

Summary of Detroit Facial Recognition Settlement Agreement (*Williams v. City of Detroit*)

- The policies in this Agreement aim to minimize the risk of wrongful arrests driven by facial recognition technology (FRT)—especially of Black people, who are at greater risk of misidentification by FRT. The goal of this Agreement is to eliminate situations in which the Detroit Police Department (DPD) obtains a warrant based on unsubstantiated reliance upon an investigative lead derived from FRT. Although law enforcement use of FRT in any form is deeply problematic, the negotiated policies represent best-in-the-nation practices for law enforcement agencies that insist upon using FRT despite its many flaws.
- In Mr. Williams’ case, as in other known FRT-based wrongful arrests in Detroit, the wrongful arrest occurred in part because police fixated on a potential suspect identified by a FRT search that was based on security camera footage or other lower quality images. DPD subsequently placed the suspect’s image that was identified by FRT in a photographic lineup and presented it to a witness. In each case, the DPD’s deficient investigations lead to the wrongful arrest of Black individuals. This type of “investigation” is an abuse of FRT for several reasons: (1) FRT performs particularly poorly in identifying people of color; (2) FRT is much less accurate when used in “real world” conditions such as to generate leads from security camera footage; and (3) combining an FRT lead with a photo lineup essentially creates a rigged lineup by including a photo that a computer has determined looks like the perpetrator of the alleged crime without any further investigative confirmation that the person in the lineup photo may actually be the perpetrator.
- Central components of the Agreement include the following requirements:
 - *Facial recognition searches.*
 - A lineup may never be conducted based solely on an FRT investigative lead without further independent and reliable evidence linking a suspect to a crime. An FRT lead, combined with a lineup identification, may never be a sufficient basis for seeking an arrest warrant. Before seeking an arrest warrant, a detective must document their independent investigative steps establishing probable cause (other than the FRT lead and any lineup procedure) and obtain sign-off from two supervisory officials.
 - When requesting and conducting an FRT search, investigators and analysts must complete detailed forms that document critical information about the FRT search—including the quality of the input photo and how many other photos of the individual identified as a lead were in the photo database that was searched but did not show up as a potential lead.
 - In any investigation in which FRT was used and charges are eventually filed against anyone, the DPD must provide the FRT forms to the prosecutor on the case. Thus, information about the use of FRT in any investigation may be available to defense counsel in discovery as potentially exculpatory information.

- ***Eyewitness lineup identifications.***
 - Lineups may not incorporate the same photograph of a possible suspect that FRT identified as an investigative lead.
 - Witnesses performing lineup identifications may not be told that FRT identified anyone as an investigative lead.
 - Witnesses must report how confident they are in any identification.
 - Following best practices for reducing false identifications, lineups must be conducted “sequentially”, meaning that a witness is shown only one photo at a time, instead of seeing all of the photos and potentially selecting the one that looks most like the suspect even if it is not truly a match.
- ***Training.*** All DPD officers must be trained on the facial recognition and eyewitness identification policies contained in this Agreement. DPD must provide more detailed training to investigating officers who use FRT on the risks and dangers of FRT, including the fact that it misidentifies people of color at higher rates.
- ***Historical Audit.*** DPD must conduct an audit of all cases since 2017 in which FRT was used to obtain an arrest warrant. If an FRT lead or an FRT lead combined with a lineup was the only evidence supporting an arrest or a warrant, DPD must inform the prosecutor. Thus, this potentially exculpatory information may be made available to defense counsel by prosecutors.
- The federal court will be able to enforce this Agreement for four years. During this time, any changes to the FRT and lineup policies described above may not diminish the protections described and must be communicated to the ACLU of Michigan before adoption.
- The City of Detroit will pay Mr. Williams an agreed amount in consideration of his damages and will also pay an agreed amount in attorneys’ fees.