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COUNTY OF WAYNE OFFICE OF THE PROSECUTING ATTORNEY

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For Immediate Release

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WCPO Statement in Response to New York Times Article Wrongfully Accused by an Algorithm, June 24, 2020

https://www.nytimes.com/2020/06/24/technology/facial-recognition-arrest.html

In August 23, 2019, Mr. Williams was not in police custody when he was charged with Retail Fraud First Degree in connection with a theft that took place in a Shinola store in Detroit. In January 2020, Mr. Williams was arrested and subsequently arraigned on January 10, 2020 and received a \$1000 bond. On January 23, 2020, the case was dismissed without prejudice at the next court action, the probable cause conference. The case was dismissed by WCPO on its own motion because a supervisor reviewed the case and determined there was insufficient evidence to charge Mr. Williams.

The New York Times reporter was informed that the case had insufficient evidence and was dismissed because the Shinola security official who was shown the photo line-up was not physically present during the crime. The security person had seen and retrieved security video that was provided to Detroit Police Department. Based on that video, facial recognition was used to identify Mr. Williams as a suspect. Only the security person was shown the photo line-up when there was a store clerk who was present at the scene who was not shown the photo line-up. The police were advised by WCPO that if the warrant was re-submitted, the investigation must include presenting the clerk who was in the store at the time of the crime with a photo array to determine if an identification could be made. Since the dismissal of the case, DPD have not presented WCPO with a new warrant.

WCPO was informed yesterday that the clerk at the scene declined to cooperate in the investigation. As a result, the case remains dismissed without prejudice. The case cannot be dismissed with prejudice. A dismissal with prejudice can only occur if the statute of limitations has expired, or there is a legal bar to reauthorization, such as double jeopardy. Double jeopardy prevents the re-trying of a case when a person is acquitted. That is not what happened in Mr. William's case and therefore a dismissal with prejudice is not legally possible. Mr. Williams is able to have his fingerprints returned and to have the case expunged from his record.

Prosecutor Worthy said: In the summer of 2019, the Detroit Police Department asked me personally to adopt their Facial Recognition Policy. I declined and cited studies regarding the unreliability of the software, especially as it relates to people of color. They are well aware of my stance and my position remains the same. Any case presented to my office that has utilized this technology must be presented to a supervisor and must have corroborative evidence outside of this technology. This present case occurred prior to this policy. Nevertheless, this case should not have been issued based on the DPD investigation, and for that we apologize. Thankfully, it was dismissed on our office's own motion. This does not in any way make up for the hours that Mr. Williams spent in jail.

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