

Stephen Lamoreaux

05/12/2023

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

5 ROBERT JULIAN-BORCHAK WILLIAMS,  
6 Plaintiff,

7 -vs- No: 21-10827

8 HON. LAURIE J. MICHELSON

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

16 \_\_\_\_\_/

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19 The videotaped deposition of STEPHEN LAMOREAUX

20 taken via Hanson Virtual Remote

21 commencing at 10:04 A.m.

22 Friday, May 12, 2023,

23 before Ann L. Bacon CSR-1297.

24

25

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1 Hanson Virtual Remote

2 Friday, May 12, 2023

3 10:04 a.m.

4 - - -

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

14 S T E P H E N L A M O R E A U X  
15 was thereupon called as a witness herein, after  
16 having been first duly sworn to tell the truth,  
17 the whole truth, and nothing but the truth, was  
18 examined and testified as follows:

19 EXAMINATION

20 BY MR. WESSLER

21 Q. Thank you. Good morning, Mr. Lamoreaux. My  
22 name is Nate Wessler. I'm an attorney, part of  
23 the team representing Mr. Robert Williams, who  
24 is the Plaintiff in this lawsuit. Thank you for  
25 making yourself available this morning. I

1 appreciate it. My understanding is that you  
2 need to leave at 1:00, is that right?

3 **A. Yes.**

4 Q. All right. So we will do everything we can to  
5 complete this whole deposition in those three  
6 hours. It's possible that if we don't get  
7 through this, we will need to find one more hour  
8 to come back for, but my goal is for us to  
9 finish today and not have to come back.

10 **A. Okay.**

11 Q. Have you had your deposition taken before?

12 **A. No.**

13 Q. So I'm just going to go over a few basics before  
14 we get going. First is if I'm looking down,  
15 it's because I have some notes down here on the  
16 desk in front of me. I promise I'm not trying  
17 to disrespect you. That is not the intention.  
18 That's just the nature of doing this remotely.

19 Second, I will be showing you some  
20 exhibits throughout this deposition that we'll  
21 be discussing. I'll do that by sharing my screen.  
22 I also made the PDFs available to Mr. Cunningham  
23 last night and we'll send the PDFs again after  
24 this so that you all have them with the correct  
25 numbering in order. And Miss Bacon, I will send

1 those PDFs to you as well at the conclusion of  
2 this deposition.

3 So first is the sound quality okay on  
4 your end?

5 **A. Yes.**

6 Q. If for any reason it gets choppy, you can't hear  
7 me, let me know. I can try using headphones or  
8 the microphone or something else, but otherwise  
9 I'll assume you can hear me. Do you understand  
10 that you're under oath today as if you were in a  
11 courtroom?

12 **A. Yes.**

13 Q. In order to have a clean transcript, you'll just  
14 need to wait until I finish asking questions  
15 before you answer, and I'll do the same, I'll  
16 wait for you to answer a question before I ask  
17 something else. Does that make sense?

18 **A. Yes.**

19 Q. And since we have a court reporter taking down a  
20 transcript, please provide audible yes or no  
21 answers like you've been doing. Nodding your  
22 head or saying uh-huh won't make for a clear  
23 transcript. Is that clear?

24 **A. Yes, that's clear.**

25 Q. If you don't understand a question, please ask



1 for clarification. If you don't ask for  
2 clarification, I'm going to assume you understood  
3 and we'll take your answer accordingly. Make  
4 sense?

5 **A. Yes, that makes sense.**

6 Q. If you want a break at any time, you're very  
7 welcome to take one. I just ask that you please  
8 finish answering a question if I ask one and  
9 then we can take a break. And relatedly, if we  
10 take a break and you and Mr. Cunningham want to  
11 have a confidential conversation, just please  
12 mute and go off screen and that's fine. I'm  
13 hoping we will take minimal breaks so we can  
14 just get through this, but of course, any time  
15 you need a moment, just let me know. Does that  
16 make sense?

17 **A. Yes, that makes sense.**

18 Q. Is there anything that would prevent you from  
19 thinking clearly and testifying truthfully today?

20 **A. No.**

21 Q. And then finally, Mr. Cunningham might object to  
22 some of my questions. That's just for the record  
23 in the transcript. Unless he specifically  
24 instructs you not to answer, he'll object and  
25 then you still need to answer the question that

1 is pending. Is that clear?

2 **A. That is clear.**

3 Q. Okay. Thank you. So before we get into the  
4 question, I just want to go over some of the  
5 terms that I'll be using throughout our  
6 conversation today, to make sure we're on the  
7 same page about what they mean. So if I say  
8 DPD, you understand that I'm talking about the  
9 Detroit Police Department?

10 **A. Correct, yes.**

11 Q. And if I say CIU, I'm talking about DPD's Crime  
12 Intelligence Unit?

13 **A. Yes.**

14 Q. And MSP refers to the Michigan State Police?

15 **A. Yes.**

16 Q. When I refer to the Shinola investigation, what  
17 I'm talking about is the investigation into a  
18 theft of watches from the Shinola store in  
19 downtown Detroit in October 2018 that culminated  
20 in the arrest of my client, Robert Williams. Do  
21 you understand that?

22 **A. Yes.**

23 Q. And then if I use the abbreviation FRT, I'm  
24 talking about facial recognition technology, okay?

25 **A. Yes.**

1 Q. And by facial recognition technology, I mean a  
2 computer program or an algorithm that takes an  
3 input photo, compares it against one or more  
4 stored images and attempts to produce an output  
5 with one or more possible matches or investigative  
6 leads. Does that accord with your understanding  
7 of that term?

8 **A. Yes.**

9 Q. Okay. And then if I talk about a probe image or  
10 a probe photo, I'm talking about the image or  
11 the photo that's fed into the facial recognition  
12 technology and are to be compared against one or  
13 more of those stored images to attempt a match.  
14 Does that make sense?

15 **A. Yes.**

16 Q. Okay. Do you understand that you have been  
17 designated today to testify under Rule 30(b)(6)  
18 on behalf of the City of Detroit as a Defendant  
19 in this lawsuit?

20 MR. CUNNINGHAM: I'm just going to say  
21 that Stephen will be testifying today in his  
22 capacity as director of crime data analytics for  
23 the Detroit Police Department. Go ahead.

24 MR. WESSLER: We have dealt with these  
25 objections before, Mr. Cunningham, of course.

1 We have designated -- I'm sorry, we have sent a  
2 Notice to the city as a Defendant under  
3 Rule 30(b)(6) asking the city to designate  
4 somebody capable of testifying on the specified  
5 topic. Unless you are telling me that this  
6 deponent is not prepared to testify under Rule  
7 30(b)(6), I'm going to proceed as normal with  
8 the deposition under that rule.

9 Q. (Continuing, by Mr. Wessler) Okay. So just one  
10 more question in this vein. Do you understand  
11 that the answers you give today are binding on  
12 the City of Detroit as a Defendant in this lawsuit?

13 **A. Yes.**

14 (Marked Exhibit No. 1.)

15 Q. (Continuing, by Mr. Wessler) Okay. Thank you.  
16 I am going to share Exhibit 1. Can you see this?

17 **A. Yes, I can see it.**

18 Q. Are you familiar with this document?

19 **A. Yes.**

20 Q. So this is the Deposition Notice that the  
21 Plaintiff in this case sent to the City of  
22 Detroit as a Defendant in this lawsuit, right?

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

24 Q. Okay. So I'm scrolling down to the second  
25 paragraph, the one that starts, "In accordance

1 with." Could you just read that paragraph to  
2 yourself please and tell me when you're done?

3 **A. Yes, I've read that.**

4 Q. And so this paragraph identifies a topic on  
5 which we have requested the City of Detroit to  
6 produce someone to testify today and that topic  
7 is, I'm going to read it again, "The City of  
8 Detroit's use of facial recognition technology.  
9 This topic includes, but is not limited to, the  
10 City of Detroit's use of DataWorks and its  
11 process of sending facial recognition search  
12 requests to the Michigan State Police." You  
13 have been designated to testify on behalf of the  
14 City of Detroit on that topic, correct?

15 **A. Correct.**

16 Q. And are you prepared to testify today on behalf  
17 of the City of Detroit on that topic?

18 **A. I am.**

19 Q. What did you do to prepare for this deposition?

20 **A. I had a discussion with Mr. Cunningham last week  
21 and some other members of CIU about the topics  
22 to be covered in this deposition. I reviewed  
23 our policy this morning as well.**

24 Q. Who did you speak to other than Mr. Cunningham?

25 **A. I believe on that discussion was crime analyst**

1 Nathan Howell, crime analyst Cameron Dean and  
2 Deputy Chief Franklin Hayes.

3 Q. Franklin Hayes. Did you say Cameron Dean?

4 A. Yes.

5 Q. And what did you speak to each of them about?

6 A. We simply talked about the topics that were  
7 listed in the questions for the deposition and I  
8 had the most institutional knowledge about the  
9 topic.

10 Q. And did you speak to all three of them at once  
11 or were these separate conversations?

12 A. It was all three at once.

13 Q. Okay. How long was that conversation?

14 A. I don't remember.

15 Q. Ballpark?

16 A. Yeah, perhaps roughly 30 minutes.

17 Q. Mm-hmm. And you said you reviewed the policy  
18 this morning. Did you review any other documents?

19 A. I looked at the template that we complete to  
20 submit to MSP when we are requesting them to run  
21 facial recognition.

22 Q. Any other documents?

23 A. No.

24 Q. So in total, including your conversation with  
25 Mr. Cunningham and your conversation with your

1 colleagues and reviewing documents, how much  
2 time would you estimate you spent preparing for  
3 this deposition?

4 **A. Perhaps an hour and a half.**

5 Q. Did you bring any documents or notes with you  
6 this morning?

7 **A. I have those documents in my bag. They're not  
8 in front of me at the moment.**

9 Q. And which documents?

10 **A. The policy and the template that we submit to MSP.**

11 Q. Any other documents or notes relevant to your  
12 preparation today?

13 **A. No.**

14 Q. Is there anything else that you did to prepare  
15 that we haven't discussed now?

16 **A. No.**

17 (Marked Exhibit No. 2.)

18 Q. (Continuing, by Mr. Wessler) Okay. Thank you.  
19 I'm going to share Exhibit 2 now. Are you  
20 familiar with this document?

21 **A. Yes.**

22 Q. So this is a letter that we sent to Mr. Cunningham  
23 listing some subtopics that we intended to ask  
24 you about today, is that right?

25 **A. Yes.**

1 Q. Are you prepared to address the items that are  
2 listed in this letter?

3 **A. Yes.**

4 Q. And do you understand that this was provided  
5 just as a guide to assist you in preparing, but  
6 it's not intended to be a complete list of all  
7 the questions or topics that we might discuss  
8 today? Is that right?

9 **A. Yes.**

10 Q. Okay. Thank you. So I want to ask you a few  
11 questions about your background and your  
12 employment and then we'll get into the real  
13 substance of our conversation. Briefly what's  
14 your educational background?

15 **A. I studied Urban Affairs and Geographic  
16 Information Systems and Urban Public Policy.**

17 Q. And what's the last degree you received?

18 **A. Master's.**

19 Q. Who is your current employer?

20 **A. City of Detroit with the Detroit Police Department.**

21 Q. How long have you been with DPD?

22 **A. A little more than five and a half years.**

23 Q. And what did you do before DPD, most recently  
24 before?

25 **A. I free-lanced and worked at a coffee shop.**



1 Q. What was the nature of the free-lance work?

2 **A. Geographic information systems, data systems.**

3 Q. Okay. And have your previous jobs before that  
4 free-lancing also been in GIS?

5 **A. Yes.**

6 Q. Okay. Can you please walk me through the positions  
7 you've had at DPD starting from the beginning?

8 **A. Yes. I began as the GIS Specialist, and from  
9 there I became a Project Manager and Analytic  
10 Specialist 3, and then I became Project Manager  
11 and Analytic Specialist 4, and then I became the  
12 Director of Crime Data Analytics.**

13 Q. How long have you been the Director of Crime  
14 Data Analytics?

15 **A. I believe approximately one month.**

16 Q. Approximately one --

17 **A. One month.**

18 Q. Okay. And how long were you in the position  
19 immediately prior to that?

20 **A. Roughly a little more than two years.**

21 Q. Okay. And what are your responsibilities in  
22 your current position?

23 **A. I am responsible for data analysis as it relates  
24 to crime or identifying crime trends, CompStat  
25 providing information to executives in a variety**

1 of topics and ensuring our data analysis is a  
2 quality group.

3 Q. And what were your responsibilities in the  
4 immediately prior position?

5 A. The same responsibilities.

6 Q. Okay. And what's different about this position  
7 now?

8 A. We will be a little more focused on the  
9 processes of an institutionalizing data analysis  
10 and building out capacity to a greater extent.

11 Q. Okay. And do you supervise other employees in  
12 this current position?

13 A. Yes.

14 Q. How many?

15 A. It's a little difficult to answer at the moment  
16 since it's a new position and the org. chart hasn't  
17 really been fully updated yet. Probably, you  
18 know, I oversee about ten people at the moment.

19 Q. I see. So this position did not exist prior to  
20 a month ago?

21 A. Correct.

22 Q. I see. Okay. Thank you. So getting to the  
23 substance of our conversation now, DPD runs  
24 searches using facial recognition technology,  
25 correct?

1    **A.    Correct.**

2    Q.    When did DPD start using FRT searches in  
3            investigations?

4    **A.    I believe it was in 2018.**

5    Q.    Okay.  So I'm going to come back to that in one  
6            second, but before DPD began running its own  
7            facial recognition technology searches, did DPD  
8            request FRT searches by other agencies?

9    **A.    I don't have any knowledge of anything prior to**  
10           **CIU becoming involved in facial recognition.**

11   Q.    And when did CIU become involved in facial  
12            recognition?

13   **A.    I believe it's 2018, maybe 2017.  I can't**  
14           **remember the exact date.**

15                            (Marked Exhibit No. 3.)

16   Q.    (Continuing, by Mr. Wessler) So let me share an  
17            exhibit.  Are you familiar with this is a power  
18            point presentation deck from DPD that we received  
19            in discovery.  Have you seen this before?

20   **A.    I don't recognize this slide.**

21   Q.    I'm going to take us to page seven and you see  
22            here under this first bullet point, "DPD began  
23            using facial recognition technology in 2016  
24            using the state system."  Do you have any reason  
25            to think that's incorrect?

1    **A.    No, I don't have any reason to think that's**  
2           **incorrect.**

3    Q.    Okay.  Do you know when in 2016 DPD began using  
4           facial recognition using the state system?

5    **A.    No, I wasn't employed by DPD at the time.**

6    Q.    And in preparing for this deposition you didn't  
7           speak to anyone about these historical details?

8    **A.    Specific dates, no.**

9    Q.    So when this says DPD began using FRT in 2016  
10           using the state's system, does that mean that  
11           DPD began requesting that the Michigan State  
12           Police run searches on DPD's behalf, or that DPD  
13           began logging into the state system to run its  
14           own searches?

15   **A.    I don't know.**

16                           (Marked Exhibit No. 4.)

17   Q.    (Continuing, by Mr. Wessler) Okay.  I'm going to  
18           share another exhibit now, and now I'm sharing  
19           Exhibit 4.  So this is an e-mail exchange between  
20           Andrew Rutebuka in DPD CIU, and Angela Yankowski  
21           you can see works for the Michigan State Police  
22           Biometrics and Identification Division and it's  
23           an exchange from 2019.  Does that look correct  
24           to you?

25   **A.    That looks correct, yes.**

1 Q. So I'm going to scroll down to the bottom.

2 Actually, first, does Mr. Rutebuka still work  
3 for CIU?

4 **A. No, he is not employed by the city anymore.**

5 Q. Do you know when he left the city?

6 **A. I believe in 2021.**

7 Q. Okay. Thank you. So this is the first e-mail  
8 in the chain down at the bottom of the document  
9 and Mr. Rutebuka writes to Miss Yankowski, well,  
10 to Michigan State Police, "I am attempting to  
11 get an accurate count of how many facial recs  
12 have been completed." Did I read that accurately?

13 **A. Yes.**

14 Q. Now I'm going to go up to the most recent e-mail  
15 in this chain up at the top of the document.  
16 This is from Miss Yankowski back to Mr. Rutebuka  
17 and you'll see that Miss Yankowski writes, "From  
18 May 15, 2014 through July 16, 2019 MSP SNAP Unit  
19 facial examiners have processed 377 SNAP case  
20 management facial recognition (CMFR) search  
21 requests for the Detroit Police Department,"  
22 and then in the third paragraph Miss Yankowski  
23 writes, "From September 16, 2014 to July 16,  
24 2019 the DPD has used the SNAP CMFR tool a total  
25 of 4,078 times," and then in parentheses it

1 says, "(Note that several of those search  
2 sessions are duplicate searches of the same  
3 probe photo and/or subject)." Did I read those  
4 two sentences accurately?

5 **A. Yes.**

6 Q. Why do these date ranges start in 2014?

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

8 Q. So you don't know when DPD starting requesting  
9 facial recognition searches through MSP?

10 **A. No.**

11 Q. Okay. Has DPD ever had a contract with a company  
12 that provides facial recognition technology  
13 software?

14 **A. Yes.**

15 Q. What company was that?

16 **A. DataWorks Plus.**

17 Q. Is DataWorks the only company that DPD has  
18 contracted with for FRT?

19 **A. To my knowledge, yes.**

20 Q. Okay. Has DPD ever used any other facial  
21 recognition technology programs or algorithms?

22 **A. Not that I'm aware of, no.**

23 Q. Are you familiar with the facial recognition  
24 technology company called Clearview AI?

25 **A. I am, yes.**

1 Q. Can you just describe them briefly in your own  
2 words what you understand them to be?

3 **A. I believe Clearwater AI is a facial recognition**  
4 **application that compares probe photos to social**  
5 **media photos returning social media profiles for**  
6 **those individuals.**

7 Q. In that answer you said Clearwater AI. Did you  
8 mean Clearview AI?

9 **A. Yes. I'm sorry. Clearview AI.**

10 (Marked Exhibit No. 5.)

11 Q. (Continuing, by Mr. Wessler) No problem. I'm  
12 now going to show you Exhibit 5. So this is an  
13 article from BuzzFeed News from April of 2021  
14 discussing local police departments that used  
15 Clearview AI's system. Have you seen this before?

16 **A. I don't know if I've seen that article. I have**  
17 **seen some articles in this format.**

18 Q. I am scrolling down now. This is page five of  
19 the PDF as it's saved from the internet article  
20 and you'll see this is a table with the names of  
21 some police departments that records BuzzFeed  
22 obtained indicate used Clearview and you see it  
23 says Detroit Police Department, Michigan and  
24 under the search count column it says 11 to 50.  
25 Do you see that?

1    **A.    I see that, yes.**

2    Q.    So that would mean that according to this  
3           reporting, someone or someones at DPD used  
4           Clearview's facial recognition tool between 11  
5           and 50 times, is that correct?

6    **A.    That would be my understanding is what that**  
7           **would mean.**

8    Q.    Do you have any reason to believe that this  
9           reporting is incorrect?

10   **A.    No.**

11   Q.    Did DPD ever have a contract with Clearview?

12   **A.    No.**

13   Q.    Did DPD ever permit its personnel to use  
14           Clearview for facial recognition searches?

15   **A.    No.**

16   Q.    Could DPD personnel have used Clearview without  
17           the knowledge of department leadership?

18   **A.    Yes.**

19   Q.    And would that have violated any policy that  
20           you're aware of?

21   **A.    Yes.**

22   Q.    What policy is that?

23   **A.    The facial recognition use policy.**

24   Q.    Okay.  And so what in the facial recognition use  
25           policy would have been violated?  Let me ask



1 that a different way. In what way would that  
2 have violated the facial recognition use policy?

3 **A. There are, I believe there are two parts of the**  
4 **policy that would have violated. The first is**  
5 **that facial recognition must be run and managed**  
6 **by the Crime Intelligence Unit; and two, the ban**  
7 **on the use of mobile facial recognition technology.**

8 Q. And if it was a CIU member who was using  
9 Clearview, would that have violated the policy?

10 **A. I'm not sure if that would have violated the**  
11 **facial recognition policy or not.**

12 Q. Is there another policy it might have violated?

13 **A. I don't know off the top of my head which policy**  
14 **that would have violated.**

15 Q. Okay. Thank you. We're done with this exhibit.  
16 So I'm going to go back to a timeline question  
17 again. Do you know when DPD first began using  
18 DataWorks?

19 **A. Is the contract of that from 2017?**

20 (Marked Exhibit No. 6.)

21 Q. (Continuing, by Mr. Wessler) Let me bring up the  
22 contract. This is Exhibit 6. So are you  
23 familiar with this document?

24 **A. I have seen that, yes.**

25 Q. And this is the contract between the City of

1 Detroit and DataWorks Plus for facial recognition  
2 services, is that right?

3 **A. Yes.**

4 Q. And I'm going to go to the signature page. This  
5 is page 24 and it shows that the contract was  
6 signed in 2017, right?

7 **A. Yes.**

8 Q. So do you know when DPD started actually using  
9 the DataWorks platform pursuant to this contract  
10 signed in July of 2017?

11 **A. I believe the second half of 2017. I don't  
12 remember the exact date.**

13 Q. Okay. Is this contract still in effect?

14 **A. I don't believe so, no.**

15 Q. Does DPD still use DataWorks for facial  
16 recognition searches though?

17 **A. Yes.**

18 Q. And so how does it do that if it's not through  
19 this contract?

20 **A. Through the MiCJIN portal and SNAP through MSP's.**

21 Q. Can you just spell the letters in the MiCJIN  
22 acronym for the record?

23 **A. M-i-C-J-I-N, I believe.**

24 Q. Do you know what that stands for?

25 **A. The Michigan Criminal Justice Information Network.**

1 Q. Thank you. And you said SNAP, that's S-N-A-P?

2 **A. Yes.**

3 Q. And do you remember what that stands for?

4 **A. Statewide Network of Agency Photos.**

5 Q. Thank you. So can you tell me when DPD stopped  
6 using DataWorks under this contract and started  
7 instead using DataWorks through MSP's system?

8 **A. I believe DPD primarily used DataWorks Plus**  
9 **through the MSP program.**

10 Q. So even when this contract was in effect and DPD  
11 had its own version of DataWorks that it could  
12 use locally, it was mostly using MSP's system  
13 instead?

14 **A. Yes.**

15 Q. And why was that?

16 **A. The MSP program has access to the Statewide Agency**  
17 **Photos. DPD's version has access only to DPD**  
18 **photos.**

19 Q. So when a Crime Intelligence Unit staff member  
20 logs into MSP's system, are they able to run a  
21 search against the state driver's license database?

22 **A. No.**

23 Q. Are they able to run a search against arrest  
24 photos from the City of Detroit?

25 **A. Yes.**

1 Q. Are they able to run a search against arrest  
2 photos from other jurisdictions in Michigan?

3 A. Yes.

4 Q. Are they able to run a search against arrest  
5 photos from other jurisdictions elsewhere in the  
6 country?

7 A. I don't believe so.

8 Q. And are there any other types of photos that  
9 someone in DPD can run a search against using  
10 MSP's system?

11 A. No.

12 Q. Do you know how early -- so we discussed earlier  
13 that presentation saying that DPD started using  
14 searches through the state system in 2016. Do  
15 you remember that?

16 A. Yes.

17 Q. Okay. So would it be correct to say that MSP  
18 through CIU was using the state system starting  
19 in 2016 and then in 2017 also had the option of  
20 using a locally operated DataWorks program?

21 A. Could you clarify? You said MSP through CIU?

22 Q. Sorry. So starting in 2016 CIU could use MSP's  
23 system, is that right?

24 A. I believe so, yes.

25 Q. And then in 2017 CIU had a choice between MSP's

1 system or the DataWorks system pursuant to this  
2 contract?

3 **A. Yes.**

4 Q. And you said mostly DPD was using MSP's system.  
5 Can you give an estimate of the proportion of  
6 searches through DPD's own contract with  
7 DataWorks versus through MSP's system?

8 **A. I don't have a sense. I think the vast majority  
9 was through the MSP system.**

10 Q. I'm going to stop sharing. Do you know why DPD  
11 let its contract with DataWorks lapse?

12 **A. My understanding is I think we realized it wasn't  
13 required to run facial recognition searches.**

14 Q. And is that because DPD could use MSP's system  
15 through DataWorks?

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

17 Q. Do you know who was involved in those discussions  
18 about ending the contract with DataWorks?

19 **A. I'm only aware of Captain Matthew Fulgenzi,  
20 Commander Michael Parish, and I don't know who  
21 else. I believe Director Robert Millender,  
22 public safety IT would have been involved in  
23 that as well. Oh, and I think Art Thompson CIO  
24 was involved in that as well.**

25 Q. Okay. And were there any documents memorializing

1 that decision, memos, e-mails, et cetera?

2 **A. I'm not aware of any.**

3 Q. Can you please describe in your own words what  
4 DataWorks does?

5 **A. DataWorks provides an application where a probe  
6 photo can be uploaded and matched against a  
7 collection of photos, from our perspective that  
8 is agency mug shots and it returns a set of  
9 photos that an analyst can then look through and  
10 compare it to the original photo.**

11 Q. And would it be correct to say that DataWorks is  
12 a platform that integrates facial recognition  
13 technology algorithms from other companies?

14 **A. I don't know the source of the algorithms.**

15 Q. Okay. So do you know when DPD began using  
16 DataWorks through its own contract in 2017, do  
17 you know what algorithms were in use through the  
18 platform?

19 **A. I don't remember the specific names. I believe  
20 there were two that were included in the purchase.**

21 (Marked Exhibit No. 7.)

22 Q. (Continuing, by Mr. Wessler) So I'm going to  
23 introduce Exhibit 7. Are you familiar with this  
24 document?

25 **A. I have not seen this before.**

1 Q. So this is the solicitation that DataWorks --  
2 well, this is the DataWorks submission to DPD in  
3 response to the solicitation for facial  
4 recognition software, and I'm going to take us  
5 down to page seven where DataWorks writes, this  
6 is the highlighted area in front of this first  
7 blue circle, "We are proposing the ROC and NEC  
8 facial matching engines, for dual engine  
9 searching which increases system accuracy." Are  
10 you familiar with ROC and NEC algorithms?

11 **A. I believe those are the algorithms that were**  
12 **included.**

13 Q. And does ROC stand for Rank One Computing? Does  
14 that sound right to you?

15 **A. I believe so.**

16 Q. Do you know what NEC stands for?

17 **A. I do not.**

18 Q. Okay. And now I'm going to take us back to  
19 Exhibit 6. This is the contract with DataWorks,  
20 and taking us to page 26 of this, and you see in  
21 this third row this contract says, "500,000  
22 Enrolled Records (Dual Engine NEC and ROC)."  
23 Did I read that right?

24 **A. Yes.**

25 Q. So is it your understanding that the facial

1 recognition algorithms that DPD had access to  
2 through DataWorks were NEC and ROC?

3 **A. I believe so, yes.**

4 Q. And are those the same algorithms that DPD had  
5 access to through MSP's version of DataWorks?

6 **A. I don't know what algorithms we had access to  
7 with MSP.**

8 Q. Do you know what versions of NEC and ROC  
9 algorithms were in use at various times by DPD?

10 **A. No, I do not.**

11 Q. Were NEC and ROC the algorithms that were still  
12 integrated into the system in 2019?

13 **A. I don't know if or how the system was changed  
14 after that.**

15 Q. And do you know what facial recognition  
16 algorithms are used today in MSP's DataWorks  
17 system that you have access to?

18 **A. No, I do not.**

19 Q. Just give me one moment. Does DPD have the  
20 ability to conduct facial recognition searches  
21 through the FBI's FRT system?

22 **A. No.**

23 Q. How many, approximately how many photos are in  
24 the database that DPD has access to to run  
25 facial recognition searches against?



1     **A.     I don't know.**

2     Q.     I'm just going to share again Exhibit 6. This  
3            is the contract with DataWorks and that same  
4            line we were looking at before, it says 500,000  
5            Enrolled Records. Does that mean anything to you?

6     **A.     I would presume that that is the number of DPD  
7            photos that were loaded into DataWorks Plus for  
8            the DPD instance of the program.**

9     Q.     Thank you. Give me one second. The light  
10            automatically turned off. Let me get myself out  
11            of the dark here. One of the hazards of a  
12            deposition on Zoom. And do you know today when  
13            DPD runs searches through MSP's system of arrest  
14            photos from Detroit and from the rest of the  
15            state, do you have any idea how many of those  
16            photos there are?

17    **A.     I do not.**

18    Q.     So we spoke earlier a little bit about SNAP, the  
19            Statewide Network of Agency Photos. When DPD  
20            was running its own facial recognition system  
21            through DataWorks, did that have access to SNAP?

22    **A.     I'm sorry. Are you asking if our instance of  
23            DataWorks Plus had access to SNAP?**

24    Q.     That's right.

25    **A.     No, it did not.**

1 Q. But when you run searches through MSP's instance  
2 of DataWorks, that does have access to SNAP?

3 **A. Yes.**

4 Q. Okay. And we talked about earlier how DPD can  
5 run searches against arrest photos from agencies  
6 across the state, but no other kinds of photos  
7 in SNAP, is that right?

8 **A. Correct.**

9 Q. Okay. When DPD requests that MSP run a search  
10 through DataWorks, what photos can MSP search  
11 against?

12 **A. My understanding is they can search the SNAP**  
13 **collection of photos as well as the SOS driver's**  
14 **license photos.**

15 Q. And what is contained in the SOS driver's  
16 license photo database?

17 **A. The state I.D. photos.**

18 Q. Okay. And that would include both current  
19 driver's license photos and expired driver's  
20 license photos?

21 **A. I believe so, yes.**

22 Q. So can you just walk me through in your own words  
23 what the process is when a DPD investigator like  
24 a detective wants to have a facial recognition  
25 technology search run on an image?

1 A. Yes, the investigator submits a run form with  
2 their request, including basic information about  
3 the incident, the incident number, the crime  
4 type and they also submit probe photos that they  
5 have obtained. Analysts at CIU review that  
6 request, review the case notes, and the incident  
7 report itself to conduct a policy review to make  
8 sure that the incident falls in line with our  
9 policy, and if it does and the image is deemed  
10 to be high enough quality to run a facial  
11 recognition search, that photo is uploaded into  
12 the DataWorks Plus instance through SNAP and MSP  
13 and the analyst then compares that probe photo  
14 to the collection of mug shot photos that are  
15 returned to make a determination. That is then  
16 reviewed by another analyst to corroborate that,  
17 and then a supervisor signs off that policy was  
18 followed and that everything, that the potential  
19 lead can be shared with the investigators, and  
20 if a potential lead is determined and can be  
21 shared with the investigators, that is sent to  
22 the investigator. If not, no information is  
23 provided.

24 Q. And was this process that you just described the  
25 same in March of 2019 when the Shinola

1 investigation was ongoing?

2 **A. I don't believe it was exactly the same.**

3 Q. In what ways was it not the same?

4 **A. I believe there -- well, my recollection is a**  
5 **little fuzzy on this. I believe there was not a**  
6 **submission form yet. At one point there was not**  
7 **a submission form, and so the requests were often**  
8 **e-mailed to the shared inbox that's used by the**  
9 **Crime Intelligence Unit, and then it would be**  
10 **handled by whoever analysts were working that were**  
11 **able to perform facial recognition and I'm not**  
12 **sure of the rest of the process at that time.**

13 Q. Okay. And so you talked about the CIU member  
14 receiving the request either at that time  
15 through e-mail or now through the web forum.  
16 When someone in CIU receives a request from say  
17 a detective, does the CIU member always run the  
18 search themselves?

19 **A. No, not always.**

20 Q. Sorry. Can you say that again?

21 **A. I said no, not always.**

22 Q. Not always. And what might they do instead?

23 **A. In the event that they're not authorized to run**  
24 **the facial recognition search, they would**  
25 **forward that request to an analyst who is.**

1 Q. So only some analysts in CIU are permitted to  
2 actually run the searches?

3 **A. That is correct, yes.**

4 Q. And so when an analyst who is permitted to run  
5 the searches receives that request, do they  
6 always run the search themselves or do they  
7 sometimes request another agency to run it?

8 **A. If the picture -- if the picture is high quality  
9 enough, they would run it themselves.**

10 Q. Okay. And what if the picture is not high  
11 quality enough?

12 **A. They'll make a determination if it's high quality  
13 enough to send to MSP, they will send it to MSP.**

14 Q. So can you describe the difference between an  
15 image that's high quality enough to run yourself  
16 at DPD versus one high quality enough to send to  
17 DPD, but not to run yourself?

18 **A. I'm not personally aware of the details of that.**

19 Q. Okay. But just to make sure I understand,  
20 you're saying that there are some photos that  
21 are of not enough quality to run directly at  
22 DPD, but could still be sent to MSP even though  
23 they're lower quality?

24 **A. Yes, I believe so.**

25 Q. But you do not know what the attributes are of a

1 photo that would fall into that category?

2 **A. I do not, no.**

3 Q. Okay. So when a DPD analyst is evaluating  
4 whether they can run an FRT search, I think you  
5 said the image quality is a factor in making  
6 that decision, is that right?

7 **A. Yes.**

8 Q. Are there other factors beyond image quality?

9 **A. It has to be in line with our policy as to the**  
10 **very specific crime type.**

11 Q. Very specific crime type you said?

12 **A. Yes.**

13 Q. And those are Part 1 violent crimes and armed  
14 robberies I think, violent robberies?

15 **A. Part 1 violent crimes, which would include**  
16 **homicide, sex assault, robbery and aggravated**  
17 **assault, as well as Home Invasion 1.**

18 Q. Home Invasion 1. Okay. Thank you. So back to  
19 image quality. Have CIU analysts declined to  
20 run FRT searches for other DPD personnel because  
21 of that concern for image quality?

22 **A. Yes.**

23 Q. Do you know how often that happens?

24 **A. I do not, no.**

25 Q. Do you have a qualitative sense, you know, daily

1 weekly, regularly?

2 **A. I don't honestly know.**

3 Q. Okay. What are the factors that bear on the  
4 accuracy of a photo in terms of image quality?

5 **A. Could you repeat that? I couldn't --**

6 Q. What are the factors that bear on the adequacy  
7 of a photo in terms of image quality?

8 **A. I believe lighting would be one and pixelation  
9 would be another. I don't know for sure.**

10 Q. Would shadows on the face be another?

11 **A. I do not believe so.**

12 Q. So shadows on the face don't factor into a  
13 decision about whether a photo is of adequate  
14 quality?

15 **A. I mean they may at some point, but I think  
16 shadows are acceptable.**

17 Q. How about the angle of the photo?

18 **A. Yes, the angle of the face and the photo would  
19 play an impact on that.**

20 Q. How about whether some facial features are  
21 included in the photo by something like a hat or  
22 sunglasses?

23 **A. I'm not sure if a hat. It would depend on the  
24 hat. Sunglasses may have an impact.**

25 Q. And you said lighting was one. How about image

1 brightness?

2 **A. It could play a role. I don't know the degree**  
3 **to which that plays a role.**

4 Q. And how about the skin tone or race of the  
5 individual depicted?

6 **A. I don't believe that plays a role in whether an**  
7 **image can be put into a facial recognition search.**

8 Q. Are there any other factors related to image  
9 quality?

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

11 Q. So you mentioned pixelation of the image, right?

12 **A. Yes.**

13 Q. How does CIU assess the pixelation of an image?

14 **A. I think it's a simple visual look at it. The**  
15 **analyst who do these searches will have a sense**  
16 **of what might work, you know, and what won't work.**

17 Q. Does the analyst ever try to actually count the  
18 pixels across the face using a computer program?

19 **A. No.**

20 Q. So it's a qualitative assessment of how  
21 pixelated the photo is?

22 **A. Yeah, general qualitative assessment of resolution.**

23 Q. And is there a minimum number of pixels between  
24 the eyes or across the face that sets the  
25 standard for whether a photo is sufficient to



1 run through a search?

2 **A. I don't believe so, no.**

3 Q. Okay. So a probe photo that has one of these  
4 features that we just talked about is likely to  
5 result in a less reliable FRT result, is that  
6 right?

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

8 Q. You don't know, okay. Would it be fair to say  
9 if you had multiple of these factors together  
10 such as dim lighting or pixelation, they might  
11 combine to reduce the reliability of the results  
12 from a search?

13 **A. It's possible. I don't think any of these is a**  
14 **binary yes or no. I think everything is on the**  
15 **scale.**

16 Q. Okay. Just one more question back on the  
17 pixelation. How are CIU analysts trained on  
18 evaluating the pixelation of an image?

19 **A. I don't know the specifics. It's probably**  
20 **included in the FBI training that they go**  
21 **through, and then they gain kind of experience**  
22 **from, the analysts have gained experience and**  
23 **they can pass that on to others as well.**

24 Q. Have you attended that FBI training?

25 **A. I sat in on it. I was unable to attend the**

1           **entire program.**

2       Q.    Can you describe -- well, how long is the entire  
3           program?

4       **A.    I believe it is three days.**

5       Q.    Three days.  So three full days more or less?

6       **A.    Yes.**

7       Q.    And what is your understanding of the topics  
8           that are covered over those three days?

9       **A.    There is the parts that I saw cover comparisons**  
10       **of facial features and go into some detail of**  
11       **shapes and angles.  I don't remember the specific**  
12       **terminology, but how to compare two photos**  
13       **together and compare the features, the ears, the**  
14       **nose, the eyes, the mouth, things like that.**

15      Q.    Would it be accurate to say that process is  
16           sometimes called a morphological comparison?

17      **A.    I believe so, yes.**

18      Q.    So from what you've described that training  
19           deals with, an analyst who has received some  
20           results back from facial recognition then tries  
21           to determine which of those possible results is  
22           the best match to the probe photo, is that right?

23      **A.    Yes.**

24      Q.    Does the FBI training involve training on the  
25           facial recognition technology itself?

1    **A.    No.**

2    Q.    Does it involve training on the quality of an  
3           image sufficient to feed into the facial  
4           recognition technology?

5    **A.    I believe that's covered in it.**

6    Q.    Okay.  And does it address the quality of an image  
7           required to be able to conduct that morphological  
8           comparison at the end of the FRT search?

9    **A.    I don't know.**

10   Q.    So we were talking earlier about how DataWorks  
11          integrates has two different facial recognition  
12          technology algorithms.  When a DPD CIU analyst  
13          runs a search through DataWorks, does the  
14          DataWorks system simultaneously search both of  
15          those algorithms?

16   **A.    I don't know.**

17   Q.    Okay.  Are you trained to operate FRT searches  
18          yourself?

19   **A.    I am not.**

20   Q.    So have you ever run a search through DataWorks?

21   **A.    I have not.**

22   Q.    Have you ever watched the trained analysts run a  
23          search through DataWorks?

24   **A.    I have, yes.**

25   Q.    So are you familiar with how the system looks at

1 various steps of that process?

2 **A. Yes.**

3 Q. How recently was the last time you saw an  
4 analyst do that?

5 **A. I believe a couple weeks ago.**

6 Q. Okay. And roughly how many times do you think  
7 you watched that process?

8 **A. Over the last few years, quite a few.**

9 Q. Okay. So a few questions about that. So first  
10 does the system ever fail to produce a result at  
11 all through an FRT search?

12 **A. I don't know. I have never seen that.**

13 Q. You've never seen that, okay. When an analyst  
14 runs an FRT search, how many results are  
15 returned, and by results I mean the gallery of  
16 potential match images that the system sends back?

17 **A. It varies.**

18 Q. When you say it varies, can you explain more?

19 **A. There is no set range. It returns what it  
20 returns and sometimes there's a lot, sometimes  
21 there's less. I don't have any sense of what  
22 the range is.**

23 Q. Okay. And was that also the case in 2019, that  
24 it might return more or less results?

25 **A. I believe so.**

1 Q. What determines how many results come back?

2 **A. I don't know exactly. I assume the algorithm**  
3 **has some bare minimum matching and returns any**  
4 **-- whatever the number of images above that**  
5 **point is.**

6 Q. Okay. I'm going to come back to that in just  
7 one second, but when you're looking at the  
8 results, how are they displayed? Is there just  
9 one set of results? Are there two sets that  
10 might correspond to the two algorithms? Can you  
11 describe what the results look like?

12 **A. Yeah. We see a screen that has one set of pictures**  
13 **and then it displays a small number at a time**  
14 **and you can click through pages to see**  
15 **additional photos.**

16 Q. So returning to what we were talking about just  
17 before that, are you familiar with the term  
18 confidence threshold or likelihood threshold?

19 **A. I am familiar with those terms, yes.**

20 Q. And so you were discussing kind of a set point  
21 under which the system is not returning results.  
22 Would it be accurate to call that a confidence  
23 threshold or a likelihood threshold in the system?

24 **A. I believe so, yes.**

25 Q. Okay. What is that threshold in the DataWorks

1 system that DPD uses?

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

3 Q. Who sets that threshold?

4 **A. I assume DataWorks Plus or potentially MSP.**

5 Q. But DPD doesn't have a role in setting it?

6 **A. No.**

7 Q. Okay. And was that the case also in 2019?

8 **A. I do not know for the DPD instance, but that**  
9 **would have been the case still for the MSP**  
10 **instance.**

11 Q. So for the MSP instance, somebody outside of DPD  
12 set a confidence threshold and that's just how  
13 the searches would run?

14 **A. Yes, DPD has no control over that system.**

15 Q. Okay. And so just to make sure I'm clear, there  
16 is a threshold below which images don't return  
17 and images with a score above that threshold  
18 will return, yes?

19 **A. That's my understanding of the system, yes.**

20 Q. Okay. Are you familiar with the term confidence  
21 score or likelihood score?

22 **A. I am familiar with those terms, yes.**

23 Q. And in this context would that be a score  
24 associated with each image about how confident  
25 the system is that it's a match to the probe photo?

1    **A.    Yes, I believe it would.**

2    Q.    Okay.  When the DataWorks system returns results  
3        of a search, is there a confidence score, a  
4        likelihood score reflected for each photo?

5    **A.    There is, yes.**

6    Q.    And is that visible to the crime analyst?

7    **A.    It is visible, yes.**

8    Q.    Are the candidate match images arranged in order  
9        of confidence score?

10   **A.    I believe so, yes.**

11   Q.    And is that from highest score to lowest score?

12   **A.    Yes, I believe so.**

13   Q.    And can you recall from viewing these results  
14        roughly what the lowest score is that you've  
15        seen in those results?

16   **A.    No, I don't have any recollection of that.**

17   Q.    Okay.  And can you describe the number, how many  
18        digits it is, what it looks like, that score?

19   **A.    I believe it's to one decimal place.  I think  
20        it's out of 100, like a percentage.**

21   Q.    Okay.

22   **A.    It's a small -- it's small on the screen, so it  
23        is not the most prominent thing to look at on  
24        the screen.**

25   Q.    What role do those confidence scores play in a

1 CIU analyst's evaluation of those search results?

2 **A. The odds of determining what pictures get**  
3 **returned, absolutely none.**

4 Q. And how are CIU analysts trained to deal with  
5 those scores?

6 **A. Trained to ignore them.**

7 Q. Trained to ignore them. They are still visible  
8 though?

9 **A. They are still visible, yes.**

10 Q. Are those scores communicated to the detective  
11 who requested the search?

12 **A. No.**

13 Q. Are they visible to the peer and the supervisor  
14 who are later reviewing the results?

15 **A. They're definitely visible to the peer. I don't**  
16 **know if they're visible to the supervisor every**  
17 **time.**

18 Q. And just to make sure I'm clear, analysts are  
19 instructed to ignore those results, is that what  
20 you said?

21 **A. Yes, that is correct.**

22 Q. And why is that?

23 **A. Because it is simply used to determine which**  
24 **photos get returned. It should not be part of**  
25 **the assessment of the photos and the analysts**



1 are trained to compare the probe photo to the  
2 return photos to make a determination. The  
3 algorithm is simply filtering down the set of  
4 photos to sift through.

5 Q. I'm going to ask a few questions about the  
6 comparison that happens. We talked earlier  
7 about the FBI training and the morphological  
8 comparison process. What does that matching  
9 process entail when a CIU analyst is doing it?

10 A. So based on the training provided by the FBI,  
11 the analysts are comparing eye shape and other  
12 characteristics, angles, noses, there's key  
13 characteristics of the various dimensions and  
14 angles and parts of the nose, same with the  
15 mouth and ears.

16 Q. Is that process of the comparison recorded in  
17 any way for each search?

18 A. No, I do not believe so.

19 Q. So there is no form on which that morphological  
20 comparison would be recorded?

21 A. No.

22 Q. Does the examiner share any information or the  
23 analyst share any information about that  
24 comparison with the detective?

25 A. No.

1 Q. We may have addressed this earlier, but I'm  
2 going to ask again does the examiner ever  
3 determine that there is no match in the results?

4 **A. Yes.**

5 Q. Do you know how often that might be?

6 **A. I don't know the exact percentage off the top of**  
7 **my head. I'd have to, that would be provided I**  
8 **believe in our weekly BOPC reports.**

9 Q. Okay. And when an examiner or an analyst, I'm  
10 sorry, determines that there is a possible match,  
11 an investigative lead, how do they communicate  
12 that to the detective who requested the search?

13 **A. When there's a possible lead?**

14 Q. Yeah.

15 **A. There is a document that is filled out with some**  
16 **basic information, includes the probe photo and**  
17 **the results. It lists the case information and**  
18 **then it just as an official documentation of it**  
19 **that is sent as a PDF to the investigator.**

20 Q. Okay. I want to return to talking about times  
21 when DPD sends a request to MSP to run through  
22 their instance of the system.

23 **A. Okay.**

24 Q. Are there any other agencies beyond MSP that CIU  
25 will send the facial recognition request to?

1 A. No.

2 Q. So a request can only be run locally by CIU  
3 today through MSP's system or sent to MSP to  
4 run. Those are the only two options?

5 A. Correct.

6 Q. Okay. What are the reasons a member of CIU would  
7 send an image to MSP for them to run a search?

8 A. **If we do not receive a possible lead, we will**  
9 **send it so it can be run against a wider array**  
10 **of photos.**

11 Q. Okay. And so one of the reasons is that MSP has  
12 access to a larger database of matching images,  
13 is that right?

14 A. Correct.

15 Q. Could another reason be that DPD does not have a  
16 trained FRT analyst on duty at the time the  
17 search request comes in?

18 A. **That's very unlikely.**

19 Q. Okay. And so there's always somebody who is on  
20 call in CIU to run a search?

21 A. Yes.

22 Q. And earlier we also talked about the quality of  
23 the probe image, so is another reason that the  
24 probe image might not be a sufficient quality  
25 for DPD to run the search, but they think MSP

1 could?

2 **A. In some cases, yes.**

3 Q. And are there any other reasons that CIU would  
4 send the request to MSP?

5 **A. I don't believe so, no.**

6 Q. Okay. And would your answer to all those  
7 questions be the same if we were talking about  
8 the process in 2019?

9 **A. I believe so.**

10 Q. Okay. I may have asked you this earlier, but  
11 I'll ask again. How often does CIU personnel  
12 send images to MSP for them to run a search?

13 **A. I don't have a sense of the number of times off  
14 the top of my head.**

15 Q. When a CIU analyst receives the results back  
16 from MSP from an FRT search, what do they do?

17 **A. They review it and then I believe forward it  
18 along to the -- they complete the normal lead  
19 template indicates that it was provided by MSP  
20 and provide that back to the investigator.**

21 Q. When you say they review it, what does that  
22 review entail?

23 **A. I believe it's just to transfer it into our  
24 template and pass it along to the investigator.**

25 Q. Okay. So they do not conduct an independent

1 comparison of those photos using that  
2 morphological comparison process?

3 **A. I don't believe so, no.**

4 Q. And do you know why that is?

5 **A. The MSP, or my understanding is the MSP's trained  
6 team is the highest trained team in the state.**

7 Q. Okay. And was this also the practice in early  
8 2019?

9 **A. I believe so, yes.**

10 Q. And do you know in the Shinola investigation  
11 itself, was there an independent morphological  
12 comparison conducted in CIU when it got the  
13 results back from MSP?

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

15 Q. Okay. And we've talked about this, but just to  
16 make sure the record is totally clear, so MSP  
17 uses the same DataWorks platform itself that DPD  
18 now can have access to, right?

19 **A. I believe so, yes.**

20 Q. And the only difference is which matching photos  
21 they can access versus DPD can access?

22 **A. That's my understanding, yes.**

23 Q. Was that also true back in 2019?

24 **A. I believe so, yes.**

25 Q. And so when DPD runs a search, it's running

1 through the same algorithms that MSP has access  
2 to when it runs a search, right?

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

4 Q. Just one moment. So when MSP receives a request  
5 from DPD to run a search, what does MSP do?

6 **A. They load the probe photo. I assume they have a  
7 process that's fairly similar to ours. I don't  
8 know the specifics of it.**

9 Q. Okay. As far as you know, the steps of that  
10 process would mirror what DPD does itself?

11 **A. I mean I imagine it would have to or at least  
12 from a technical standpoint the application  
13 probably looks similar to it.**

14 Q. MSP trains CIU members about visual recognition  
15 technology, is that right?

16 **A. They provide some training about the SNAP  
17 program and the application, yes.**

18 Q. Have you attended that training?

19 **A. I have not attended that training.**

20 Q. Are you familiar with it?

21 **A. Vaguely.**

22 Q. Okay. Can you describe what you understand it  
23 to entail?

24 **A. I understand it to entail to be mostly focused  
25 on how DPD should interact with SNAP and how the**

1 request process to MSP works and then how they  
2 go about using that program.

3 (Marked Exhibit No. 8.)

4 Q. (Continuing, by Mr. Wessler) So I'm going to  
5 introduce another exhibit. Let me just find it.  
6 One moment. Okay. Let me share the screen.  
7 I'm taking these a little out of order from how  
8 they are numbered, but I think we are up to  
9 Exhibit 8. This is Exhibit 8 even though the  
10 PDF says ten. Have you seen this before?

11 A. I have not, no.

12 Q. This was provided to us in discovery from the  
13 Michigan State Police pursuant to a subpoena in  
14 this case and this is a presentation that  
15 Michigan State Police has provided about the  
16 SNAP system and facial recognition technology,  
17 and I'm going to go now to page six where it  
18 talks about MSP provides facial recognition and  
19 morphological comparison. Did I read that  
20 correctly?

21 A. Yes.

22 Q. And now on page 17 it talks about how all MSP  
23 investigative lead reports are peer and/or  
24 supervisor reviewed prior to release. Did I  
25 read that correctly?

1 A. Yes.

2 Q. So would you say that this confirms your intuition  
3 earlier that MSP's process looks similar to DPD's?

4 A. Yes.

5 Q. Okay. What has CIU or DPD done to ensure that  
6 MSP's facial recognition search process complies  
7 with DPD's standards in terms of image quality  
8 and peer and supervisor review and anything else?

9 A. I don't know.

10 Q. You said you don't know?

11 A. I don't know.

12 Q. Who would know?

13 A. Former executive managers who were here at the  
14 time, executive managers of the Crime Intelligence  
15 Unit who were here at the time and involved in  
16 kind of establishing those.

17 Q. And who were those executive managers over time?

18 A. Let's see, the first one that I know would have  
19 been Diana Flora. She doesn't work for the city  
20 anymore and I can't remember what or who her  
21 employer is. The second was her replacement was  
22 Andrew Rutebuka. He now works for the state  
23 department. And then Tia Tsakos, she was the  
24 executive manager following Andrew Rutebuka and  
25 she now works for the FBI.



1 Q. Can you say her name again?

2 **A. Tia Tsakos.**

3 Q. Tsakos?

4 **A. Yes. T-s-a-k-o-s, I believe.**

5 Q. I have a couple questions now about policy, but  
6 let me just make a note to myself.

7 (Marked Exhibit No. 9.)

8 Q. (Continuing, by Mr. Wessler) Okay. I am going  
9 to share the screen again. Are you familiar  
10 with this document?

11 **A. I have seen that document, yes.**

12 Q. What is it?

13 **A. That is the standard operating procedures for**  
14 **the Crime Intelligence Unit.**

15 Q. So this says it has an effective date of 7/1/2018  
16 and a revise date of 4/1/2019, right?

17 **A. Correct.**

18 Q. Now I'm going to take us down to Section 8 of  
19 this document. This is Exhibit 9. So if I  
20 refer to SOP, you'll understand that means  
21 standard operating procedure, is that okay?

22 **A. Yes.**

23 Q. Okay. So this is Section 8 which deals with  
24 facial recognition, correct?

25 **A. Right.**

1 Q. So now I'm going to take us down to Subsection  
2 8.5(d) of the facial recognition section that  
3 starts on page 47 of the PDF, so this is the  
4 procedure through which CIU actually runs a  
5 search, the policy governing the procedure, is  
6 that right?

7 **A. Could you repeat that?**

8 Q. So this part of the SOP starting or involving  
9 Subsection (d) here, this describes the  
10 procedure that CIU is supposed to follow when it  
11 runs an FRT search, is that right?

12 **A. Yes.**

13 Q. Okay. So we're just scrolling down to the next  
14 page. We're now at little Roman numeral (viii)  
15 and Subsection (g) down at the bottom running  
16 over to the next page. I'm going to read this  
17 to you. It says, "The following statement will  
18 accompany the released most likely candidate  
19 image or images and any related records: 'The  
20 result of a facial recognition search provided  
21 by the Detroit Police Department is only an  
22 investigative lead and is NOT TO BE CONSIDERED A  
23 POSITIVE INVESTIGATE LEAD OF ANY SUBJECT. Any  
24 possible connection or involvement of any  
25 subject to the investigation must be determined

1 through further investigation and investigative  
2 resources.'" Did I read that right?

3 **A. Yes.**

4 Q. So can you tell me when did CIU begin including  
5 this disclaimer on investigative leads it  
6 provided to detectives?

7 **A. I don't know the exact date.**

8 Q. Okay. Do you know whether it was before this  
9 policy went into effect in April of 2019?

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

11 (Marked Exhibit No. 10.)

12 Q. (Continuing, by Mr. Wessler) I'm now going to  
13 share Exhibit 10. Are you familiar with this  
14 document?

15 **A. I believe I've seen that, yes.**

16 Q. And what is this?

17 **A. It's a revised version of Section 8 of CIU standard  
18 operating procedure for facial recognition.**

19 Q. And this has a revised date of 12/21/2020, right?

20 **A. That is correct, yes.**

21 Q. So I'm now going to scroll down to page three  
22 and this is Subsection 1.5(d)(ii) which says,  
23 "CIU shall perform racial recognition searches  
24 utilizing the Statewide Network of Agency Photos  
25 (SNAP) which include criminal mug shot images.

1 In the event additional analysis is needed for  
2 the confirmation of an investigative lead, a  
3 formal request may be made to MSP to search the  
4 state database. Any such request must be approved  
5 by a CIU supervisor." Did I read that correctly?

6 **A. Yes.**

7 Q. So do you see where it says "shall" in the first  
8 sentence, "CIU shall perform a facial recognition  
9 search"?

10 **A. Yes.**

11 Q. So does that use of "shall" there mean that CIU  
12 must always perform an FRT search itself first  
13 before going to MSP?

14 **A. I don't know. I mean it could.**

15 Q. Okay. Do you know where else in this policy it  
16 might clarify whether an analyst can send a request  
17 to MSP before trying to run their own search?

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

19 Q. Okay. Let's look at little Roman numeral (iii)  
20 right under there. It says, "If the examiner  
21 detects an investigative lead, the examiner must  
22 corroborate this lead with at least one other  
23 examiner and a CIU supervisor. The corroboration  
24 must have written sign-off by the supervisor and  
25 all examiners involved." Is that right?

1 A. Yes.

2 Q. So the peer review process this is describing,  
3 can you tell me what happens during that process?

4 A. Yeah, there are a couple of ways it can be done.

5 The peer reviewer can come over to the original  
6 examiner's computer and look through the images

7 and make their own comparison. I believe it's

8 possible to share the results of a search with

9 another analyst and they can then log in themselves  
10 and review it, and then if they agree upon it,

11 if they come to the same conclusion, then it is,

12 you know, that's considered corroboration. They

13 can also discuss it further if they need to.

14 Q. Okay. So that's the peer review and then how  
15 about the supervisor review?

16 A. Supervisor review is often a review of the final

17 templates and a conversation with the analysts

18 involved as the examiners.

19 Q. So in the peer review portion, does the peer

20 always review the whole set of possible matches

21 or sometimes do they just look at the investigative

22 lead report with the probe photo and one

23 possible match?

24 A. My understanding is the peer reviewer is

25 supposed to review the set of images.

1 Q. The full set of images you said?

2 A. Yes.

3 Q. Okay. And you're aware that MSP also has a peer  
4 review process?

5 A. I don't have any knowledge of that. I believe  
6 you showed a document that said that was the case.

7 Q. Okay. I'm going to stop sharing this and let's  
8 talk a little bit about training more. So do  
9 DPD detectives currently receive training about  
10 facial recognition technology?

11 A. Detectives?

12 Q. Detectives.

13 A. No, I don't believe so.

14 Q. Okay. Have DPD detectives received training on  
15 FRT at any time in the past?

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

17 Q. Okay. In your experience, had you ever known of  
18 a training for DPD detectives on FRT?

19 A. Not for detectives, no, not on the technology.

20 Q. On anything else?

21 A. I believe there has been some, you know,  
22 training directives sent out related to policy.

23 Q. Okay. Who is trained, within DPD who is trained  
24 on FRT?

25 A. Do you mean to conduct FRT?

1 Q. Why don't we start there? Who is trained to  
2 conduct FRT?

3 **A. Analysts, some analysts at CIU and some**  
4 **supervisors at CIU.**

5 Q. And are there any trainings for DPD personnel  
6 about FRT that are not aimed at how to actually  
7 conduct the search, so, for example, describing  
8 the technology, describing how it works?

9 **A. At the moment I don't believe so. I don't know**  
10 **if there were past trainings.**

11 Q. So what are the trainings that CIU personnel  
12 receive currently about FRT?

13 **A. The CIU analyst before being allowed to conduct**  
14 **FRT have to complete the FBI training. There is**  
15 **internal training on policy and we can bring in**  
16 **MSP to provide additional training, SNAP and**  
17 **their process.**

18 Q. Okay. So you said the FBI training that we  
19 discussed earlier, that training?

20 **A. Yes, the one we discussed earlier.**

21 Q. And an internal training on policy and that  
22 training would run through this SOP Section 8,  
23 is that right?

24 **A. And the actual policy itself.**

25 Q. The actual policy itself, and by the actual

1 policy, you mean the manual directive that  
2 applies department-wide?

3 **A. Yes.**

4 Q. And are those the only two policies that are  
5 operative?

6 **A. For facial recognition, yes.**

7 Q. And then you said MSP conducts trainings on the  
8 SNAP system?

9 **A. Yes. I don't believe that's required.**

10 Q. So a CIU analyst can be enabled to run searches  
11 after the FBI training and the internal training  
12 on policy?

13 **A. Yes, the internal training can include how to  
14 use the application.**

15 Q. And who conducts that internal training?

16 **A. That would -- in the past it has often been lead  
17 by the executive manager. It is currently lead  
18 by kind of the analysts who have the most  
19 experience using facial recognition technology.**

20 Q. And how long is that training?

21 **A. It depends on the group. I believe no more than  
22 an hour or two.**

23 Q. And have you attended that one?

24 **A. Probably once upon a time, but it was a long  
25 time ago.**



1 Q. And can you tell me in addition to running  
2 through the two policies we discussed, what else  
3 is covered in that training?

4 **A. The application itself, what it looks like and**  
5 **generally how to interact with it and use it.**

6 Q. Does that training address image quality issues?

7 **A. No, I don't believe so.**

8 Q. Okay. Is there anything else that training  
9 addresses beyond the policies and the technical  
10 interface?

11 **A. I don't know. I mean anything that gets raised**  
12 **is questioned.**

13 Q. But I mean the presentation part of the training,  
14 those are the only things that are addressed?

15 **A. I believe so.**

16 Q. Okay. And in early 2019 were these the same  
17 trainings or would your answer be different at  
18 that time?

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

20 Q. Okay. Who would know?

21 **A. In early 2019, it would be Andrew Rutebuka.**

22 Q. Okay. Are there any CIU analysts still there  
23 who were doing facial recognition searches in  
24 early 2019?

25 **A. Still working for the city, there are a handful.**

1 I think off the top of my head analyst Nathan  
2 Howell. I can't remember when he exactly  
3 started. I believe he may have been around at  
4 that time. Ray Yeager would remember that as well.

5 Q. Okay. Thank you. And then going back to  
6 Exhibit 8, I'm just going to show this. So this  
7 is the presentation we discussed from MSP. I'm  
8 just going to scroll through this. You said  
9 earlier you had not seen this before, is that  
10 right?

11 **A. Correct.**

12 Q. Okay. So I'm just going to scroll through this.  
13 You don't need to read the whole thing, but I'm  
14 just trying to get a sense of the topics it  
15 covers. It describes the SNAP database,  
16 describes the SNAP unit at MSP, the services  
17 provided by that unit, and then there are some  
18 screens showing the DataWorks interface. Is  
19 this what the log-in page looks like when a DPD  
20 analyst goes to DataWorks?

21 **A. It looks very similar to that, yes.**

22 Q. There are slides on important considerations in  
23 facial recognition, description of what facial  
24 recognition is and the steps of that matching  
25 process, guidance on best practices, including

1 on image quality, discussion of actually running  
2 the search, a slide on investigative lead  
3 reports, couple slides on discussion of image  
4 editing tools, the compliance check process at  
5 MSP, discussion of continuing education and  
6 training on this topic, and then there are some  
7 case studies that it presents, and then there's  
8 a list of employees in the relevant section of  
9 MSP. Does the contents of this slide deck  
10 accord with your understanding of what the MSP  
11 training consists of?

12 **A. I believe so.**

13 Q. Okay. And do you know how often that training  
14 is conducted for DPD employees?

15 **A. I don't know. I don't believe it's on a set  
16 schedule.**

17 Q. Okay. But you said it was optional, is that  
18 correct?

19 **A. I don't think it -- I don't think it's required  
20 training. I think it's focused on SNAP,  
21 interacting with SNAP, their process and a  
22 little bit about the application.**

23 Q. Okay. Give me one moment. So going back to the  
24 DataWorks platform, when DPD was using its own  
25 instance of DataWorks, are you familiar with

1 what that platform looked like and what the  
2 results looked like?

3 **A. I believe it looks very similar.**

4 Q. And does that include how the results were  
5 displayed after a search?

6 **A. I believe so, yes.**

7 Q. Okay. And do you know whether in that instance  
8 of DataWorks, were the results, the search, we  
9 talked about how the search is run through two  
10 algorithms, right? Were the results in two  
11 categories, two rows or is it just one  
12 integrated set of results?

13 **A. I've only ever seen one integrated set of results.**

14 Q. And have you seen the results in that DPD  
15 instance of DataWorks?

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

17 Q. Okay. So if a DPD analyst was running a search  
18 through DataWorks and only one of those algorithms  
19 returned results, would the analyst know that?

20 **A. I don't believe so, no.**

21 Q. Okay. And then sometimes, we addressed this a  
22 little earlier, but I want to make sure I  
23 understand. Is it the case that sometimes an  
24 analyst will input a probe photo and run a  
25 search and get no results back?

1    **A.    I don't know.**

2    Q.    Okay.  Is it the case that the quality of a  
3           probe image can be so low that the system just  
4           can't process it if it's loaded in?

5    **A.    I believe so.**

6    Q.    And so the system would give some kind of error  
7           or no result message, would that be right?

8    **A.    That sounds right.**

9    Q.    In the database that DPD can search against, the  
10           arrest photo database, can that include multiple  
11           photos of the same individual?

12   **A.    Yes.**

13   Q.    So, for example, if somebody had been arrested  
14           multiple times, there would be multiple booking  
15           photos?

16   **A.    Yes.**

17   Q.    And some of those photos could be much older and  
18           some much newer, is that right?

19   **A.    That's correct, yes.**

20   Q.    So when that's the case and when an analyst runs  
21           a facial recognition search to identify a  
22           potential suspect, are CIU analysts trained to  
23           look for every instance of a photo of that  
24           person in the broader database?

25   **A.    Yes.**

1 Q. Okay. Even if not every one of those photos  
2 returns in the search results?

3 **A. There is a link to the additional photos for the**  
4 **person who was returned.**

5 Q. Okay. So an analyst would know that there are  
6 other photos in the system and be able to look  
7 at them?

8 **A. Yes, and would be expected to look at them.**

9 Q. Is that part of the training?

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

11 Q. Okay.

12 **A. I assume so. Since it's an expectation, I**  
13 **assume that's part of the DPD training.**

14 Q. And do CIU analysts inform a detective if just  
15 one image of somebody came back in the results,  
16 but there were other images of that person in  
17 the database that did not return?

18 **A. No.**

19 Q. And if the system returns a potential match to  
20 an old image but not to newer images that are  
21 also in the matching database, are CIU personnel  
22 trained on what that might mean?

23 **A. Yes.**

24 Q. And what might that mean?

25 **A. It might mean that the age of the photo of the**

1 comparison photo negates that. That is the  
2 point of the human comparison of the probe photo  
3 to the returned images.

4 Q. Okay. And are you aware that when MSP is  
5 searching through DataWorks, it also may return  
6 an older result, an older photo, but not a newer  
7 one?

8 A. I don't have any personal knowledge of that. I  
9 assume the system is very similar.

10 Q. Does MSP inform DPD when only one image returned  
11 as a result, but there were others that were not  
12 returned?

13 A. I don't know.

14 Q. Okay. And does DPD inquire of MSP whether there  
15 were other images of the person that did not  
16 return?

17 A. I don't know.

18 Q. Or inquire why an older image returned but not a  
19 newer one?

20 A. I don't know.

21 Q. Are analysts trained on what to do in that  
22 situation, whether to inquire of MSP?

23 A. I don't know. I don't know if MSP provides us  
24 that information, so I don't know if MSP would  
25 have the information to inquire about.

1 Q. Okay. And do you know whether CIU analysts are  
2 trained in whether to ask MSP for that information?

3 **A. No, I don't know.**

4 Q. You don't know?

5 **A. I'm sorry. I don't know.**

6 Q. You said you don't know?

7 **A. Yes, correct, I don't know.**

8 Q. Are CIU personnel aware that DPD detectives  
9 outside of CIU don't receive training on FRT?

10 **A. I believe so.**

11 Q. And would that have been the case in 2019 also?

12 **A. I believe so.**

13 Q. Okay. So we are getting pretty close to the  
14 end. I am quite confident we will finish this  
15 before one. Are you doing okay? Do you need a  
16 break?

17 **A. I could use a brief five-minute break.**

18 Q. Absolutely. Let's come back -- it's 11:31 now.  
19 Let's come back at 11:37. Sound good?

20 **A. Yes.**

21 (Recess 11:31 a.m. to 11:39 a.m.)

22 MR. WESSLER: So just a couple things  
23 to return to some things we talked about and  
24 then I'll go on to a few next questions. So  
25 first you said that you, way back at the start



1 of our conversation you said you reviewed a  
2 template for the MSP request. I don't know that  
3 we have received that in discovery, Mr. Cunningham,  
4 so we would ask to receive a copy of that please.

5 MR. CUNNINGHAM: Do you have a copy of  
6 that with you?

7 **A. I have a copy of it here.**

8 MR. CUNNINGHAM: Do you want to take five  
9 minutes and I'll scan it and send that to you?

10 MR. WESSLER: Right now?

11 MR. CUNNINGHAM: Yeah.

12 MR. WESSLER: That would be great.

13 Thank you.

14 (Recess 11:40 a.m. to 11:44 a.m.)

15 (Marked Exhibit No. 11.)

16 MR. WESSLER: Let me just share my  
17 screen and this is Exhibit No. 11.

18 Q. (Continuing, by Mr. Wessler) So this is the  
19 template for submission of requests to MSP that  
20 you were talking about earlier, is that right?

21 **A. Yes, that's correct.**

22 Q. Okay. So just give me one moment while I review  
23 this. Okay. Do you know when this template  
24 started being used?

25 **A. I do not, no.**

1 Q. But this is the way that a CIU analyst will ask  
2 MSP to run a facial recognition search, right?

3 A. **Yes, and I believe at the top, the revision date**  
4 **on the form is September 2016.**

5 Q. Okay. Thank you. I'll stop sharing that now.  
6 So earlier in this deposition I asked you some  
7 questions about when DPD started using facial  
8 recognition technology, when it started requesting  
9 searches through MSP and you didn't know the  
10 answer to those questions. Who would know the  
11 answer to those questions?

12 A. **Let's see, I believe Jack Fennessey from the**  
13 **Department of Innovation and Technology, and**  
14 **then Diana Flora, and I'm not sure who else**  
15 **would. Let's see, Brad May maybe. He was the**  
16 **Director of Public Safety IT at some point back**  
17 **then. I don't know exactly what day he started,**  
18 **and it was Scott Hayes before him. They would**  
19 **have been involved in this.**

20 Q. And then we discussed some questions involving  
21 what CIU and DPD's practices were in early 2019  
22 around the time of the Shinola investigation.  
23 What did you do in preparation for this  
24 deposition to try to understand what DPD's  
25 practices were at that time?

1    **A.    I just have -- I have a little bit of recollection**  
2           **of that time.  There isn't -- I don't believe**  
3           **there are many people left at DPD who would be**  
4           **familiar with facial recognition from that time.**

5    Q.    And did you attempt to speak to anyone who would  
6           have been?

7    **A.    I did not get a chance to.**

8    Q.    Okay.  And did you try to review any documents  
9           around that time that might have informed you?

10   **A.    I did not have any to review.**

11   Q.    We may have addressed this, but just to be  
12          clear, are trained CIU analysts the only people  
13          in DPD permitted to run FRT searches?

14   **A.    Yes.**

15   Q.    Okay.  So, for example, a detective outside of  
16          CIU could not access the DataWorks system and  
17          run a search, is that right?

18   **A.    That's right.**

19   Q.    Okay.  So just give me one moment.  And then  
20          going back to one of our earliest conversations  
21          about your preparation for this deposition, you  
22          said you had a meeting with Nathan Howell and  
23          Cameron Dean and Deputy Chief Hayes.  When was  
24          that last week?

25   **A.    I believe it was on Friday afternoon.**

1 Q. Friday afternoon. And was that meeting in part  
2 to figure out who would be doing this deposition,  
3 or did you already know at that point that you  
4 would need to be informing yourself?

5 **A. I did not know at the time that I would be here**  
6 **today.**

7 Q. Okay. And was anyone else at that meeting?

8 **A. Mr. Cunningham.**

9 Q. Mr. Cunningham was, okay. And then when were  
10 you informed that you would be the person doing  
11 this deposition?

12 **A. During that meeting.**

13 Q. During that meeting, okay. And then after that  
14 meeting, subsequent to that meeting you had a  
15 meeting with Mr. Cunningham, is that right?

16 **A. No, that was the meeting.**

17 Q. I see, that was the one. And then so did you  
18 meet with anybody else subsequent to that to  
19 prepare for this?

20 **A. No, other than a brief chat with Mr. Cunningham**  
21 **15 minutes before this.**

22 Q. This morning?

23 **A. Yes.**

24 Q. Okay. So a few more questions for you now. And  
25 these are questions about the Shinola

1 investigation itself. How familiar would you  
2 say you are with what happened in this Shinola  
3 investigation that's at issue in this case?

4 **A. Not very familiar. There were rumors floating**  
5 **around the department, but beyond that, I don't**  
6 **have any firsthand knowledge of the case.**

7 Q. So I'm going to walk through some of what  
8 happened at the MSP side and as it interacted  
9 with DPD and ask you some questions about what  
10 happened in this case. I'm not assuming any  
11 prior knowledge. I'll describe anything you  
12 need to know and if something isn't clear, please  
13 ask me for clarification. So I'm going to share  
14 now an exhibit. This will be Exhibit 12.

15 (Marked Exhibit No. 12.)

16 Q. (Continuing, by Mr. Wessler) Have you seen a  
17 document of this type before?

18 **A. I have not seen that.**

19 Q. So this was provided to us by MSP in discovery  
20 in this case. It is the supplemental information  
21 form completed alongside the investigative lead  
22 reports in the Shinola investigation. This was  
23 completed by MSP's analyst who ran the FRT search.

24 **A. Okay.**

25 Q. And so do you see where this analyst determined

1 that the quality of the probe image was "poor"?

2 **A. I see that, yes.**

3 Q. And then scrolling down, you see that this analyst  
4 recorded that the overall head shape, overall  
5 face shape, hairline, ears, forehead/brow ridge,  
6 eyebrows, chin/jaw-line and neck are either  
7 obstructed or not visible in the probe image.

8 Do you see that?

9 **A. I see that, yes.**

10 Q. But the analyst still chose to run the probe  
11 image through an FRT search in this case and my  
12 question for you is would CIU have been a  
13 different decision about the suitability of a  
14 probe image for FRT that had all these features,  
15 the poor quality and the obstruction of the  
16 various features?

17 **A. I don't know if there is a specific set that  
18 would indicate that.**

19 Q. Okay. Was CIU aware at this time that MSP would  
20 run a search on a poor quality image?

21 **A. I don't know. I assume so.**

22 Q. What do you assume so based on?

23 **A. We would provide images to MSP to run what we  
24 were unable to run.**

25 Q. Okay. And did DPD train its detectives on the

1 fact that CIU would provide poorer quality  
2 images to MSP to run?

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

4 Q. Okay. So after running this search and recording  
5 -- well, after running the search, this analyst  
6 conducted a morphological comparison and that's  
7 what these notes on the second half of the page  
8 are about. Would CIU, if it was running the  
9 search process, have done a morphological  
10 comparison on an image that had all of these  
11 deficiencies, the poor quality and all of these  
12 obstructions?

13 **A. If CIU runs an image, it always conducts a  
14 morphological comparison.**

15 Q. And so would it be fair to say that CIU or DPD  
16 was aware of MSP's practice of also doing the  
17 morphological comparison even on a poorer  
18 quality image?

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

20 Q. Okay.

21 **A. I don't know what CIU understood about MSP's  
22 process at that time.**

23 Q. And is that because CIU didn't inquire of MSP  
24 about its process?

25 **A. I don't know. The people employed by DPD who**

1 would be involved in those discussions at that  
2 time no longer work for the department.

3 Q. So let me describe to you -- I'll stop sharing  
4 the screen. Describe to you some other facts  
5 about the MSP search. So MSP's facial recognition  
6 search was conducted using three algorithms, the  
7 ROC and NEC algorithms that we discussed earlier,  
8 and then also the algorithm that the FBI uses  
9 through its system that MSP had access to, so  
10 MSP ran that search. The FBI system returned no  
11 results. It failed to return any gallery. The  
12 NEC system algorithm returned a gallery with 243  
13 potential matches. Mr. Williams' photo was not  
14 among them anywhere, so it was 243 other  
15 individuals, and the Rank One algorithm, ROC,  
16 returned a gallery of 243 potential matches, and  
17 there was a photo of Mr. Williams returned in  
18 the ninth position on that list, just one photo.  
19 The analyst at MSP picked out Mr. Williams'  
20 photo from the ninth position of the one algorithm  
21 as the investigative lead and that's what was  
22 sent back to DPD. So the question is if CIU had  
23 been doing this process, would it have relied on  
24 an image as an investigative lead when it just  
25 returned in one of three algorithms and in the



1 ninth position?

2 **A. We don't see independent algorithms returned**  
3 **separately. We have one set of returns and so**  
4 **we would not know if one algorithm returns and**  
5 **one algorithm did not.**

6 Q. And how about the ordinal position of the image,  
7 the fact that it returned ninth in the list as  
8 opposed to first or second, what significance  
9 would that have to CIU?

10 **A. None.**

11 Q. And why is that?

12 **A. We don't -- the match score that determines the**  
13 **order is simply there as a filter. We look**  
14 **through all the images until we are satisfied**  
15 **that there is a potential match or there is not**  
16 **a potential match.**

17 Q. Okay. And so that photo that returned in the  
18 ninth position on that one algorithm was an  
19 expired driver's license photo of Mr. Williams.  
20 He had a current license that was also in the  
21 system that did not return as a match at all.  
22 Would CIU have relied on an old image when a  
23 newer image didn't return as the basis for an  
24 investigative lead?

25 **A. If upon comparison of the new image as well it**

1 was determined that it was a reasonable  
2 potential match, yes.

3 Q. So this refers back to our discussion earlier.  
4 The analyst is expected to pull up any additional  
5 images and look at those during the morphological  
6 comparison process before producing the lead, is  
7 that right?

8 A. Yes.

9 Q. And was CIU aware of MSP's practices around older  
10 versus newer images at the time of the search?

11 A. I don't know what we understood at that time  
12 about MSP's process.

13 Q. Okay. And then one last question about the  
14 search. Actually, let me ask you a follow-up on  
15 something we just talked about. So when there's  
16 a gallery of results when DPD is running the  
17 search, let's say there are 200 results, will  
18 the analyst always look through all 200 or might  
19 they look through only a subset and then stop?

20 A. I don't know.

21 Q. Okay. So one more question about the search in  
22 this case itself. So I would describe the probe  
23 image in this case as quite pixilated. The  
24 intraocular distance in terms of pixel count  
25 between the center of the two eyes was just 17

1 to 20 pixels, which I would describe as a very  
2 low resolution image of the face, but the MSP  
3 analyst still ran it through the FRT search and  
4 then purported to conduct a morphological  
5 comparison of the results of the investigative  
6 lead in this case. Would CIU have run a search  
7 and conducted that comparison on an image with  
8 that level of pixelation?

9 **A. I don't know. I don't believe we measure it in**  
10 **that fashion. I believe it is a qualitative**  
11 **decision about whether a photo can be run.**

12 Q. Okay. And do you know whether DataWorks has a  
13 threshold in terms of pixel count below which it  
14 can't process the image or produce a result?

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

16 Q. You don't know?

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

18 Q. Okay. I think that is all my questions for you,  
19 but if you just give me a moment, I'm going to  
20 go off screen and speak to my colleague and see  
21 if I have any follow-ups and then we're very  
22 close to done, so I'll be back on in just a  
23 couple of minutes, okay?

24 **A. Okay.**

25 (Recess 11:58 a.m. to 12:00 p.m.)

1 MR. WESSLER: So I have no more  
2 questions, Mr. Lamoreaux. Thank you.  
3 Mr. Cunningham, do you have anything?

4 MR. CUNNINGHAM: I have a couple of  
5 questions.

6 EXAMINATION

7 BY MR. CUNNINGHAM:

8 Q. You mentioned Brad May and is Brad May still  
9 with the City of Detroit?

10 A. **No, he is retired.**

11 Q. And you mentioned Scott Hayes and I understand  
12 Mr. Hayes passed away, is that correct?

13 A. **Correct, Mr. Hayes passed away in a car accident.**

14 MR. CUNNINGHAM: Those are the only  
15 questions I have.

16 MR. WESSLER: Nothing further from me.  
17 So thank you for your time, Mr. Lamoreaux. I  
18 appreciate it. We can go off the record now.

19 (Deposition concluded at 12:01 p.m.)  
20  
21  
22  
23  
24  
25

1 STATE OF MICHIGAN)  
 )  
2 COUNTY OF MACOMB )

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

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

*Ann L. Bacon*

22 \_\_\_\_\_  
23 Ann L. Bacon, Notary Public, Macomb County

24 Acting in Macomb County

25 My commission expires: 6/29/23

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