts with the LSA and the DPOA if there's a  
12          suspension over three days you can then appeal  
13          that decision to an arbitrator.

14          And then we engage in binding  
15          arbitration and so we have -- there's one more  
16          layer of review if you get more than three days  
17          of suspension.

18    Q.    Turning to the Shinola investigation, did the DPD  
19           discipline Ray Saati in any way in relation to  
20           his involvement?

21    A.    We did not.

22    Q.    Did the DPD discipline Steven Posey in relation  
23           to his involvement?

24    A.    We did not.

25    Q.    Did the DPD discipline Lt. Angelique

1 Chadwick-Bills in relation to her involvement?

2 **A. We did not.**

3 Q. Did the DPD discipline Benjamin Atkinson in  
4 relation to his involvement?

5 **A. We did not.**

6 Q. Did the DPD discipline Det. Bussa in relation to  
7 his involvement in the Shinola investigation?

8 **A. We did not.**

9 Q. Did the DPD discipline Levan Adams in relation to  
10 his involvement in the Shinola investigation?

11 **A. I don't have the investigation in front of me,  
12 but I didn't think we found sustained misconduct  
13 for Levan Adams.**

14 I could be wrong. I know we identified  
15 some deficiencies in terms of him not putting the  
16 case notes in, but I can't remember if that  
17 resulted in sustained misconduct or not.

18 DEPOSITION EXHIBIT 13

19 Disposition of IA Investigation 20-058

20 dated 11-5-20

21 WAS MARKED BY THE REPORTER

22 FOR IDENTIFICATION.

23 Q. Entering Exhibit 13. Can you identify this  
24 document for me?

25 **A. Yes, this is the Internal Affairs investigation**

1 into the arrest of Mr. Williams.

2 Q. And is it dated November 5, 2020?

3 A. Yes.

4 Q. And what is the IA case number?

5 A. 20-058.

6 Q. And the memorandum here on the first page  
7 explains that Internal Affairs sustained a charge  
8 for neglect of duty against Det. Levan Adams, is  
9 that correct?

10 A. That is correct. So every time we complete one  
11 of our investigations a memo is delivered to the  
12 member informing them of the results of that  
13 investigation and if it's sustained misconduct it  
14 will be signed by me. If it is not sustained or  
15 exonerated, it's usually signed by the  
16 investigating sergeant.

17 Q. And is that your signature on the memorandum?

18 A. That is my signature informing Det. Levan Adams  
19 that while we exonerated him for violation of the  
20 facial recognition policy, we did sustain for  
21 neglect of duty.

22 Q. And could you turn to the attached IA report to  
23 Page 3 and could you read the Superior report  
24 number from the second paragraph?

25 A. Yes, Superior Report No. 1810050167.

1 Q. And could you turn to Page 48. Let me know when  
2 you've found it.

3 A. I have it.

4 Q. According to this page what was the specification  
5 of the charge against Det. Adams?

6 A. He was found to have sustained misconduct for  
7 neglect of duty in that he had a duty to add  
8 proper case notes to this Superior report case  
9 and he failed to do so.

10 Q. So is it correct to understand that the failure  
11 to add case notes was the extent of his  
12 misconduct?

13 A. Yes.

14 DEPOSITION EXHIBIT 14  
15 official reprimand re Adams  
16 WAS MARKED BY THE REPORTER  
17 FOR IDENTIFICATION.

18 Q. And we'll move on to Exhibit 14. Could you  
19 identify this document for me?

20 A. Yes, this is an official reprimand or also known  
21 as written reprimand that has been issued to Det.  
22 Levan Adams.

23 Q. And what was the charge?

24 A. Neglect of duty and failure to add proper case  
25 notes to the case involved in question here.

1 Q. And the DA number?

2 A. Is 20-0367C.

3 Q. And the reprimand was in relation to which case?

4 A. It doesn't say on this particular paperwork, but  
5 it is IA Case 20-058. This is the discipline for  
6 the sustained misconduct for the IA investigation  
7 in question.

8 Q. I believe if you look in the specifications Line  
9 2 towards the right it has the case number?

10 A. Oh, that's the Superior case number again, so  
11 yeah, that would be Case No. 1810050167.

12 Q. And just to confirm, so this is the same  
13 disciplinary action referenced in the other --  
14 the previous exhibit?

15 A. Yes, it is.

16 Q. So can DPD officers appeal an official reprimand  
17 like this?

18 A. No, and just to be clear, he appealed it to a  
19 commander's hearing and the commander sustained  
20 the presumptive penalty.

21 So in answer to your question, can he  
22 appeal, yes. Once that commander made his  
23 decision, no, that's the end of it. They don't  
24 get to go to arbitration over this.

25 DEPOSITION EXHIBIT 15

1 Appeal Hearing Decision re Adams

2 WAS MARKED BY THE REPORTER

3 FOR IDENTIFICATION.

4 Q. Okay, got it. Entering Exhibit 15, can you  
5 identify this document for me?

6 A. This is the appeal hearing decision for Case No.  
7 20-0367C.

8 Q. So to clarify then, so this would have come  
9 before that official reprimand?

10 A. No, so this is -- so these are two separate  
11 documents. One, Exhibit 14, is a document  
12 produced by the Disciplinary Administration  
13 lieutenant that states written reprimand was  
14 adjudged. On the back is the written reprimand  
15 itself.

16 What Exhibit 15 is is another form that  
17 the lieutenant from Disciplinary Administration  
18 also prepares that's a disciplinary form that  
19 talks about what happened at the Commander's  
20 Hearing.

21 So what this tells us is on January 28,  
22 2021 there was a Commander's Hearing, so  
23 Det. Adams had appealed his Notice of Discipline.

24 His initial Notice of Discipline, the  
25 presumptive penalty was two-day suspension.

1           You can't see it. On Page 3 of Exhibit  
2           15 is the Notice of Discipline, but unfortunately  
3           there is this sticker that kind of blocks, it  
4           says DC.

5           Underneath that, that says the  
6           mitigated penalty and it should read two-day  
7           suspension, Category B. That's what that "DC" is  
8           blocking right there.

9   Q.    Okay.

10   A.    So essentially the decision at Disciplinary at  
11          that time was, okay, you had a neglect of duty.  
12          Then you go to the matrix and say, okay, your  
13          neglect of duty, did it have a significant impact  
14          or a negligible impact on the department.

15                 Disciplinary determined and, quite  
16          honestly, the person making this decision would  
17          have been me -- so I made the decision this had a  
18          significant impact on the department.

19                 Therefore, I elevated the Category B.  
20          However, because Det. Adams wasn't the last  
21          person handling this case, we mitigated it, so  
22          that -- by moving it to Category B the  
23          presumptive penalty would have been three days.

24                 I was like, no, I think this would be  
25          better as a mitigated penalty, put I put two days



1 and that's how we issued it out.

2 Then he chose to appeal that and you  
3 can see that on the back of that page where you  
4 see on the back of the form he elects to appeal  
5 it -- is appealing the disciplinary action.

6 And he signed it on January 21, 2021,  
7 so this was given to him seven days prior to  
8 that. He appealed it. The hearing officer, if  
9 you go back to Page 1 of Exhibit 15, was Deputy  
10 Chief Charles Fitzgerald.

11 He sat in, he heard it. He decided to  
12 reduce the presumptive penalty for two days down  
13 to a written reprimand. So that's how Det. Adams  
14 got a written reprimand as opposed to suspension  
15 days in this particular situation.

16 Q. Okay and could you explain why his presumptive  
17 two-day suspension would have been mitigated to a  
18 written reprimand?

19 A. I don't -- typically there is a recording of  
20 disciplinary hearings, an audio recording of  
21 disciplinary hearings that's done for the DPOA  
22 members, not the LSA members.

23 And I forget off the top of my head how  
24 long we keep those recordings, so there might be  
25 a recording for that, so that might be something

1 we might have, but I don't know the reasoning  
2 that DC Fitzgerald gave for reducing it from two  
3 days to a written reprimand.

4 Q. And who did you say keeps those?

5 A. Disciplinary Administration, but I know we also  
6 purge them at some point as well, so I just don't  
7 know -- I forget off the top of my head what our  
8 retention policy is on those.

9 Q. And just to clarify then, so post disciplinary  
10 notice and appeal, the ultimate result with  
11 regard to this case for Det. Adams was a written  
12 reprimand disciplining him for not entering case  
13 notes?

14 A. That is correct.

15 Q. And I know you mentioned this a little bit  
16 before, but what are the repercussions for a  
17 sworn member when they receive a written  
18 reprimand?

19 A. I mean it's an official document in your file  
20 saying you didn't live up to the standards, but  
21 after two years that will fall off your personnel  
22 file.

23 So after two years it's somewhat  
24 negligible at that point.

25 Q. And then in addition to this case notes

1 discipline did DPD take any other disciplinary  
2 action related to the Shinola investigation?

3 A. I know that we found sustained misconduct for  
4 both Lt. Barbara Kozloff and Capt. Rodney Cox.

5 I don't remember off the top of my head  
6 what if any discipline they received. I know  
7 around the same time period Capt. Cox was  
8 demoted, but like I explained before those two  
9 tracks, the disciplinary track and the demotion  
10 track, are two separate tracks.

11 So that demotion would not have been  
12 only solely based upon the sustained finding of  
13 misconduct over here.

14 DEPOSITION EXHIBIT 16  
15 Notice of Discipline re Lt. Kozloff  
16 WAS MARKED BY THE REPORTER  
17 FOR IDENTIFICATION.

18 Q. So let's start with Lt. Kozloff and now I'm  
19 entering Exhibit 16.

20 Could you identify this document for  
21 me?

22 A. This is a Notice of Discipline dated January 14,  
23 2021 in Disciplinary Administrative Case 20-0367B  
24 and the person receiving this Notice of  
25 Discipline was Lt. Barbara Kozloff.

1 Q. And could you -- is there any significance to in  
2 the DC number the "B" at the end?

3 A. Yes. So when you have multiple people on the  
4 same investigation who are found to have  
5 sustained misconduct, we will keep the same  
6 number, but then we'll have separate folders for  
7 each person. So there's A, B, C, D, E, F for  
8 however many officers are involved.

9 So what this tells me is I would think  
10 Capt. Cox was 20-0367A, and Lt. Kozloff "B" and  
11 Det. Adams "C".

12 Q. And they generally -- do they descend in terms of  
13 chain of command?

14 A. They can, but there's no rule to it. Personally  
15 when I was running the unit I would prefer it  
16 that way, but --

17 Q. And what was the charge here?

18 A. There was also a neglect of duty for her neglect  
19 that she failed to ensure that Det. Adams added  
20 case notes in Case No. 1810050167 prior to her  
21 making the case inactive.

22 So she was Det. Adams' supervisor. She  
23 had a duty to ensure that he was doing his duty.  
24 She failed to do that and then she had made the  
25 case inactive after he had left the unit, but she

1 had not checked to see what the case notes said  
2 and therefore we found that to be a neglect of  
3 duty on her part.

4 Q. And the penalty?

5 A. Was, once again, a two-day suspension Category B,  
6 mitigated penalty.

7 Q. And could you explain what a mitigated two-day  
8 penalty would mean?

9 A. So on the matrix it gives you some flexibility,  
10 so when you say okay, it's going to be Category B  
11 because it had a significant impact on the  
12 department you can either mitigate it -- and so  
13 under our matrix Category B starts off with a  
14 three-day suspension. Mitigated would be two  
15 days -- wait a minute, let me back up. I think  
16 Category B might start out with five days, it's a  
17 five-day.

18 Mitigated can be two to four days. You  
19 can choose something. Aggravated can be six to  
20 eight days, so depending on the circumstances of  
21 the case the reason we thought this should be  
22 mitigated -- well, we elevated it from a typical  
23 neglect of duty to a Category B, but then when  
24 you're taking a look at this there were so many  
25 people that, okay, if you would have done X you

1 might have changed the outcome. You didn't.

2 That's a neglect of duty.

3 But to say you're the sole reason that  
4 this happened, well, that can't be said either.  
5 So Det. Adams was gone by the time Mr. Williams  
6 was arrested, so how can you say he was the --  
7 that's why we mitigated it.

8 Same could be said for Lt. Kozloff.  
9 She was gone by the time Mr. Williams was  
10 arrested. That's why it's mitigated.

11 Q. And to be clear, so she did ultimately receive a  
12 two-day disciplinary suspension?

13 A. That is unclear to me because -- so just based on  
14 this paperwork, Exhibit 16, because if you  
15 actually accept your discipline you go to Page 2,  
16 you would sign it right there in the middle,  
17 right. It's completed by the member, it says  
18 you've been served and I'm accepting notice.

19 This is blank, so there's ways for me  
20 to look it up, not here right now, but I don't  
21 have a memory of what happened in Lt. Kozloff's  
22 case.

23 Q. If we follow up on that, that's something you  
24 could look into?

25 A. Yes.

1 Q. And other than the neglect of duty in this Notice  
2 of Discipline did DPD take any other disciplinary  
3 action against Lt. Kozloff in relation to the  
4 Shinola incident?

5 A. No.

6 Q. Did DPD discipline Rodney Cox in relation to his  
7 involvement in the Shinola investigation?

8 A. I know we found sustained misconduct. I know a  
9 Notice of Discipline was prepared. I don't have  
10 an independent memory whether Chief Craig decided  
11 the demotion was enough or he also did more  
12 discipline.

13 I'd have to take a look at some  
14 records.

15 DEPOSITION EXHIBIT 17  
16 Notice of Discipline re Rodney Cox  
17 WAS MARKED BY THE REPORTER  
18 FOR IDENTIFICATION.

19 Q. Entering Exhibit 17. Could you identify this  
20 document for me?

21 A. Yes, this is a notice of discipline in  
22 Disciplinary Administrative Case 20-0367A. It is  
23 listed as the rank of Lt. Cox. He was Capt.  
24 Rodney Cox at the time of the actual incident  
25 with Mr. Williams.

1           So this reflects that the demotion that  
2           Capt. Cox received had already occurred, that's  
3           why he's listed as Lt. Rodney Cox there. It is  
4           for neglect of duty for failure to ensure that  
5           the supervision assigned to the 3rd Precinct PDU  
6           properly supervised and trained department  
7           members assigned to that Precinct Detective Unit.

8           The presumptive penalty is the five-day  
9           suspension Category B, there was no mitigating of  
10          this. It is unclear based on just this exhibit  
11          what happened since there's no signatures on the  
12          back. I can't tell whether he accepted it or if  
13          this Notice of Discipline went away; I'm not  
14          sure.

15        Q.    And similarly to Lt. Kozloff if we follow up  
16              could you check into that paperwork?

17        A.    Yes.

18        Q.    And could you also explain the charge in more  
19              detail?

20        A.    So as the captain of a Precinct Detective Unit  
21              your job is to be the primary supervisor of that  
22              detective unit. So just like Lt. Kozloff had a  
23              responsibility to supervise Det. Adams and to  
24              ensure case notes were being done and whatnot,  
25              the department wouldn't necessarily think that a



1 captain has to go in and check the case notes on  
2 a regular basis, but they're ensuring that the  
3 lieutenant is familiar with the case, knows the  
4 case and is providing the guidance necessary and  
5 the training necessary to do the job.

6 Q. And we have this document here of course. Is it  
7 also true that the penalty was ultimately  
8 mitigated to just a one-day suspension on appeal?

9 A. I'd have to take a look at it; that I don't  
10 know.

11 DEPOSITION EXHIBIT 18  
12 transcript of deposition of Lt. Cox, 11-16-22  
13 WAS MARKED BY THE REPORTER  
14 FOR IDENTIFICATION.

15 Q. Exhibit 18, could you identify this exhibit?

16 A. Yes, this is the deposition transcript of  
17 Lt. Rodney Cox given on November 16, 2022.

18 Q. And please turn to Page 149 -- actually make that  
19 150.

20 A. Okay.

21 Q. Actually back to 149. If you could look to Lines  
22 4 to 6 is it true that according to Lt. Cox he  
23 had a hearing before Deputy Chief now Asst. Chief  
24 Charles Fitzgerald?

25 A. That's -- yes, that's what it says in this

1 transcript.

2 Q. And in turning to Page 150 if you read to  
3 yourself Lines 6 to 10, is it true that according  
4 to Lt. Cox's testimony his five-day suspension  
5 was mitigated to one day?

6 A. That is correct.

7 Q. And now let's also turn to Page 151.

8 A. Okay.

9 Q. If you look to Lines 17 to the end of that page,  
10 is it true according to Lt. Cox he was presented  
11 with a plea agreement that would remove the  
12 one-day suspension?

13 A. Yes, that refreshes my memory. That is what  
14 happened.

15 Q. And would the department still have a copy of  
16 that plea agreement?

17 A. Yes, I would think so. I mean, the person who  
18 would probably have that -- I would imagine  
19 there's a copy in the Disciplinary Administration  
20 file, but minimally Dep. Chief Grant Ha would  
21 have a copy of it.

22 Q. And if we follow-up, is that something we could  
23 get as well?

24 A. Yes, I can look into that.

25 Q. And so to clarify under the plea agreement his

1 five-day and then one-day suspension was  
2 reversed?

3 A. Yes -- well, the penalty was taken away. I don't  
4 want to say -- I'd want to take a look at the  
5 plea agreement on how it was worded. I would  
6 imagine he remains sustained misconduct, but the  
7 penalty was taken away.

8 Q. And now you also mentioned demotions?

9 A. Yes.

10 Q. And we've also through other testimony heard the  
11 term "de-appointment" used?

12 A. Yes.

13 Q. Could you explain the difference between demotion  
14 and de-appointment?

15 A. Demotion can happen to any member of the Detroit  
16 Police Department. In one sense I think it's  
17 probably just a vernacular type of thing, but --  
18 so can a sergeant be demoted to an officer, yes.

19 You go back to whatever rank you are.  
20 You're technically appointed to a command  
21 position though, so -- and a command position is  
22 captain, commander, deputy chief, assistant  
23 chief.

24 You serve at the pleasure of the chief.  
25 At any point in that command position the chief

1 can de-appoint you from that command position and  
2 send you back down to the last rank you earned.

3 The ranks you earn in the Detroit  
4 Police Department is police officer, detective,  
5 sergeant, lieutenant.

6 So those are like testable things that  
7 you can take the test and you become a  
8 lieutenant. Chief really in one sense doesn't  
9 have any say about that. It's like that's the  
10 list and you're to the lieutenant.

11 But de-appointment, you get  
12 de-appointed from command positions.

13 Q. And was Rodney Cox's de-appointment related to  
14 his supervision of the Shinola investigation?

15 A. It was one thing out of many. It was his  
16 performance as a command officer period.

17 Q. And are you able to explain the rationale behind  
18 his de-appointment in any more detail?

19 A. No, I just knew that there was more than one  
20 thing. So lots of times with demotion and  
21 de-appointment and discipline because they have  
22 to be separate tracks, Chief Craig would have a  
23 separate conversation with Deputy Chief Grant Ha  
24 about that.

25 So because you can't -- you can't take

1 the de-appointment demotion step as part of the  
2 disciplinary process. So in one sense  
3 professional standards is out of that.

4 Now, this is a prerogative type of  
5 decision being made. So he would -- Chief Craig  
6 would have talked with probably his senior level  
7 executives. I'm somewhat speculating on that,  
8 but he definitely would have talked DC Grant Ha  
9 about that he would have done the paperwork.

10 Q. So within the kind of professional standards  
11 purview, because of the plea agreement Rodney Cox  
12 was not formally disciplined?

13 A. **Not formally disciplined, that's correct.**

14 Q. So then the two people who were subject to formal  
15 disciplinary action post appeal, etc for the  
16 Shinola investigation were Det. Adams and Lt.  
17 Kozloff?

18 A. **I can definitely say yes to Det. Adams. I'd have  
19 to check with Lt. Kozloff.**

20 Q. And is that the extent of disciplinary action  
21 that was ultimately taken due to the Shinola  
22 investigation?

23 A. **Yes.**

24 **DEPOSITION EXHIBIT 19**

25 **Internal Affairs report 11-5-20**

1 WAS MARKED BY THE REPORTER  
2 FOR IDENTIFICATION.

3 Q. Entering Exhibit 19. This is a copy of the IA  
4 report that we had looked at earlier that was  
5 attached to the November 5 memorandum?

6 A. Yes, it is.

7 Q. Could we turn to Page 50. Under First  
8 Endorsement what is the recommendation?

9 A. The recommendation is

10 "I have read and reviewed the  
11 investigation submitted by Sgt.  
12 Davidson and I find it to be complete  
13 and accurate. I concur with Sgt.  
14 Davidson's findings of 'EXONERATED' as  
15 it related to the allegation of misuse  
16 of facial recognition and 'SUSTAINED'  
17 for violating DPD policy. I recommend  
18 that this report be forwarded to  
19 Disciplinary Administration for  
20 adjudication".

21 And that was signed by Lt. William  
22 Trzos.

23 Q. Could you explain just to be abundantly clear  
24 "exonerated", does that mean that there was no  
25 policy violation with regard to facial

1 recognition technology?

2 A. So, at the end of any internal investigation we  
3 can make one of the following, well, five  
4 findings. One is administratively closed because  
5 we just couldn't get in touch with the victim any  
6 more, there's just nothing more we could do with  
7 the investigation. We're going to  
8 administratively close it.

9 If they ever come back and re-instigate  
10 the complaint, we'll follow up on it at that  
11 time.

12 There's unfounded which means we found  
13 no facts that showed that this ever happened.

14 Exonerated means that it happened, but  
15 it was within DPD policy. Not sustained means we  
16 couldn't find beyond a preponderance of the  
17 evidence one way or the other about what  
18 occurred.

19 And then sustained means by a  
20 preponderance of the evidence we have found this  
21 sustained misconduct. The only other change to  
22 the level of -- or the level of proof is if we  
23 find sustained findings of false statement, those  
24 would have to be by clear and convincing  
25 evidence.

1 Q. And just to recap as well, the sustained charge  
2 here was the failure to enter case notes and the  
3 failure to supervise the entering of case notes?

4 A. That is correct.

5 Q. And was that the extent of policy violations that  
6 was found?

7 A. Yes.

8 Q. And the approved stamp?

9 A. Was by myself on November 5, 2020. So what we'll  
10 do is generally speaking we'll have the  
11 lieutenant review the investigation. The captain  
12 normally also reviews the investigation, but if  
13 -- at this point it was Capt. Leno Ladell (sp).  
14 If she was out or -- then we wouldn't necessarily  
15 wait for her to come back into the office and  
16 then myself, we would stamp off on it.

17 If I felt like more explanation needed  
18 to be done, I could also write a second  
19 endorsement. I did not feel like a further  
20 explanation needed to be done in this case.

21 Q. And to clarify, so those are your initials on the  
22 approved stamp?

23 A. That's my signature. I know it looks like only  
24 my initials, but you know, that's my signature.

25 (An off-the-record discussion was



1 held).

2 Q. So, turning to the FRT issue more specifically,  
3 do you know how many times a DPD investigation  
4 that used FRT to help identify a suspect resulted  
5 in the arrest of the suspect who was not  
6 ultimately convicted?

7 **A. Off the top of my head, no, I have no idea.**

8 Q. Does DPD keep track of those cases?

9 **A. As a separate stat, I don't know.**

10 Q. Has DPD disciplined sworn members or other  
11 employees in relation to any cases other than the  
12 Williams case in which FRT was used to identify a  
13 suspect who was arrested and then not ultimately  
14 convicted?

15 **A. No.**

16 Q. Are you familiar with the arrest of Michael  
17 Oliver on July 31, 2019?

18 **A. I am.**

19 **DEPOSITION EXHIBIT 20**

20 **Complaint and Jury Demand - Oliver case**

21 **WAS MARKED BY THE REPORTER**

22 **FOR IDENTIFICATION.**

23 Q. Entering Exhibit 20. And could you identify this  
24 document for the record?

25 **A. This is a civil Complaint Case No. 20-011495-NO**

1 filed in Wayne County Circuit Court in the civil  
2 lawsuit of Michael Oliver versus Donald Busa,  
3 Stephen Cassini and the City of Detroit.

4 Q. And if we turn to Page 5, Line 20 of this  
5 document does it allege that the DPD arrested  
6 Michael Oliver on July 31, 2019?

7 A. Based upon the allegation I'm reading here  
8 Ferndale Police arrested him on a felony warrant  
9 out of Detroit and then we came and picked him up  
10 from Ferndale's custody.

11 Q. And then moving to the next page, Line 25 does it  
12 state that the prosecutor requested all charges  
13 against Mr. Oliver be dropped on September 13,  
14 2019?

15 A. Yes, that is what it states.

16 Q. And do you know if that is in fact the case?

17 A. Let me take a look. I know we addressed it as  
18 part of our IA investigation into Mr. Williams'  
19 arrest as well.

20 It does not state that that was the  
21 date and time that the charges were dismissed so  
22 I'm taking that at face value that that's what  
23 occurred on September 13, 2019.

24 Q. Is DPD aware that the charges were dropped in  
25 general?

1 A. We are aware, yes.

2 Q. And does DPD know why the charges were dropped?

3 A. At least according to Det. Bussa he stated that  
4 during the court proceedings the prosecutors  
5 pulled him off to the side and advised him that  
6 because facial recognition was used and it was  
7 controversial he was going to drop the case.

8 In terms of that, no, I have never  
9 personally spoke to the APA on that matter.

10 Q. And did DPD conduct a separate review of the  
11 Michael Oliver case?

12 A. There is no separate IA investigation. Sgt.  
13 Dominic Davidson did take a look into that and  
14 based upon his review he agreed with Det. Bussa's  
15 assessment in that case, but we did not -- no one  
16 came forward and asked us to conduct a separate  
17 investigation in that case.

18 Q. Were any sworn members or employees at DPD  
19 disciplined in relation to the investigation and  
20 arrest of Mr. Oliver?

21 A. No, based upon our initial review of the case we  
22 saw nothing wrong with what Det. Bussa did in  
23 that case.

24 DEPOSITION EXHIBIT 21

25 Crime Intel SOP Re: Facial Recognition

1           **WAS MARKED BY THE REPORTER**  
2           **FOR IDENTIFICATION.**

3    Q.    Now, let's turn to FRT policies in general.  I'm  
4           entering Exhibit 21.  Could you identify this  
5           document for me?

6    A.    **It states it is standard operating procedure of**  
7           **the Detroit Police Department Crime Intelligence**  
8           **Unit, effective date July 1, 2018 with the**  
9           **subject of Facial Recognition.**

10   Q.    And does it have a revised date of April 1, 2019?

11   A.    **Yes, that is correct.**

12   Q.    And what does -- generally speaking here what  
13           does Section 8 cover?

14   A.    **Facial recognition.**

15   Q.    And prior to the effective date of July 1, 2018  
16           was there at Crime Intel a SOP section on FRT?

17   A.    **Not that I know of.  I believe there was a**  
18           **training directive that spoke about vehicle**  
19           **identification cameras and facial recognition,**  
20           **but I don't think there was a separate SOP for**  
21           **facial recognition.**

22   Q.    So in March, 2019 then was there any written  
23           policy governing Crime Intel's use of FRT?

24   A.    **There was no standard operating procedure.  There**  
25           **was a training directive, but that was it.**

1 Q. And please turn to Subsection 8.11.

2 MR. CUNNINGHAM: 8.11?

3 MR. ELLIS: Yes.

4 BY MR ELLIS:

5 Q. I'm going to read the first part of that  
6 subsection -- one moment please.

7 This relates to DPD's facial  
8 recognition policy training program?

9 **A. Yes.**

10 Q. And in advance of this deposition we asked  
11 Mr. Cunningham to make sure either you or another  
12 30(b)(6) deponent would bring attendance records  
13 for DPD's FRT training.

14 Did you bring those today?

15 **A. I did not, no.**

16 Q. Does DPD take attendance records at trainings?

17 **A. Yes, normally.**

18 Q. And how does it keep attendance records from  
19 training?

20 **A. It depends. If this is given through the academy  
21 the academy would keep those records. If it is  
22 being done by the Crime Intel themselves, they  
23 might keep the records.**

24 MR ELLIS: And, Mr. Cunningham, we're  
25 requesting these records for the second time, so

1 putting that on the record.

2 MR. CUNNINGHAM: Okay.

3 DEPOSITION EXHIBIT 22

4 Crime Intel SOP Re: Facial Recognition

5 WAS MARKED BY THE REPORTER

6 FOR IDENTIFICATION.

7 Q. Entering Exhibit 22. Can you identify this  
8 document for the record?

9 A. This is standard operating procedure, Section 8,  
10 Detroit Police Department, Crime Intelligence  
11 Unit, effective date July 1, 2018, the revised  
12 date of December 21, 2020, Subject: Facial  
13 Recognition.

14 Q. Is it your understanding that this SOP was  
15 updated in 2022?

16 A. I'd have to be shown the documents, but I know  
17 that we're continually refining our policies,  
18 specially in terms of facial recognition.

19 Q. So --

20 A. So it wouldn't surprise me. I just don't have  
21 the document in front of me that I can tell you  
22 exactly did it happen in 2022.

23 Q. And if there were a 2022 version you could  
24 provide that?

25 A. Yes.

1 DEPOSITION EXHIBIT 23  
2 transmittal of proposed  
3 Manual Directive 307.6  
4 WAS MARKED BY THE REPORTER  
5 FOR IDENTIFICATION.

6 Q. Entering Exhibit 23. This is supposed manual  
7 directive articulating DPD policy with regard to  
8 the use of traffic light-mounted cameras and FRT,  
9 correct?

10 A. That is correct.

11 Q. Please turn to Page 3 of 3, Section 307.6-5.1.

12 A. Yes.

13 Q. Does this policy put any limits on the types of  
14 criminal investigation for which sworn members  
15 may use FRT?

16 A. No.

17 Q. So Michael Oliver's investigation would have  
18 qualified for FRT under this policy, correct?

19 A. Correct -- well, other than this policy wasn't in  
20 effect, so I think there was a training  
21 directive. So what we're seeing in here with  
22 this document is this is a proposed policy  
23 directive.

24 And the way our policies work is before  
25 a policy can go into effect we have to approve it

1 but then it gets sent to the Board of Police  
2 Commissioners.

3 They post it on their website, they ask  
4 for public comment. They can propose items back  
5 to us and then -- so this would not be like --  
6 this policy was never in effect as written here,  
7 not as policy as identified as 307.6 here.

8 What you see on that front page is  
9 while it says "approved", the first signature on  
10 the left, that's Grant Ha, 2nd Deputy Chief,  
11 April 22, 2019.

12 Then April 11, 2019, that's then Asst.  
13 Chief James White's signature. And then  
14 "received" means on April 23 we forwarded it to  
15 the Board of Police Commissioners.

16 So I don't believe that this was ever  
17 put into practice or never approved to be an  
18 official policy. So in terms of Michael Oliver's  
19 case or anything along those lines this was never  
20 a policy, never an approved policy.

21 So even though it has "approved" stamps  
22 all over the front, this was not approved. It  
23 was approved to be sent to the Board of Police  
24 Commissioners.

25 That's what those approved stamps mean.



1 Q. And then it was never formally adopted by the  
2 Board of Police Commissioners?

3 A. The summer of 2019 we spent a lot of time and a  
4 lot of debate with the Board of Police  
5 Commissioners.

6 I think if you take a look, it was the  
7 subject of multiple Board of Police Commissioners  
8 meetings. Some got very testy. I think they  
9 ended up in the newspaper.

10 But a lot went into this and then I  
11 believe -- the reason I know this didn't go into  
12 effect is we broke out that policy on facial rec  
13 just in and of itself, it didn't even stay with  
14 the traffic light-mounted cameras section.

15 So this changed drastically between  
16 April of 2019 and when facial rec actually --  
17 facial rec policy came out in September of 2019.

18 Q. And do you know who would have drafted this  
19 policy?

20 A. Based upon the heading up here it says reviewing  
21 Office of Support Operations. At that time Asst.  
22 Chief James E. White ran Support Operations. I  
23 would imagine he personally did not draft it.

24 He has a whole staff of people when he  
25 was in that role, but it would have come out of

1 his shop.

2 Q. And can you explain why this was not adopted?

3 A. Because of all of the public comments coming in  
4 and a lot of kind of the feedback from the  
5 community as well as the Board of Police  
6 Commissioners as well as our own internal study  
7 of best practices being used by other police  
8 departments around the country.

9 All of those things kind of came  
10 together in the summer of 2019 to -- for us to  
11 really go a different way than this initial kind  
12 of draft policy.

13 Q. What were the key critiques of the policy?

14 A. I think if we take a look at the September policy  
15 that we actually drafted I would probably talk a  
16 lot more intelligently about that, because it  
17 went from essentially two paragraphs to like a  
18 four or five-page document.

19 So a lot of that was based on input  
20 from the community.

21 MR. CUNNINGHAM: I need to take a break  
22 for a few minutes. My facilitation is heating  
23 up, I probably need like 10 minutes.

24 MR. ELLIS: No problem at all.

25 (A recess was taken.)

1 DEPOSITION EXHIBIT 24  
2 draft of Policy Directive 307.5  
3 WAS MARKED BY THE REPORTER  
4 FOR IDENTIFICATION.

5 Q. So let's turn back to Manual Directive 307.5 and  
6 just -- I know you mentioned you wanted to get on  
7 to the September policy, but just quickly for the  
8 record I'm entering Exhibit 24.

9 Could you identify this one for me?

10 A. This is -- the front page says "Planning and  
11 Deployment, Transmittal of Written Directive."

12 But then when you turn to Page 2 it is  
13 a draft of Policy Directive 307.5 facial  
14 recognition. And then so the front page, what it  
15 documents is it had been approved to be forwarded  
16 to the Board of Police Commissioners by Deputy  
17 chief Grant Ha on July 25, 2019 as well as then  
18 Asst. Chief James White on July 25, 2019 and it  
19 was received by the Board of Police Commissioners  
20 for their review on July 25, 2019.

21 So based upon my review this is our  
22 first attempt, the department's first attempt to  
23 break out facial recognition from the other  
24 policy and this was our first draft -- proposed  
25 draft policy directive.

1 Q. And to clarify, so this one was proposed, but  
2 never formally adopted?

3 A. Correct.

4 Q. And do you know specifically why this one was not  
5 adopted?

6 A. For the same reason, they were still going  
7 through a lot of discussion with the Board of  
8 Police Commissioners and obtaining input from the  
9 community and the Board of Police Commissioners.

10 Q. And did the input from the community at that time  
11 include concerns about the reliability of FRT?

12 A. Yes, that was one of the issues.

13 Q. Did it include concerns about the accuracy or  
14 inaccuracy due to race?

15 A. That was one of the concerns raised, yes.

16 DEPOSITION EXHIBIT 25

17 Manual Directive 307.5

18 WAS MARKED BY THE REPORTER

19 FOR IDENTIFICATION.

20 Q. Entering Exhibit 25 and can you identify this  
21 document for me?

22 A. This is the final approved facial recognition  
23 policy as originally adopted on September 19,  
24 2019, it is Directive No. 307.5, facial  
25 recognition.

1 Q. And could you just read the effective date for  
2 me?

3 A. Yes, September 19, 2019.

4 Q. And why did DPD adopt this policy?

5 A. We wanted to use facial recognition as a crime  
6 fighting tool and we were adopting policy to  
7 allow -- well, to do it in the best possible way.

8 Q. And was this the first formal FRT-related  
9 provision in the manual directive?

10 A. Yes, in the manual directive -- as an official  
11 policy in the manual, yes.

12 Q. Please turn to Page 3 of 8, Section 307.5 - 5.3?

13 A. Yes.

14 Q. This section restricts the use of FRT to Part 1  
15 violent crimes or Home Invasion 1 investigations,  
16 correct?

17 A. That is correct.

18 Q. Why did DPD limit FRT to those categories of  
19 crimes?

20 A. I believe this was one of those compromises in  
21 talking with the community that in order to  
22 assure the population that we're not just using  
23 this willy-nilly, we're going to start off with  
24 the most serious crimes.

25 And then if we can do it well on the

1 most serious crimes, maybe we can come back and  
2 revisit that limitation, but it was one of those  
3 compromises that you make to say, okay, we will  
4 only use it in the most serious of crimes.

5 Q. And did this policy apply to ongoing  
6 investigations in which an FRT search had already  
7 been run?

8 A. I don't know. All I can say is most policy  
9 provisions as soon as they're in effect apply to  
10 all investigations. Can I confidently say right  
11 now that there's no investigation that was not  
12 into a Part 1 crime that was ongoing, I don't  
13 know. If you've already done it, I don't know  
14 how you take it out of it, you know what I'm  
15 saying.

16 Like so if I've already submitted it --  
17 now, if it was submitted and hadn't been done  
18 yet, then yes, we should pull it back.

19 But I can't say right now whether that  
20 was -- if we have such a case, I don't know.

21 Q. So it would be typical if, let's say, there was  
22 an ongoing investigation, the search had been  
23 run, the result had been provided, there was no  
24 effort to halt that or take that out of the file?

25 A. No, I don't think so.

1 Q. Now, so as you just mentioned this manual  
2 directive limits the types of crimes for which  
3 FRT can be used, but does it address issues  
4 related to reliability?

5 A. It does. So, for example, it limits -- so for  
6 example in 307.5 - 5.1 use limited to still  
7 images, so it can only be used on still images,  
8 not on a video.

9 So that is one of the things that we  
10 looked at that we want to only use it on still  
11 photos as opposed to a video, so I would say that  
12 is primarily the only time it talks about the  
13 stock of photos that we're going to use.

14 It also talks about in the definitions  
15 portion the examiner plays an important role in  
16 assessing image quality and appropriateness for  
17 facial recognition searches and to perform  
18 one-to-many and one-to-one facial image  
19 comparisons. That would also be addressing  
20 reliability type of standards.

21 And then finally in 307.5 -2.4 talks  
22 about all facial recognition searches must be  
23 corroborated by at least two examiners and one  
24 supervisor, so that would be an additional way as  
25 a quality control type of mechanism.

1 Q. And does under 307.5 - 2.3 that they are a  
2 qualified section that you quoted, does that  
3 refer to the training that was required at that  
4 time for examiners?

5 A. For examiners, correct. I think that's an  
6 important point. When I took a look at some of  
7 those previous training directives, that's  
8 training for examiners as opposed to training for  
9 detectives in the PDU.

10 Q. Right, and detectives in the PDU did not receive  
11 the specialized training?

12 A. No, because the training they're talking about is  
13 how to actually do one of these comparisons.

14 DEPOSITION EXHIBIT 26

15 Manual Directive 307.5 (effective 12-16-22)

16 WAS MARKED BY THE REPORTER

17 FOR IDENTIFICATION.

18 Q. And now entering Exhibit 26. And is this the  
19 2022 version of Manual Directive 307.5?

20 A. Yes, it is.

21 Q. And could you read the effective date for me?

22 A. December 16, 2022.

23 Q. Is it identical to the September, 2019 manual  
24 directive?

25 A. I would say not because we would not put out



1 another one with a different effective date  
2 unless we made changes. If I just take a quick  
3 look here though.

4 The way you can tell what the changes  
5 are in any Detroit Police policy is the use of  
6 italics. So any italicized words would be the  
7 change from the previous one so I'm just taking a  
8 quick look at that right now.

9 Q. Sure, take your time.

10 A. Actually I see no italicized words in this.

11 MR. CUNNINGHAM: They're weren't any.

12 A. So I don't -- honestly I don't know why we put  
13 that out at December 16. It looks like there's  
14 no changes.

15 BY MR ELLIS:

16 Q. And --

17 A. Although it's also interesting too, the other  
18 thing that's interesting about this is while if  
19 it is revised there would be a check mark or an  
20 "X" in the revised box and there's no such check  
21 in the revised box on this December -- the  
22 document dated December 16, 2022.

23 Q. Do you know why it was re-issued and there  
24 appeared to be no changes?

25 A. No.

1 Q. Please turn to Section 6.2. The directive also  
2 requires an annual report to the Board of Police  
3 Commissioners, correct?

4 A. Yes.

5 Q. And the required information includes the summary  
6 of police reports, correct?

7 A. I'm sorry, I think you -- it said in your last  
8 question annual report. Oh, the annual report,  
9 6.3. Yes, there's a weekly report and an annual  
10 report, yes.

11 Can you repeat your last question now?

12 Q. Sure, and the -- so Section 6.2 requires weekly  
13 reports to the Board of Police Commissioners,  
14 correct?

15 A. Yes.

16 Q. And 6.3 requires an annual report to the Board of  
17 Police Commissioners, correct?

18 A. Yes.

19 Q. And was there an annual report for the year 2019?

20 A. I don't know, I'd have to go take a look at that.

21 Q. And how about for the year 2022, has that been  
22 produced yet?

23 A. Not that I'm aware of, but I can check on that as  
24 well.

25 Q. Thank you. Let's turn back slightly to Section

1 6.1(2)(d). The directive requires random  
2 evaluations of user compliance from a local  
3 agency security officer, is that correct?

4 **A. Yes, that's correct.**

5 Q. Do you know how often those random evaluations  
6 occur?

7 **A. I don't.**

8 Q. Do you have a sense if it's monthly or yearly,  
9 somewhere in-between?

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

11 Q. Are the results of those evaluations stored  
12 anywhere?

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

14 Q. And do you know if anyone reviews those results?

15 **A. I don't know. I would assume so, but I do not  
16 know.**

17 Q. And then turning to 6.1(3)(c), the directive  
18 requires the Crime Intel commanding officer to  
19 perform random audits, correct?

20 **A. Yes.**

21 Q. What do those audits consist of?

22 **A. That would be answered by the commanding officer  
23 of the Crime Intel Unit; I do not know.**

24 Q. And are those results stored anywhere or is that  
25 also a better question?

1     **A.     That's a question for him.**

2     Q.     Now, turning to training on FRT, does MSP provide  
3            training to DPD on facial recognition technology  
4            or its use?

5     **A.     I don't know.   That would be a better question**  
6            **for the commanding officer of Crime Intel.**

7     Q.     In his deposition last week Deputy Chief Hayes  
8            mentioned that DPD personnel provide training on  
9            DataWorks.

10                    Do you know who administers that  
11            training?

12    **A.     I do not.**

13    Q.     And has the FBI provided FRT training related to  
14            -- or has the FBI provided FRT-related training  
15            to DPD?

16    **A.     I don't.**

17    Q.     Another follow-up on training -- to take a step  
18            back, so you mentioned the 40-hour training  
19            program and the 24-hour training program.

20                    Could you walk through the timeline of  
21            when it was 40 hours, when it was 24 hours and  
22            what those changes looked like?

23    **A.     We went from 40 to 24 after COVID, so COVID put a**  
24            **big crimp in any training.   So that would have**  
25            **been from March of 2020 until probably the summer**

1 of 2021 if my memory serves me right.

2 The question about 40 as opposed to 24,  
3 I don't know what was cut out, but that would  
4 have to be at the academy.

5 I just know what's still in the 24-hour  
6 one. I don't know what they took out.

7 Q. And another clarifying question. Going back to  
8 our conversation about warrant requests and the  
9 investigator's report, does it violate DPD policy  
10 to not include in that that a witness who  
11 participated in a photo lineup knew that the  
12 suspect had been ID'd or the investigative lead  
13 had been ID'd through FRT?

14 A. No, it does not violate DPD policy.

15 MR ELLIS: I think let's take a little  
16 break. I think we're near the end here.

17 (A recess was taken).

18 BY MR ELLIS:

19 Q. One follow-up question back to discipline and  
20 demotion. So you explained that there's a  
21 discipline purview and then demotions and  
22 de-appointments are kind of a separate category.

23 Do you know are there written records  
24 for that process?

25 A. There's not much of a process on that because the

1 way that if you're appointed to command level you  
2 serve at the chief's discretion. So actually  
3 this has actually been a point of contention in  
4 the DPCOA, the command officers union. They  
5 wanted it to be for cause and no chief is willing  
6 to agree to that, and so essentially it's a piece  
7 of paper, you're de-appointed; that's it.

8 There's not -- because it's not an  
9 appealable-type of situation, so that's why -- we  
10 have disciplinary files, we have IA files because  
11 those can be appealed and there is a due process.

12 There's no due process for appointments  
13 to command level. If the chief came in and  
14 looked and said, "I don't like your eye color  
15 today," guess what, you're de-appointed to  
16 lieutenant. You've earned that.

17 You serve at his pleasure otherwise.

18 Q. Understood.

19 MR ELLIS: So that's it for me for  
20 questions.

21 MR. CUNNINGHAM: I don't have any  
22 questions.

23 THE REPORTER: Same order as usual for  
24 you guys?

25 MR. CUNNINGHAM: Yes.

1 MR ELLIS: Yes.

2 (The deposition was concluded at 2:42 p.m.,  
3 signature of the witness was not requested by  
4 counsel for the respective parties hereto)

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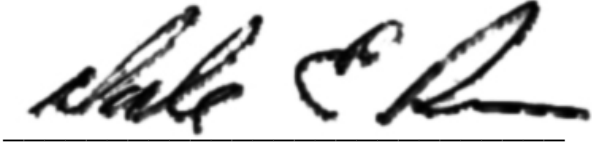
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CERTIFICATE OF NOTARY

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STATE OF MICHIGAN )  
 ) SS  
COUNTY OF WAYNE )

I, DALE E. ROSE, Certified Shorthand Reporter, a Notary Public in and for the above county and state, do hereby certify that the above deposition was taken before me at the time and place hereinbefore set forth; that the witness was by me first duly sworn to testify to the truth, and nothing but the truth, that the foregoing questions asked and answers made by the witness were duly recorded by me stenographically and reduced to computer transcription; that this is a true, full and correct transcript of my stenographic notes so taken; and that I am not related to, nor of counsel to either party nor interested in the event of this cause.



DALE E. ROSE CSR-0087  
Notary Public,  
Wayne County, Michigan

My Commission expires: 7-15-24



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1 13:14,18 14:4,7,21 20:10  
37:12,17 67:4,18 80:23 85:17  
93:22 113:9 132:8,10,15  
134:11 141:14,15 142:12

1.7 103:7

10 29:13,15 31:17,18,21 66:3,  
4,10,15 72:22 76:17,18 77:13  
80:8,12 85:9 100:24 102:12  
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11 67:12 84:14 93:7 136:12

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