

SENTINEL EVENT REVIEW ON THE VACATION OF ALL CHARGES AGAINST ERIC ANDERSON

WAYNE COUNTY SENTINEL EVENT REVIEW TEAM

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COOLEY
INNOCENCE
PROJECT



Quattrone Center for the
Fair Administration of Justice
UNIVERSITY of PENNSYLVANIA

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Introduction

The Wayne County Sentinel Event Review Team (WCSERT) is a voluntary collaboration among the Wayne County Prosecutor's Office (WCPO), the Detroit Police Department (DPD), the Third Judicial Circuit Court of Michigan (Third Circuit), the Michigan State Appellate Defender Office (SADO) and the Cooley Innocence Project, coordinated by the Quattrone Center for the Fair Administration of Justice at the University of Pennsylvania Carey Law School (Quattrone Center or QC). Each of the agencies participating in the WCSERT seeks to encourage a culture of continuous quality improvement and learning from error. At the request of Wayne County Prosecutor Kym Worthy, the agencies participating in the WCSERT came together to evaluate a case in which an undesired outcome occurred – the need for the WCPO to vacate a conviction against Eric Anderson in the interest of justice. Mr. Anderson was convicted in 2010 of armed robbery and served roughly 8.5 years before a sworn confession from one of the actual perpetrators of the crime caused a subsequent investigation of the case by the WCPO's Conviction Integrity Unit (CIU). After an extensive investigation, the CIU found that two other men had committed the robberies and the WCPO moved to vacate Mr. Anderson's conviction. Mr. Anderson was released on April 30, 2019.

To review Mr. Anderson's case, the WCSERT used “blame-free”¹ principles of root cause analysis to identify factors that contributed to the identification, arrest, trial and conviction of Mr. Anderson (Contributing Factors or CFs), and then suggested consensus recommendations across each of their areas of influence to prevent those CFs from recurring. In so doing, the WCSERT seeks to prevent future convictions that cannot withstand rigorous investigative scrutiny.

It is important to note that neither the CIU investigation nor the WCSERT review identified any instance where any participant in Mr. Anderson's case acted with malicious intent, nor did they identify any instances of intentional misconduct. Mr. Anderson's conviction occurred despite the best efforts of each of the law enforcement officers, prosecutors, defense attorneys, judges, and jurors who participated in his case. As a result, preventing the identified CFs from occurring in the future cannot be achieved by punishing any of the system's actors. Recommendations needed to be designed that would help put good faith system actors in to positions where they are better able to succeed, and so the WCSERT sought to learn from and correct decisions that led to the undesired outcome and to make changes that will ensure that the criminal justice system operates fairly and justly for all.

¹ “Blame-free,” when used in this context, continues to recognize professional standards, policies and procedures, and other system features that help to ensure quality in our criminal justice agencies. The agencies participating in the WCSERT used has their starting point the idea that this case achieved an undesired result despite the best effort of all involved, rather than assuming that one or more individual(s) had intentionally or negligently mismanaged the case. In this way, they sought to improve the system's ability to accurately investigate, adjudicate, and resolve criminal cases by enhancing the practices of each participating agency.

The WCSERT hopes that this review will shed light on systemic issues that can lead to problematic arrests and convictions, and aid in the promotion of a culture of accountability and transparency in the criminal justice system. A case timeline and narrative follow, as well as a set of contributing factors that combined to enable the inaccurate conviction, and a list of proposed improvements to the Wayne County criminal justice system designed to reduce opportunities for error in this jurisdiction.

Executive Summary

This report provides the results of a Sentinel Event Review (SER) of the ~9-year incarceration of Eric Anderson, convicted in 2010 of armed robbery and sentenced to 30-50 years in custody, only to be released in 2019 after all charges against him were vacated and dismissed. The SER was conducted by the Wayne County Sentinel Event Review Team (WCSERT), a voluntary collaboration among the Wayne County Prosecutor's Office (WCPO), the Detroit Police Department (DPD), the Third Judicial Circuit Court of Michigan, the Michigan State Appellate Defender Office (SADO), and the Cooley Innocence Project coordinated by the Quattrone Center for the Fair Administration of Justice at the University of Pennsylvania Carey Law School (Quattrone Center or QC).

The WCSERT, and each of its participants, conducted this SER as a quality improvement exercise evaluating a number of undesirable outcomes that occurred in Mr. Anderson's case. The group identified various factors that came together to lead to:

- An eyewitness identification lacking certain indicia of reliability
- Miscommunications during the investigation
- Rushed and incomplete pretrial procedures
- The appearance of judicial influence
- The need for a Conviction Integrity Unit investigation and, ultimately
- The vacation of Mr. Anderson's conviction after around 9 years of incarceration.

The WCSERT used principles of root cause analysis to identify contributing factors, creating consensus recommendations for system improvements implementable by the participating organizations. These recommendations are intended to improve the quality and accuracy of the Wayne County criminal justice system by preventing the factors that contributed to Mr. Anderson's identification, conviction, and incarceration from occurring in future cases.

The WCSERT did not seek to punish or find blame with any individual or agency, but to learn from this wrongful conviction and make changes to avoid such errors again, helping the criminal justice system operate fairly and justly for all.

The WCSERT identified 40 distinct factors that contributed to Mr. Anderson's wrongful conviction and his wrongful incarceration for 9 years. (For a graphic breakdown of these contributing factors, please see the "fishbone diagram" set forth in Figure 1 below.) The WCSERT then discussed and agreed upon 25 consensus recommendations for changing the criminal justice system in Wayne County. These contributing factors and recommendations are interspersed throughout the case analysis below, and collected in a table in Appendix B.

Mr. Anderson's wrongful conviction could not have happened without systemic errors occurring at every level of his case. Any inaccurate conviction must start with an inaccurate (though not necessarily intentional) misidentification and arrest. In addition, such convictions cannot occur without avoiding the system's other numerous checks and balances, including prosecutors and defense attorneys adjudicating it despite its inaccuracy and judges and juries tasked with objective fact-finding not detecting the inaccuracy of the charge(s), resulting in a judge presiding over an incorrect jury assessment of guilt.

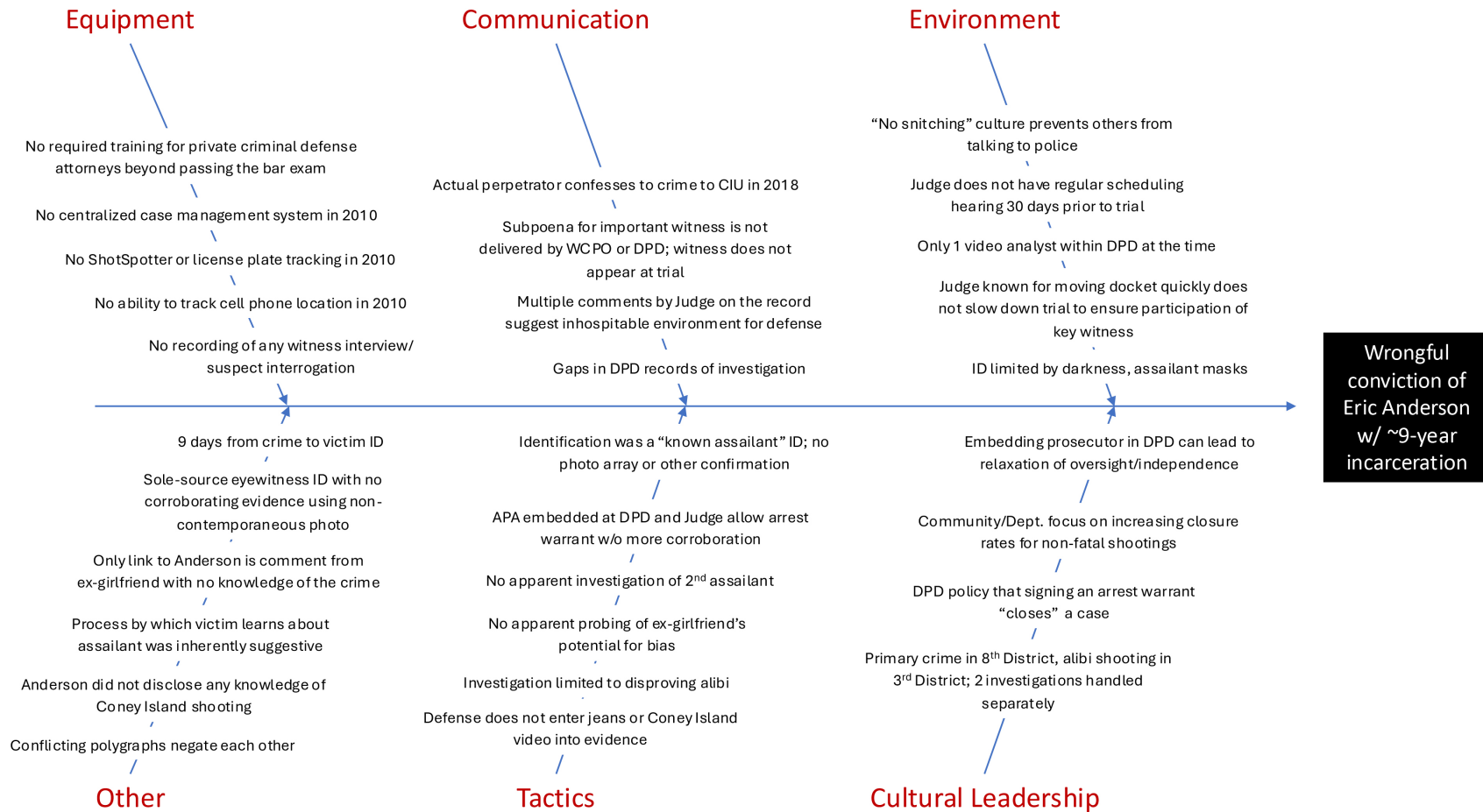
Because each part of the system was unable to identify or prevent the error of Mr. Anderson's conviction, each agency in the WCSERT participated with numerous opportunities for quality improvement. recommendations are interspersed throughout the case analysis below, and collected in a table in Appendix B.

The recommendations focus on:

- Safeguarding the accuracy of arrests based on single-source identifications
- Corroborating identifications that lack certain indicia of reliability
- Gathering evidence as quickly as possible
- Improving case-management systems
- Documenting investigative steps
- Improving communication among investigators
- Exploring potential alibi evidence
- Maintaining courtroom decorum
- Leveraging pretrial procedures to ensure the availability of evidence and witnesses
- Improving community partnerships
- Carefully assessing polygraph results
- Ensuring adequate funding and
- Investing in training and oversight of counsel.

Ultimately, there was no one thing that caused the Wayne County criminal justice system to convict Mr. Anderson, only to believe that his conviction should be vacated later. Rather, a wide variety of "contributing factors" came together in ways that led all participating agencies at the time to conclude incorrectly that Mr. Anderson was guilty of armed robbery. Avoiding any of these contributing factors during the adjudication of his case might have averted his incarceration. A visual representation of specific contributing factors that occurred in Mr. Anderson's case is displayed in the "fishbone" diagram in Figure 1 below.

Figure 1. “Fishbone” diagram with contributing factors specific to the wrongful conviction of Eric Anderson



Case Analysis, Contributing Factors and Recommendations

The WCPO chose the Anderson case as a useful candidate for a Sentinel Event Review (SER) based on the undesirable and unwanted outcome of a Wayne County resident serving almost nine (9) years in custody for a crime credibly confessed to by another man. They selected the Quattrone Center, which has deep expertise in conducting SERs in other exoneration cases,² to coordinate the review with other stakeholders in the Wayne County criminal justice system.

The Quattrone Center and representatives of Dechert LLP and Shook, Hardy & Bacon LLP³ requested, received and reviewed thousands of pages of police files, court transcripts and appeals, and other materials, and interviewed seven individuals who participated in the case between 2010 and the present day.⁴ Wherever possible, the WCSERT sought to avoid speculating about the motivations or intentions of the participants in the case's investigation and adjudication, and to understand the actual environment and awareness of the participants in the case at the time, so that the group's recommendations would be tailored specifically to the actual areas of confusion, miscommunication, or other challenges causing his arrest and conviction including:

- Eyewitness identification procedures
- Assignment and documentation of investigations
- Consideration of alibi evidence
- Communication among various criminal justice system participants
- Pretrial case preparation and
- Careful adversarial testing.

² See, e.g., <https://www.law.upenn.edu/institutes/quattronecenter/sentinel-event-review/>

³ These law firms provided substantial resources on a pro bono basis to assist in the review of documents and interviews with participants, as well as the discussion of contributing factors and recommendations. The members of the WCSERT warmly acknowledge this important contribution to the WCSERT's work.

⁴ A limitation of this SER was the inability to speak to every criminal justice system professional who participated in the case; notably, both the judge at Mr. Anderson's trial and Mr. Anderson's defense attorney passed away prior to the initiation of the SER, and the prosecutor of the case at trial did not respond to multiple requests for participation.

CASE OVERVIEW

Robberies, Initial Investigation and Arrest

On April 18, 2010, at approximately 3:15 A.M., two individuals were robbed at gunpoint by two masked assailants as they exited a vehicle in the driveway of the home of one of the victims in northwest Detroit. According to the first victim (Victim 1), one assailant placed him in a headlock, held a gun to his head, and pistol-whipped him while demanding his keys and money. The second assailant held his gun to the head of the second victim (Victim 2), but the gun appeared to jam when he attempted to fire.

One of the assailants took car keys from the Victim 1 and pressed the “unlock” button on the fob. This inadvertently triggered the alarm of a different car sitting in Victim 1’s driveway, waking his mother and prompting her to go outside to investigate. By that time, the assailants had instructed the victims to run while they fled in the opposite direction. The victims ran to a gas station about half a mile away, where they called for police.

Police arrived at the home at approximately 3:39 A.M. and Victim 1’s mother provided descriptions of the perpetrators to responding officers: both men were Black and wore masks. One was taller, wearing a mask and dark clothes; the other was shorter, wearing a tan mask and beige T-shirt. Neither victim spoke with police at this time. After the police had left, Victim 1 sought treatment at Sinai Grace Hospital for injuries to his face and head.

The robbery investigation was initially assigned to the DPD 8th Precinct as a standard robbery case. At an unknown time thereafter, it was transferred to the non-fatal shooting team in the precinct,⁵ and assigned to a detective from the department’s night response team, which handled shootings.

Nine days later, on April 27, 2010, the first victim gave a formal statement to police in which he identified Eric Anderson as one of the two individuals involved.⁶ The DPD officer who took the statement was not the assigned officer who ultimately signed the warrant for Mr. Anderson’s arrest, a role filled by the “responsible officer.” However, because the responsible officer was working nights, all witness interviews and suspect interrogations were conducted by officers in the non-fatal shooting team who worked days. All DPD testimony at trial was from the DPD Officer who took the victim’s

⁵ The exact rationale and procedure for transferring the case to the non-fatal shooting team is unclear from the documentary record and was unknown to the participants in the case or the SER reviewers. While the first victim and his mother did give statements to DPD officers that they heard “gunshots” (from the victim) and “three gunshots” (from the victim’s mother) as the perpetrators ran away, these statements were dated after the transfer of the case to the non-fatal shooting team. No earlier statements or notes were included in the DPD file to explain this transfer of investigational authority.

⁶ Although it is not documented in the file, it appears that the victim and a DPD officer had at least one conversation prior to this statement, as the record suggests the statement was scheduled by the victim and officer. No one interviewed as part of the SER had any recollection of such a conversation.

statement and otherwise coordinated the investigation, and testimony at trial suggested that the “responsible officer” was simply an administrative role in this case limited to typing up the arrest warrant and potentially other documents.

As part of his statement on April 27, Victim 1 stated that he had been talking to a “friend” who had previously dated Anderson, and that she assisted Victim 1 with his identification of Anderson, whom she said she knew “liked to rob people.” With this assistance from his friend, Victim 1 had located a picture of Anderson and his ex-girlfriend on the ex-girlfriend’s Facebook page. Victim 1 printed this photograph on April 27th and brought it with him to the police station.⁷

Victim 1 also reported that later in the morning on April 19, while he was receiving treatment at the hospital for the injuries to his face, he observed the second assailant being treated for a hand injury. He also stated that while he was there, a nurse at the hospital told him that one of the individuals involved in the robbery was also being treated for a gunshot wound to the foot. Victim 1 did not ever see this individual at the hospital.

During the interview on April 27, Victim 1 described the first assailant (i.e., Mr. Anderson) as approximately 5’8”, 150 pounds, with short hair, and described the other assailant as 5’9”, 200 pounds, with braids. He also stated that as he fled the scene, he heard gun shots from behind him. He also stated that he looked at his phone while fleeing, noticing that it was 3:19 A.M. The victims ran together approximately 0.5 miles to a gas station where they called for help before returning to Victim 1’s house.

On April 28, 2010, the following day, Detroit police interviewed Victim 2, who stated that two men approached and pulled handguns on them. He described both individuals as black males, each carrying a black handgun, and estimated one of them to be about 6’ to 6’1.” Police also re-interviewed the first victim’s mother, who reiterated that she had seen two individuals after the robbery. She described one as “small build, short, wearing a mask” and the other as “medium” and reported hearing three gunshots nearby as assailants fled the scene. No ballistic evidence was recovered.

Police conducted two other interviews on April 28. The first was Anderson’s former girlfriend, who had told Victim 1 of her opinion that Anderson could be one of the assailants. She told officers that she received a call from Victim 1 around 3:30 A.M. on the morning of the incident and was told he had been robbed and pistol-whipped. She stated that she had previously gone to prom with Anderson and suspected him of the robbery because she knew he did that “kind of stuff,” but

⁷ Again, the record-keeping in the DPD file makes it difficult to know the precise sequence of events here, but the picture appears to have been printed from a non-DPD printer with a date stamp. The version reviewed by the WCSERT had Victim 1’s signature on it with a notation that the man in the photo was Mr. Anderson, who robbed Victim 1. It was admitted as evidence in the trial.

confirmed that she had no direct knowledge that Anderson had participated in the robbery. She also reported that she had spoken with Anderson by phone on April 19, 2010, the day after the robbery. During that call, Anderson denied involvement, saying he had been shot in downtown Detroit in the early morning hours of April 18 and thus could not have committed the robbery.

Police also interviewed Victim 1's mother twice, once immediately after the robbery in response to a 911 call and again on April 28. She stated that on the night of the robbery, she had been awakened by the sound of her van starting up. She looked out the window and saw two black males standing on either side of her son's vehicle. She yelled at the men, and they left. She described one of the men as 18-20 with a small build, short, and wearing a mask. She added that she heard approximately three gunshots as the men ran off.

Based on Victim 1's statement and with the support outlined above, DPD officers consulted with an Assistant County Prosecutor working closely with the DPD non-fatal shooting section. The Responsible Officer signed a written arrest warrant that was signed by a judge and issued for Anderson's arrest on April 28, 10 days after the robbery. Mr. Anderson, who is 6'0" tall and had short hair, was arrested that same day.

Subsequent Investigation and Alibi

Following his arrest, Anderson gave two statements to DPD officers. In each interview, he denied any involvement in or knowledge of the robbery, stated that he did not know either of the victims, and provided an alibi: he had been shot at a Coney Island restaurant at roughly the same time the robberies had taken place, and had immediately been taken by a friend to Sinai Grace hospital for treatment, making it impossible for him to have committed the robberies at the time reported by the victims.

In the first interview, Anderson stated that he had been shot downtown and had driven back to Sinai Grace Hospital for treatment.⁸ The following day, he elaborated that he had entered a Coney Island downtown around 3:00 A.M. to use the restroom. Immediately upon entering, he was struck in the foot by a stray bullet during what appeared to be an unrelated altercation between patrons already inside the Coney Island. He provided investigators with the name of the friend who had driven him from the Coney Island to the hospital and described his clothing as wheat-colored Timberland boots, dark Ed Hardy jeans with a distinctive multi-colored back-pocket design, a hoodie, and a Detroit Tigers baseball cap.

⁸ In subsequent testimony Anderson explained that his wound was not life-threatening, and Sinai Grace was located much closer to his home, allowing him to get home much more easily after his release in the early morning hours. The prosecutor at trial used the treatment at Sinai Grace instead of Detroit Receiving Hospital or Henry Ford, which were very close to the Coney Island, to cast doubt on Anderson's alibi.

Mr. Anderson had also provided a statement to officers in the early morning hours of April 18 while he was being treated at Sinai Grace, as it is standard procedure for DPD officers to interview any gunshot wound victims at the hospital. His statement about the Coney Island was virtually identical to the later statements he gave after his arrest – that he had taken only a few steps into the Coney Island when he was shot in the left foot, and that he could not identify the shooter.

To investigate Mr. Anderson's alibi, DPD obtained surveillance footage from the Coney Island for the night of April 18 as well as Mr. Anderson's medical records from Sinai Grace for the same night.

The video (which has no audio) has footage from two cameras. One, in the back of the Coney Island, shows two men with guns leaving through the back of the restaurant. One is shorter and wearing a tan T-shirt and Timberlands. The other is taller and wearing a long sleeve, green and blue plaid collared shirt, and white sneakers. The second camera is positioned above the inside of the front door to the Coney Island and is facing inward into the restaurant. This video shows people scattering and ducking for cover, while a man enters the restaurant wearing a hoodie and jeans that matched the description given by Mr. Anderson. The man takes one or two steps into the camera's range before he flinches and pivots (presumably because shots have been fired, though you cannot hear the shots). The man immediately turns and exits out of the camera's view. At no time was the man's face visible, as his back was to the camera and his hood was up, but the clothing matched the description provided by Mr. Anderson.

A second individual was also shot during the incident at Coney Island and was named in some of the DPD interrogation of Mr. Anderson, but no materials obtained by the review team contained any information about any further investigation of the shooting at the Coney Island.

Medical records confirm that Anderson was admitted to Sinai Grace Hospital at 3:33 A.M.⁹ with a gunshot wound to the left foot. X-rays and a medical examination showed that the bullet had entered the instep of the foot behind the big toe, and exited out of the sole foot in the middle of the sole, between the third and fourth toes

On May 10, 2010, Anderson submitted to a polygraph examination administered by DPD. The analyst concluded that Mr. Anderson was not being truthful when he stated he did not commit the robbery.

It appears that DPD did not interview the man that Mr. Anderson said drove him to the hospital until May 12, 2010, about two weeks after Anderson's arrest.¹⁰ Police interviewed Anderson's

⁹ It is not known what time Mr. Anderson was dropped off at Sinai Grace, though the reviewers acknowledged that the time of admission recorded was likely later than Mr. Anderson's time of arrival in the Emergency Room.

¹⁰ The individual's statement to DPD is dated "5/12/12," and reviewers assume this is a typographical error.

friend who stated that he had picked Anderson up around 11:00 p.m. and that the two had driven downtown but were unable to get into a club. After riding around for several hours, they stopped at the Coney Island around 2:30 a.m., where Anderson was shot. He reported that he then drove Anderson to the hospital.

While the robbery for which Anderson was convicted was under the jurisdiction of the 8th precinct, the Coney Island shooting that constituted Anderson's alibi fell under the jurisdiction of the 3rd Precinct. As a result, the robbery and the shooting were investigated separately by different precincts, and there was no documentation available to the review team regarding any further investigation into the Coney Island shooting.

Preliminary Hearing, Plea-Bargain and Trial

Anderson was arraigned on June 9, 2010, and entered a plea of not guilty. Anderson was represented by court-appointed counsel who was experienced in the jurisdiction. At that hearing, the court responded to counsel's statement that Anderson was competent by stating, "[a]lthough poor in judgment, huh?" The court expressed the opinion that bond had been set too low, asking "[h]ow did the magistrate make such a mistake?" The court further opined that Anderson's criminal history was "more here than what meets the eye. Or your eye. It's not going to get by mine, though." He then vacated the existing bond.

A pretrial hearing was held on September 15, 2010, where the court learned that Anderson had turned down an offer to plead guilty to unarmed robbery and receive a sentence of three years' probation. The court asked Anderson, "Are you stupid or what?" and asked what his level of education was and which high school he had attended. Anderson stood by his refusal to plead and the court stated, "there will be no pleas accepted after today."

The trial started on November 2, 2010. The prosecution opened its case with the testimony of Victim 1, who stated that he had been robbed and pistol whipped by two assailants, one of whom was wearing dark clothes and the other of whom was wearing jeans and a tan shirt. Victim 1 testified that the robbers had had their faces covered, but said he saw their faces without coverings when he first pulled up to his house in his car and they were just walking down the street normally. He stated that he had seen the robbers before hanging out in his neighborhood. Victim 1 further related that the robbers had told him to get away from the house and he had run to a gas station; on the way he heard two gunshots that sounded like they were coming from near his house. According to Victim 1, he had not known Anderson's name but learned it from a female friend and then found a photo of Anderson and that same female friend on Facebook. Victim 1 printed that photo out and took it to the police. The photo was admitted into evidence at trial and Victim 1 identified Anderson as his assailant in open court.

During cross-examination of Victim 1, Anderson's attorney sought to clarify the timeline of the crime. Victim 1 testified that he knew the crime occurred around 3:19 A.M. because he looked at his phone while he was running away from his house after the robbery. Anderson's attorney also obtained an admission that Victim 1 had not told his mother that he knew who had robbed him on the night of the crime; Victim 1 said he "wasn't thinking" because he "was in too much pain." In addition, Victim 1 testified on cross that, while he was at Sinai Grace hospital after the robbery, a nurse had told him that Anderson was there being treated.

Victim 2 was next to testify. He stated that he could not identify either of the robbers or describe what they were wearing. He said, "when they had the gun in my face I couldn't remember nothing at all." In response to questioning by the court (in Wayne County, it is customary for the court to ask witnesses questions, including questions from the jurors that it has screened), Victim 2 stated that the lighting at the time of the robbery was "[a]bout a three" on a scale of zero to ten, "if zero was pitch black to where you can see absolutely nothing and ten is bright as noon on a clear summer day."

The prosecution next called one of the investigating police officers, who testified that he had investigated Anderson's alibi and confirmed that there was a shooting at the Coney Island on the night in question, but was not able to confirm based on surveillance video that anyone was actually shot during that incident. The officer also confirmed that Anderson became a suspect because Victim 1 brought in the Facebook photo of him and stated that he was one of the robbers. On cross examination, the officer acknowledged that Anderson had provided him with a description of his clothing that was consistent with what the officer saw in the surveillance video. Specifically, he saw someone in the video wearing dark jeans with a print on the back pocket and wheat Timberland boots, as Anderson had described. The officer stated that the shooting at the Coney Island occurred around 3 A.M. He estimated that it would have been a 10–15-minute drive from there to Sinai Grace hospital, and hospital records showed Anderson went into triage at 3:34 A.M.

In response to questioning from the court, the investigating officer testified that if a semi-automatic handgun jams, it sometimes goes off accidentally afterward. He stated that Victim 1 had told him one of his assailant's guns had jammed.

Victim 1's mother was the prosecution's final witness. She testified that she did not actually see the robbery, but she saw Anderson at the scene; although his face was covered, she recognized him because he was wearing the same beige shirt he had on earlier in the day. In response to questioning from the court, Victim 1's mother stated that after the robbers left her front yard, she heard two gunshots from around the corner. She also characterized the lighting at the scene as a 9 on a scale from 0 to 10, with 10 being brightest.

Before the prosecution rested its case, the court noted that there were a number of other witnesses on its list that it had not called to testify. The court asked if the prosecution had spoken with the defense about those witnesses, and the prosecution said they were all available for the defense to call except for Victim 1's female friend who had told him Mr. Anderson's name. The court suggested that the defense might want a "512 instruction," whereby it would "instruct this jury they're going to be advised of the fact that had these people testified they would have given testimony contrary to the position of the People." Mr. Anderson's counsel requested such an instruction with regard to Victim 1's female friend (who also happened to be Mr. Anderson's ex-girlfriend). The prosecution admitted that this witness had not been subpoenaed. The court asked if she was a "res gestae witness" (meaning one who was present for the crime) and defense counsel acknowledged she was not, leading the court to say her absence was "kind of a non-issue." Defense counsel pointed out that "she's the one that allegedly gave the name of Mr. Anderson to [Victim 1] and that was basis upon from which we understand [Victim 1] then went to the Facebook and got this picture." He posited that Victim 1 "didn't know who anybody was" and was "relying on what the police officer went out and took a statement from this young lady who said... Mr. Anderson is the one that robbed him." The court responded that it did not "make any difference from whom [Victim 1] had obtained that information" because it merely "confirmed his not his suspicion but presented a message that he could process through his own thinking." Counsel argued that it was "still important that we would of had her here to cross examine her as to the veracity and truthfulness of" Victim 1, but the court denied the 512 instruction, stating "her testimony would ostensibly not be that important to this case."

After the close of the prosecution's case, Mr. Anderson made a motion for a directed verdict, which the court denied. In regard to Mr. Anderson's alibi, the court stated, "you know it probably would have been better had we had the video so we could all see it." The court characterized this as "instrumental evidence that the jury should be capable of perceiving themselves as opposed to being inter[preted] if you will by" the investigating officer. Nevertheless, defense counsel did not introduce the surveillance video or any stills taken from it during the defense case.

The defense presented alibi testimony from Mr. Anderson's friend who had taken him to the Coney Island. The friend testified that he had driven Mr. Anderson to the Coney Island. Five to ten minutes after Mr. Anderson got out of the car at the Coney Island, the friend heard gunshots and then saw Mr. Anderson hopping and falling to the ground. Mr. Anderson's friend said he got Mr. Anderson in the car and took him to "the nearest place where I knew we could go," Sinai Grace hospital. The friend also corroborated that Anderson had been wearing jeans with gold designs on the back pockets and tan Timberland boots when he entered the Coney Island.

Next, the defense introduced Mr. Anderson's medical records from Sinai Grace hospital. It did not present a witness to talk about the records or otherwise attempt to explain their significance to the

jury. And those records did not contain images or drawings to show the entry and exit wounds, making them difficult to interpret without medical training.

The defense also presented testimony from another one of Mr. Anderson's friends that he received a call between 2 and 2:30 A.M. telling him that Mr. Anderson had been shot and went to meet him at the hospital. This friend's mother also testified that she had driven her son to meet Mr. Anderson at the hospital around that time.

Mr. Anderson testified in his own defense. He stated that on the night of the robbery, he had gone downtown with friends to try to get into a club. When they couldn't get in, they drove around for a while. At 2 A.M., the clubs closed, and Mr. Anderson wanted to find a bathroom. His friend stopped the car at the Coney Island for him. Mr. Anderson walked about four or five steps into the building and heard gunshots and then felt that he had been shot in the left foot. He hopped outside and his friend helped him into the car and drove him to Sinai Grace hospital. He was admitted at 3:33 A.M.

During closing arguments, the prosecution stressed Victim 1's identification of Mr. Anderson as his assailant and the fact that he said he knew Mr. Anderson from the neighborhood. It also argued that "defendant was shot as he fled the scene of the robbery," citing "testimony from [the investigating officer] regarding guns and how guns can misfire, if a gun is discharged if it does not fire correctly that it could accidentally go off." For its part, the defense stressed that the investigating officer had identified clothing consistent with Mr. Anderson's in the surveillance video of the Coney Island shooting and that hospital records showed Mr. Anderson was treated at 3:33 A.M. It also questioned the timing and strength of Victim 1's identification.

On November 5, 2010, the jury returned a verdict of guilty on all charges.

Re-investigating the case: The Conviction Integrity Unit (CIU) Phase

In March 2018, Anderson submitted a petition to the WCPO Conviction Integrity Unit (CIU), claiming actual innocence of the crimes for which he had been convicted in 2010 and asking the CIU to re-investigate his case. The petition was accompanied by a sworn affidavit from another individual (the Affiant) who confessed to committing the robbery for which Anderson had been convicted. The Affiant stated that he and a second person—not Anderson—were responsible for the robbery and indicated a willingness to provide further information.

Over the course of 2018, the CIU gathered and reviewed evidence as it investigated Anderson's claims of innocence and Affiant's affidavit of confession. It is not unheard of for individuals serving lengthy sentences to confess falsely to crimes they did not commit in an effort to help others get released, and so the CIU engaged in its investigation with some skepticism about the validity of the affidavit. At the same time, because the CIU's investigation was focused on proving or disproving Affiant's affidavit, rather than starting with a focus on Anderson generated by the victim's eyewitness identification, the CIU pursued information differently, and was in a position to assemble the available information into a very different set of facts than those that led to the arrest of Mr. Anderson.

CIU investigators obtained Anderson's case file from the Michigan Innocence Clinic, subpoenaed his medical and radiology records, and conducted a detailed forensic review of the surveillance footage from the Coney Island where Anderson reported being shot.

After independently reviewing the medical records, the CIU concluded that Anderson's gunshot entry wound entered the side of the foot, not the top, and therefore was likely to be inconsistent with a self-inflicted wound suffered from an accidental discharge while running away from the scene.¹¹ The entry into the instep of the foot and out the sole was deemed to be more horizontal and less vertical in angle, and thus more consistent with the injury Anderson claimed, in which he was shot from some distance while entering the Coney Island as others were shooting.

Going beyond the surveillance video from the Coney Island, the CIU obtained the jeans Anderson had claimed to be wearing from Anderson's father and submitted them to a DPD forensic video analyst for review. That review compared the jeans Anderson said he wore to those visible in the surveillance footage and found multiple specific points of similarity, suggesting strongly that the individual in the video was Anderson and he was at the Coney Island. (The DPD analyst was the same person who had originally obtained the surveillance video from the Coney Island in 2010).

¹¹ It was also noted at the review that there was a single gunshot wound and that both Victim 1 and his mother had reported multiple shots; while it is certainly possible for one shot to miss the assailant's foot as he was running away, it seems unlikely that an accidental discharge caused by jamming at the scene would result in multiple shots being fired from the gun.

The CIU also determined that Victim 1's identification of Anderson may have been influenced by suggestions from his Victim 1's friend (Anderson's ex-girlfriend) rather than firsthand observation by the original witness.

The CIU also interviewed Affiant directly, who reaffirmed his written statement during an interview with the CIU and passed a polygraph examination in which he stated not only that he had committed the robbery, but that Anderson had had no involvement in it.¹²

Affiant's statement was not true in all respects. He initially named a person who was deceased as his accomplice in the robbery, an act that was suspected by the CIU to ensure that Affiant was not "ratting on" anyone. Later, however, he identified someone else as the second perpetrator; again, this person bore no resemblance to Mr. Anderson, who had been "Assailant 1" in the Victim's testimony and thus in Affiant's position during the robbery.¹³

The CIU ultimately identified both the actual perpetrator and another man with a gun in the surveillance footage of the Coney Island, noted that the description of the two men matched the description of what Assailant 1 and 2 had been wearing in the contemporaneous descriptions provided by Victim 1 and his mother, and confirmed that the Affiant and the second man (who was also incarcerated at the time of the CIU investigation) had engaged in a pattern of similar robbery and carjacking offenses in the past.

Based on the totality of new evidence, including the confession, corroborating video, and medical documentation, the CIU concluded that Anderson had been misidentified and that Affiant's confession that he committed the crime with another person who was not Anderson was truthful. Although the investigation revealed that Anderson and others had provided false, incomplete or misleading statements at various points, including at trial and during the CIU review, these inconsistencies did not alter the CIU's conclusion that Anderson was innocent of the crime.

On April 30, 2019, a Wayne County judge signed a stipulated order granting relief from judgment and dismissing the charges against Anderson. He was released from custody that same day.

¹² As discussed below, this polygraph conflicted with a polygraph taken by Mr. Anderson after his arrest and before his trial.

¹³ The CIU had long been skeptical that the first-named individual was involved, noting that he was deceased and did not resemble anyone visible in the surveillance footage. Anderson later acknowledged that he, the confessor, and another acquaintance had previously discussed naming that individual as the second perpetrator.

CONTRIBUTING FACTORS AND RECOMMENDATIONS FOR CHANGE

Factors Related to Eyewitness Identification

Reviewers noted a number of factors that affected the potential accuracy of the identification of Mr. Anderson by Victim 1. While none of these issues categorically exclude Mr. Anderson, individually and collectively they serve as indicators that additional corroborating evidence would be useful to ensure the accuracy of the identification. These factors include:

Contributing Factor 1: Mr. Anderson was arrested and convicted on the eyewitness testimony of a single individual without any corroborating physical evidence.¹⁴

Contributing Factor 2: System variables exist that made the identification more challenging for the victims, including:

2a. The assailants wore masks during the robbery

2b. It was dark and there was no streetlight

2c. The assailants had weapons

2d. Victim 1 was hit in the face with a weapon and was bleeding in ways that may have impaired his vision

Contributing Factor 3: Victim 1's eyewitness identification of Mr. Anderson was made using a non-contemporaneous photo of Mr. Anderson, suggested by a potentially biased source with no actual knowledge of the events in question.

Contributing Factor 4: No photo array or other procedure was conducted to verify the victim's ability to identify Anderson.

Contributing Factor 5: The process leading Victim 1 to find the photo used to identify Mr. Anderson, searching a specific social media account looking for a known person at the suggestion of Victim 1's friend, was inherently suggestive, and the victim's limited prior familiarity with Anderson raises questions about the strength and reliability of the identification.

¹⁴ Participants in the review disagreed about the weight to assign this contributing factor, and several felt strongly about the need to limit it to this specific fact pattern in determining recommendations based on it. While a significant number of wrongful convictions detailed in the National Registry of Exonerations (<https://exonerationregistry.org/>) were based upon the testimony of a single eyewitness without corroborating physical evidence, not all such cases should be ignored. In fact, many cases cannot generate more evidence and nonetheless demand a thoughtful, thorough review by police and prosecutors alike. For example, sexual assault cases often fall in this category. Thus, while the reviewers noted that the evidence of a single eyewitness combined with no corroboration in an armed robbery was far from an ideal evidentiary scenario in Mr. Anderson's case, it is important not to overextend this contributing factor to other cases.

Contributing Factor 6: No witness statements were taken until nine (9) days after the robbery, reducing the recency of the identification and reducing the likelihood of finding any physical evidence at the scene.

Contributing Factor 7: An Assistant Wayne County Prosecutor working closely with the DPD Non-Fatal Shooting group did not identify or question any of the potential weaknesses of the victim's eyewitness identification.

Contributing Factor 8: A Third Circuit Judge approved the arrest warrant notwithstanding its thin evidentiary foundation.

Reviewer Discussion. Reviewers agreed that the eyewitness identification of Mr. Anderson by Victim 1 had several “warning signs,” outlined in the CFs above. At the same time, because Victim 1 claimed to know Mr. Anderson from the neighborhood, many of the procedures that would normally be used to verify a “stranger identification” were deemed not necessary for this “known suspect identification.” Given that Victim 1 knew Mr. Anderson from the neighborhood, any photo array or other verification would have been redundant and unnecessary.

It was also understood by all reviewers that even under laboratory conditions eyewitnesses often make mistakes in their descriptions of perpetrators, and these were not ideal conditions. The fact that the assailants' faces were covered, the dim lighting, the presence of weapons, which can distract witnesses from looking at assailant's faces – any of these could have been the cause of a mistaken identification. Each of these elements that could weaken confidence in the identification was raised for the jury's assessment at trial.

Victim 1, Victim 2 and Victim 1's mother all differed in their descriptions of the height and weight of the assailants, and it was deemed noteworthy by some reviewers that Mr. Anderson's physical description did not conform to any description of the two assailants: Victim 1's mother described the first assailant as “short” and Affiant was 5'5” tall compared to Mr. Anderson's height of 6'0”, while assailant 2 had braids which Mr. Anderson did not have. These differences did support the truth of Affiant's confession and Mr. Anderson's claims of innocence in retrospect, though several reviewers were unpersuaded by the height differences reported in particular, noting how common it is for eyewitnesses to make mistakes in their physical descriptions of people, and the need to include such descriptions as only one factor in an identification that leads to an arrest warrant.

Another issue in the reliability of the identifications and investigation was the 9-day gap between the commission of the crime and the first written witness statement. A lack of documentation in the case file made it impossible for reviewers to evaluate what caused this delay. Nonetheless, the 9-day interval between the event and witness interviews reduced the recency of the identifications and further complicated DPD's ability to search for any physical evidence that might have corroborated or disproved the identification.

All in all, it appears that DPD investigators, the WCPO Assistant County Prosecutor, and the judge signing the arrest warrant chose to rely on Victim 1's "known identification" as accurate despite all of the other potential signs of the identification's weakness. While Reviewers acknowledged these challenges, most felt that the evolution of investigational technologies would have given DPD investigators in such a situation today additional tools to address the concerns expressed about Mr. Anderson's identification. While such technologies certainly can provide additional assistance, nothing in the record or in the review suggested that the various participants in the case, including law enforcement, the attorneys, or the judge, expressed concern about the limitations of the identification, and all were willing to proceed notwithstanding the minimally reliable evidence pointing to Mr. Anderson's participation in the robberies. Thus, each participating agency in the SER has an opportunity to use this case as a learning tool about the potential risks of a "known subject" eyewitness identification that lacks additional corroborating evidence.

Recommendation 1: DPD should implement policies¹⁵ that seek to identify supporting evidence that strengthens probable cause on single-source identifications where the parties are not known to one another unless exigent circumstances exist or unless the identification has particular credibility. Supervisors should ensure that all possible avenues are explored for corroborating evidence before approving arrest warrants based on single-source uncorroborated identifications. When such identifications are used, they should be accompanied by documentation justifying the exception and reviewed by a supervisor.

Reviewers noted that there are instances, including domestic violence allegations, where the "known suspect" is very well known to the victim and where single-source eyewitness identifications may be the only admissible evidence. This recommendation is not intended to create a blanket rule banning such identifications from their uses in criminal cases, but to ensure that additional independent assessments are provided from within DPD and WCPO given the increased potential for misidentifications in cases like Mr. Anderson's, where the relationship between victim and assailant is much more attenuated.

One investigational step that could have been taken to corroborate the identification would have been a subsequent interview with the victims and Victim 1's mother regarding the clothing worn by the assailants. The descriptions of the assailants did not mention any distinctive clothing, only one dressed in tan and one dressed in black clothes. By contrast, Mr. Anderson's description of his jeans, verified by the video of the Coney Island, could have been a useful tool for his defense. Neither DPD nor, importantly, Mr. Anderson's defense attorney chose to take the approach at any time after Mr. Anderson's arrest or at trial.

¹⁵ After Anderson was arrested and unrelated to his case, DPD independently implemented protocols for the administration of photo arrays in criminal investigations. See Detroit Police Special Order 22-53, effective Date 12/16/2022. However, it is not known whether these protocols would have prevented Anderson's arrest, as police at the time treated the arrest as a "known suspect ID" given the victim's assertions that he recognized Anderson "from the neighborhood."

Recommendation 2: DPD and WCPO should develop joint charging guidance that elevates the evidentiary threshold when a case relies solely on a single eyewitness identification. The guidance should discourage prosecution in the absence of corroboration unless clear, documented indicators of reliability are present. Charging decisions should be supported by an assessment of whether the witness had a meaningful opportunity to observe the suspect and whether any corroborating evidence (e.g., physical evidence, video, or motive) is available or has been reasonably ruled out. Absent such indicators, charging should be deferred until further investigative steps are taken.

Recommendation 3: In cases where the suspect was masked, visually obscured, or viewed only briefly, WCPO should seek additional corroboration or validation of the identification before charges are authorized based on that identification alone. In such cases, prosecutors should be required to confirm whether corroborating evidence has been sought or whether the witness's visual capacity was meaningfully impaired.

Recommendation 4: DPD should include "visual conditions" as a prompt in ID documentation forms—asking investigators to record whether the witness could clearly view the suspect's face, lighting conditions, duration of observation, and whether a mask or obstruction was present.

Recommendation 5: DPD should endeavor to investigate the scene of a shooting and take detailed witness statements as soon as reasonably possible and should evaluate cases where that standard is not met.

Recommendation 6: When a photograph used for identification comes from sources other than police databases, DPD & WCPO should require that photo identification acquisition history is included in the warrant request report and they and any approving judge should review it for potential influence or bias during pre-charge decision-making.

Recommendation 7: In cases relying solely on uncorroborated eyewitness identification, DPD should consider requiring a secondary supervisor review before an arrest warrant is authorized by DPD and/or before the case is accepted for prosecution by the WCPO.

Challenges for the DPD Investigation

The Anderson case was reviewed twice – once by DPD, starting from the position of a robbery with three eyewitnesses who provided only a very vague physical description of the robbers and no additional information, and a decade later by the WCPO CIU, using all of the information from the case to date plus a suspect's newly-made confession. Under the circumstances, it can be seen how the CIU might have more easily reached the conclusion that Affiant committed the robbery than the DPD investigators in 2010.

At the same time, reviewers attempted to put themselves in the shoes of DPD investigators as they investigated the case and noted a number of areas that might have contributed to the arrest of Mr. Anderson.

Contributing Factor 9: The file lacked documentation to suggest that DPD conducted any investigation into the identity of the second assailant. This gap limited DPD's ability to explore whether another individual, rather than Anderson, may have been involved.

Contributing Factor 10: The DPD file was incomplete and at times apparently inaccurate, complicating the ability of downstream stakeholders in DPD, WCPO, and defense attorneys to fully evaluate the strength of the case against Mr. Anderson.

Contributing Factor 11: Neither Victim 1 nor Anderson's ex-girlfriend were fully questioned about her role, relationship, or assistance in identifying Anderson or any possible ulterior motive she would have in suggesting Anderson as the perpetrator of the robbery. The potential for bias in her identification of Anderson was never documented (and potentially never evaluated) by DPD.

Reviewers noted that the documentary record reviewed by the WCSERT had several gaps and errors. Police reports were rife with typographical errors, including inaccurate names and dates. In one statement, Mr. Anderson was apparently incorrectly described repeatedly by the police officer taking the statement as “Johnson,” making it unclear whether the statement was actually describing Mr. Anderson. The case notes of activities conducted by DPD Investigators were not part of the police file – or at least the portion provided to prosecutors and to the WCSERT Review Team – making it difficult to follow the path of the investigation with accuracy and precision and difficult to know whether supervisors, including but not limited to the Responsible Officer, was able to follow along and be a well-informed critical assessor of the investigation.

Reviewers acknowledged this issue as important both for case management and supervision in real time, and for the ability to review cases later on. In 2016, DPD updated its case management system to provide supervisors with additional ability to identify documentation “gaps” in an investigation.¹⁶ DPD reviewers believe that the gaps in documentation in the Anderson case would have been unlikely to occur had this system been in place in 2010, because case metrics requiring supervisory sign-off and automatic flags illustrating gaps in documentation would be caught by overseers at high levels in the DPD organization and further direction would be given to officers who repeatedly fail to provide the necessary documentation.

¹⁶ This upgrade was a quality improvement effort conducted by DPD that was separate from the Anderson case.

Recommendation 8: Continued investment in DPD case management systems—with searchable notes, case-linking alerts, and real-time supervisor dashboards—should be paired with department-wide training to promote consistent use and oversight. Improvements to shift structures and email notification systems that enable timely OIC involvement should be sustained and evaluated for effectiveness. Regular audits and ComStat processes should be used to verify documentation compliance and flag potential investigative gaps in real time.

Contributing Factor 12: The investigation took place at a time when it was not policy to record witness interviews or suspect interrogations, and no such recordings were made.

It was not official DPD policy in 2010 to record witness interviews nor suspect interrogations, and no interviews or interrogations in the Anderson case were recorded on audio or video. As a result, the review was limited to the written record and could not evaluate the process by which the statements were taken or the accuracy of the written reports. DPD has revised its policies on recording interviews in the intervening years¹⁷, but it bears reviewing these policies to ensure that “best practices” of investigating are used throughout to minimize confirmatory bias and other potential generators of inaccuracy.

Contributing Factor 13: A community and Department focus on successfully closing non-fatal shooting cases may have contributed to the speed with which Mr. Anderson was arrested.

Contributing Factor 14: DPD’s practice of marking a case “closed” for statistical purposes when an officer signed an arrest warrant may have created a disincentive for officers to conduct additional investigation on a case after arraignment, even if such investigation would have strengthened the case for WCPO prosecutors.

Multiple people interviewed for the SER noted that during the 2010 time period, community members, including DPD, were very concerned about gun violence in Detroit and an emphasis was placed on increasing the closure rates of gun violence cases. This public focus on closure rates may have played a part in the speed (<48 hours) with which Mr. Anderson’s case went from an eyewitness identification to an arrest despite some of the areas of weakness identified above. It should be noted, however, that the participants in the case who agreed to be interviewed did not feel that they had moved too quickly in this case given the information available to them at the time.

DPD and WCPO collaborated such that DPD would issue, and WCPO would accept, arrest warrants based on a standard of “probable cause” that the individual arrested was the perpetrator of the crime in question. Such a policy could provide DPD investigators with an incentive to generate arrest warrants before a case has been fully investigated, leaving gaps in the case that could plague

¹⁷ See DPD Manual Directive Number 203.13, “Electronic Recordings of Interviews and Interrogations,” effective 12/09/2022.

prosecutors' efforts to secure righteous convictions or, as in this case, allow an arrest with substantial concerns about accuracy to proceed and lead to an unjust incarceration. It is an important feature of management to balance the risk of incentivizing investigational speed – especially in service of the laudable goal of reducing gun violence – by reinforcing a culture of thoroughness and accuracy in the generation of arrest warrants. Current WCPO practice is to accept warrants only when the arrest is deemed to have evidence showing that the arrestee is the perpetrator “beyond a reasonable doubt,” but WCPO and DPD should continue to collaborate and provide additional investigational resources where necessary, even after a case has been “closed” based on DPD’s metrics.

Recommendation 9: DPD should require documentation of all investigative steps taken to identify any suspect described in victim or witness accounts. Case files should include notation of follow-up actions—even if no new leads are developed—to reduce premature narrowing of investigative focus and to allow for appropriate supervisory review prior to the issuance of an arrest warrant. Supervisory check-ins should be encouraged when only one of multiple suspects described has been identified or investigated, especially prior to submitting an arrest warrant.

Recommendation 10: When a witness’s identification of a suspect involves assistance from another individual, such as providing a name or directing them to a photo, DPD should ensure that any follow-up captures any potential motive the second individual might have in providing the assistance. Interviews with both the witness and the assisting party should explore the timing, content, and potential influence of those conversations.

Contributing Factor 15: Technologies like ShotSpotter, Project Green Light (license plate tracking), doorbell cameras, facial recognition, and continuous GPS-based phone location data were not available to DPD in 2010. As a result, there was no independent method to test Anderson’s claim that he had been shot elsewhere, to cross-reference timelines, or to capture surveillance footage.

Reviewers noted that to some extent, the DPD investigators were limited by the technologies then available in 2010. DPD – and therefore prosecutors and defense attorneys – lacked shot spotter technology now in place that could have corroborated witness statements that shots were fired as the assailants ran away; there were no Ring doorbell cameras or other technologies that could have provided views of the robbery itself, or security cameras at Sinai Grace Hospital that could have supported Mr. Anderson’s alibi; continuous phone location features and license plate tracking were not available to corroborate Mr. Anderson’s alibi; etc. Reviewers acknowledged that these technological tools are now routinely used by DPD in both investigation and charging, suggesting that Mr. Anderson’s alibi might have received a more favorable hearing from investigators today. Continued investment in such technologies and training for all parts of the criminal justice system in their capabilities and applications were broadly supported by all reviewers.

Structural Complexities in Investigation

Reviewers noted some structural complexities of the DPD investigation of Mr. Anderson.

First, the “responsible officer” was largely absent from the file. Cases were somewhat randomly assigned at this time, and the assignment of the case to an officer on the night shift meant that whatever investigation needed to be done during daylight hours would be delegated to another detective in the group. In this case, all interviews were done during working hours and the detective who effectively became the lead investigator was not the detective who drafted and signed the arrest warrant, creating the potential for gaps in the transmission of information that might have highlighted or addressed the weaknesses in Mr. Anderson’s identification.

In addition, the shooting in the Coney Island and the robbery for which Mr. Anderson was convicted occurred in two different DPD districts and so were investigated by different groups within DPD. The SER disclosed no evidence that the two groups were sharing information about the investigation, or indeed whether the shooting in the Coney Island progressed beyond officers taking Mr. Anderson’s statement later that night at Sinai Grace Hospital. A collaborative investigation, complicated by the district separation, could conceivably have led police to Affiant, potentially yielding information that was not available to the DPD investigators involved in the case in 2010.

Contributing Factor 16: Subsequent investigation of Mr. Anderson after his arrest was limited to disproving his alibi rather than seeking out other possible perpetrators.

Contributing Factor 17: The robbery and the Coney Island shooting were investigated by separate DPD teams in different precincts, limiting investigators’ ability to recognize possible links between the two incidents, including the plausibility of Anderson’s alibi.

Contributing Factor 18: Gaps in supervision and information sharing limited coordination across the investigative team. The Officer in Charge (OIC) had broad discretion to lead the investigation, but rotating shift structures limited continuity in investigative leadership. At the same time, DPD lacked centralized systems for case note tracking, real-time documentation review, and automated alerts linking related cases. These structural and technological limitations contributed to silos in investigative efforts and impaired supervisory visibility.

Recommendation 11: DPD should continue expanding cross-precinct review procedures and case-linking prompts. When shared individuals or locations appear across incident types, supervisory review should be triggered to evaluate potential links and ensure coordinated follow-up.

Reviewers noted also that the DPD's investigation into the case after Mr. Anderson's arrest focused on assessing and disproving his alibi, and did not attempt to identify the second assailant. The only interview with people who could have corroborated his whereabouts earlier in the evening was conducted almost two weeks later. Certain facts at trial, including Victim 1's assertion that he recalled looking at his phone as he escaped from the scene and noted that it was 3:19 A.M., or the prosecution's theory of the case that Mr. Anderson's gunshot wound was likely caused by a misfire while he ran from the scene, or the lead investigator's testimony at trial that he could not confirm Mr. Anderson's presence at the Coney Island despite the video, seemed to some reviewers to be tailor-made to disprove the alibi.

Reviewers also noted some decisions made by Mr. Anderson's defense attorney with which they disagreed. First, many reviewers from several agencies commented on the defense attorney's decision not to show the video in the Coney Island. This decision was viewed with surprise by a number of reviewers as well as participants in the case who were interviewed as part of the SER, and the trial judge also made an indirect reference to the lack of showing the video to the jury and how it might have been helpful to Mr. Anderson's case in a sidebar conversation with both attorneys. The death of Mr. Anderson's defense attorney and the trial judge made gathering additional information on this point impossible, but reviewers noted that showing the video and linking the pants to Mr. Anderson would likely have gone a long way toward supporting his alibi in the eyes of the jury, even though his face was not visible in the video.

Other reviewers noted that they would have hoped that the defense attorney at least consulted with a medical expert regarding Mr. Anderson's gunshot wound to contest the prosecution's theory of a misfire being its cause rather than the shooting from a greater distance at the Coney Island. Reviewers disagreed about whether an expert witness would have been able to be qualified in the case but noted that often defense attorneys are hesitant to call experts for budgetary and other reasons.

The CIU was able to bolster Mr. Anderson's claims of innocence and help confirm Mr. Affiant's confession of guilt with a more detailed forensic assessment of the jeans conducted by the same DPD analyst who originally secured the video in the Coney Island. Apparently neither prosecutors nor the defense attorney had asked Mr. Anderson or his family to provide the jeans in question. Reviewers noted that such an analysis would have to have been conducted by the defense, as the analyst in question was the only one in the department at the time and his caseload was frequently backlogged.¹⁸ Additional contributing factors regarding why the defense did not make this request could not be verified due to the inability to interview the attorney.

¹⁸ DPD has since expanded access to video analysis and embedded forensic video analysts in multiple precincts. Continued support for centralized video review capacity and clear case intake triage should be maintained.

Contributing Factor 19: Mr. Anderson, who was under no obligation to do so, chose not to provide names of any other individuals who could have corroborated his whereabouts on the night in question.

Contributing Factor 20: Neither DPD nor WCPO nor Mr. Anderson's defense attorney investigated Mr. Anderson's alibi thoroughly. Important details about the jeans suggesting the truth of Anderson's presence at the Coney Island were not submitted into evidence or shown at trial, nor was the video of the shooting shown at trial.

Contributing Factor 21: Defense counsel did not play available video evidence that may have had probative value.

Contributing Factor 22: Defense counsel did not attempt to use an expert to evaluate the medical records of Mr. Anderson's gunshot to contest the prosecution theory of a misfire from waist level while running being the cause of the wound.

Contributing Factor 23: Only one video expert was available within DPD at the time, limiting the department's ability to timely review, enhance, or assess the relevance of surveillance footage from the Coney Island incident.

Recommendation 12: DPD should develop internal guidance to prompt early and complete follow-up when a suspect names an alibi witness. Where feasible, more than one point of corroboration should be sought, and the results—positive, negative, or inconclusive—should be documented prior to charging.

Recommendation 13: Defense attorneys should actively investigate any potentially exculpatory information that appears credible and can be independently verified, particularly when it may corroborate a defendant's stated alibi. Early, proactive follow-up increases the likelihood of preserving supportive evidence and identifying corroborating witnesses.¹⁹

Pretrial Procedures, Potential Judicial Influence, and Lack of a Key Witness

Reviewers observed that the pretrial procedures seemed rushed in some respects and that the trial judge made some pretrial comments that came across as skeptical of the defense. The court's reaction to Mr. Anderson's rejection of a plea deal—asking if he was “stupid”—was a notable example. In

¹⁹ Prosecutors in Michigan are bound to follow the requirements of Michigan Code of Professional Conduct 3.8, which sets forth the special responsibilities of a prosecutor to refrain from pursuing charges without probable case, to provide in a timely fashion any exculpatory information known about the defendant, and other related obligations.

addition, although it is not unusual in Wayne County for a judge to ask questions of witnesses, some of the trial judge's questions could be construed as supporting the prosecution's theory of the case.

Contributing Factor 24: The courtroom environment was perceived as unfavorable to the defense, with judicial comments and interventions that may have affected how the jury viewed defense counsel and the defense's case. The tone and conduct of courtroom proceedings may have signaled skepticism toward the defense, undermining jury perceptions of fairness even absent formal error.

Recommendation 14: Trial judges should be encouraged to reflect on how tone, timing, and frequency of interventions may influence jury perception, especially when overseeing criminal trials with credibility-based defenses.

Reviewers focused on the confluence of events that led a witness the defense viewed as key to be absent at trial. The case proceeded relatively quickly from arraignment to trial and the court resolved a variety of issues summarily. Mr. Anderson's ex-girlfriend, who Victim 1 credited with giving him Mr. Anderson's name as one of the people who robbed him, was not subpoenaed, apparently due to a miscommunication. Defense counsel failed to raise witness issues at the pretrial conference and only highlighted the ex-girlfriend's absence at the close of the prosecution's case. (Reviewers pointed out this could have been a strategy to create an appellate issue.) At that point, the judge understandably did not wish to delay the trial and denied a jury instruction that the witness's testimony would have been favorable to Mr. Anderson, deeming the witness unimportant because she was not present for the robbery.

Contributing Factor 25: A breakdown in communication occurred between prosecutors and between the WCPO and DPD, who was handling the service of subpoenas for witnesses in the Anderson case, regarding the subpoena status of a key witness, causing the witness not to be available at trial.

Contributing Factor 26: Anderson's ex-girlfriend, who provided the lone data point connecting Anderson to the case and also stated to police that she had no direct knowledge of his involvement in the robbery, was not subpoenaed for trial.

Contributing Factor 27: Anderson's defense attorney did not raise the ex-girlfriend's absence from the trial until the end of the second day despite knowing that she was a student at Michigan State and additional steps to secure her appearance might be needed.

Contributing Factor 28: The trial judge allowed the trial to proceed to the jury without a key witness to the case over defense objections.

Contributing Factor 29: Judicial emphasis on speed and docket efficiency may have placed procedural pressure on counsel and may have limited the court's support for or flexibility in resolving evidentiary issues or delays at trial.

Contributing Factor 30: No clear procedural steps were taken by either the prosecution or defense to ensure that Anderson's ex-girlfriend would testify at trial.

Contributing Factor 31: The witness that provided the sole linkage of Mr. Anderson to the robbery, despite stating to police that she had no actual knowledge connecting Mr. Anderson to the robbery, did not testify at trial.

Recommendation 15: Third Circuit Court judges should oversee and enforce structured pretrial hearings to ensure witness coordination and trial readiness. An in-person scheduling hearing no later than 30 days before trial should confirm all witness endorsements, designate which party is responsible for securing each witness, and address unresolved logistical issues. A final scheduling conference one week before trial should verify that all subpoenas have been served, witnesses are expected to appear, and exhibits are ready. Witness lists must be submitted by court-imposed deadlines, and judges should actively track attorney compliance and take corrective action if lists provided by attorneys are incomplete or untimely. Any gaps or inconsistencies identified at either stage should be documented and addressed before trial proceeds.

Recommendation 16: Defense counsel should take proactive steps to ensure the attendance of any witness central to the defense theory. Third Circuit Court judges should support this responsibility by clearly assigning obligations during pretrial scheduling and ensuring that procedural mechanisms—such as deadline enforcement and judicial oversight—help both parties follow through on securing their respective witnesses.

Recommendation 17: WCPO should reinforce existing internal case transfer protocols that include documentation of pending tasks—such as unresolved subpoenas—and assign clear responsibility for follow-up when cases are reassigned. When transfers of cases occur, witness logistics should be treated as a formal checkpoint requiring signoff from incoming and outgoing prosecutors.

Recommendation 18: Third Circuit Court judges should remain mindful of how efforts to manage efficiency, including the transfer or rescheduling of cases, may impact the ability of counsel – both prosecutors and defense attorneys – to respond to evolving logistical or evidentiary issues. Even in time-sensitive dockets, maintaining space for reasonable adjustments can promote fairness without compromising overall case flow.

Conviction Integrity Unit Review Phase

As noted above, the CIU began its investigation into Mr. Anderson's case from a different starting point – an affidavit signed by Affiant with Affiant's confession to the crime, and his assertion that Mr. Anderson was not involved. Affidavits in which an individual is serving a sentence of life in prison, as Affiant is, falsely confess to the commission of a crime on behalf of another inmate are sometimes submitted to the CIU, and so the CIU investigated to provide additional indicia of its truthfulness before speaking to Affiant or to Mr. Anderson about the claim. In addition, Mr. Affiant claimed to have committed the crimes with another individual who was deceased as of the date of the affidavit, creating further suspicion about its truthfulness. Indeed, while the CIU did ultimately come to believe the truth of Mr. Affiant's confession, they also came to believe that his affidavit falsely identified the second assailant, who was yet another individual who had already been incarcerated for other violent crimes.

Because they were starting from the position of investigating Affiant, the CIU was able to compile a list of "known associates" and conduct interview with other individuals about the shooting at the Coney Island and the robberies, providing them with additional context and information that had not been available to the original DPD case investigators.

It is hardly surprising that these individuals did not volunteer this information in 2010, when doing so would have subjected them or others they knew to criminal charges and incarceration. At the same time, the ability of DPD and all the other participants in Mr. Anderson's case to achieve an accurate result was limited by this lack of information, and the other recommendations in this report are designed to improve the ability of DPD, WCPO, the defense bar, and the bench to gather trustworthy information in similar cases in the future.

Contributing Factor 32: The actual perpetrator did not confess to the robbery until 2018, eight years after Anderson's conviction.

Contributing Factor 33: Other individuals with relevant information involving the robberies did not come forward at the time of trial or in the years that followed. Several witnesses, including those present on the night of the incident, did not initially disclose what they knew. Some spoke only when contacted during the CIU's later review, limiting the opportunity to test Anderson's account in real time.

Contributing Factor 34: Conflicting statements and credibility concerns—both from the actual perpetrator and other witnesses—initially undermined the confession's impact and contributed to delays in post-conviction relief. Witnesses changed their accounts over time, and some offered statements that conflicted with prior trial testimony. These discrepancies complicated the CIU's ability to evaluate the confession and required extended investigation.

Contributing Factor 35: A general reluctance among individuals with relevant case knowledge to speak openly with police, counsel, or CIU hindered the flow of information. Although not uncommon in serious cases, the hesitancy of certain individuals to come forward—whether due to fear, mistrust, or perceived risk—limited the ability of both defense counsel and investigators to fully evaluate competing narratives. These dynamics persisted through the investigation, trial, and post-conviction phases.

Recommendation 19: Agencies should continue to develop, invest, and build partnerships with community intermediaries who can support information-sharing in a safe and trusted environment.

Conflicting Polygraphs

Participants in Mr. Anderson's original case often used polygraphs as an investigative tool, believing in their ability to separate truth from falsehood. After Mr. Anderson's arrest, on May 10, 2010, a State Police polygraph technician conducted a polygraph of Mr. Anderson and concluded that Mr. Anderson's statement that he did not participate in the robbery was false. This polygraph was not admitted at trial, as polygraphs are inadmissible as evidence in all 50 states, but it reinforced the conclusion of some that Mr. Anderson was guilty of the robberies.

On February 15, 2019, the CIU commissioned a polygraph of Affiant from a private polygraph provider. The provider concluded that Affiant was telling the truth when he confessed to the robberies, and when he stated that Mr. Anderson had no part in the robberies. Reviewers noted that both scenarios could not be true, but were unable to discern which polygraph had greater reliability. One reviewer commented that this was why polygraphs were inadmissible, though other reviewers continue to believe they have evidentiary value.

Contributing Factor 36: The actual perpetrator's confession was complicated by inconsistent polygraph results.

Recommendation 20: Criminal justice professionals should approach polygraph results with great caution and should continue to pursue other indicia of guilt or innocence when determining how to proceed in the investigation or adjudication of a criminal case.

Systemic and Structural Pressures on Investigation, Trial, and Post-Conviction Processes

At several points in the review, reviewers commented on institutional dynamics – including disparities in resources, gaps in coordination within and across organizations, and the absence of rigorous and/or formal oversight – affected the investigation, prosecution, defense, and adjudication of this case.

On the law enforcement side, investigative and prosecutorial teams operated within resource-constrained environments and faced pressures to maintain case throughput. These shortfalls in resources persist today, particularly for the WCPO, which struggles to retain mid-level and more senior prosecutors due to salary structure and budget limitations. Reviewers discussed how the lack of more seasoned prosecutors can force less experienced prosecutors into roles in more serious cases that demand greater awareness, skill development and discretion and decision-making than can be expected of a junior attorney. In addition, it was observed that when DPD is fully staffed, its officers will bring more arrests to the WCPO – thereby *increasing* the workload at the WCPO at a moment when it is not funded to have the appropriate number of resources to handle the incoming caseload.

Reviewers discussed the process of “embedding” an Assistant County Prosecutor in a particular office with DPD officers. The practice was viewed by most as desirable to provide an independent view of an investigation and ensure a high-quality, thorough assessment of evidence and its admissibility prior to filing an arrest warrant. At the same time, reviewers noted that when prosecutors and police work together in close proximity and conducting repetitive types of cases, there is some risk of a loss of objectivity, developing “groupthink” that could undermine an independent review.

On the defense side, reviewers noted several questionable decisions made by the defense attorney. This attorney was well-known in the defense bar and thus was a more experienced practitioner than many, but reviewers noted that any licensed attorney can represent defendants in criminal cases in Michigan, and that the private bar does not provide the structures for supervision, training, or access to institutional knowledge that public defense offices (theoretically) provide.

In terms of judicial caseload, reviewers noted that different judges approach their dockets differently, but that the difference in approaches are known to attorneys who appear regularly in the Wayne County courts, and they can have an impact on strategic decisions like whether and how to plea bargain, what evidence to submit, and other questions.

These systemic factors do not reflect individual failings but highlight opportunities to strengthen capacity, consistency, and safeguards across roles.

Contributing Factor 37: Clearance pressures associated with non-fatal shootings may have accelerated the investigative timeline and case progression. DPD, working under pressure to resolve non-fatal shooting cases, moved cases forward quickly. While such efforts supported community safety goals, they may have limited the time available to fully develop alternative theories or follow up on emerging leads.

Recommendation 21: Agencies should be funded and structured to support both efficiency and thoroughness. Investigative teams need sufficient resources and staffing to pursue all relevant leads without being constrained by clearance targets or volume-based expectations.

Contributing Factor 38: Resource limitations, staffing transitions, and experience gaps affect WCPO's prosecutorial capacity. As DPD resolves more cases and refers them for prosecution, WCPO faces constraints in absorbing and reviewing the resulting caseload. Turnover and limited staffing make it more difficult to ensure experienced attorneys are assigned to complex matters, potentially impacting the depth and continuity of case review.

Recommendation 22: Each agency within the system should be supported and funded in proportion to its role, and resource studies should be periodically conducted (e.g., every x years) to assess funding levels relative to caseloads. When DPD is equipped to pursue and clear more cases, WCPO should be resourced accordingly to maintain balance and avoid downstream bottlenecks.

Recommendation 23: WCPO should continue efforts to retain and assign experienced attorneys to review and supervise cases involving serious charges. Supporting long-term staffing and supervisory continuity will help strengthen review quality and institutional knowledge.

Contributing Factor 39: An Assistant Prosecuting Attorney (APA) worked closely with the non-fatal shooting team, potentially limiting independent prosecutorial review. Having an APA working within the DPD offices facilitates efficient review and collaborative case development, but it may reduce the space for independent assessment over time. Proximity and familiarity between the supporting APA and investigative teams can gradually diminish the "second set of eyes" function that helps catch issues early.

Recommendation 24: WCPO should consider formalizing assignments of APAs to consult with DPD on legal standards for charging with scheduled rotations and structured role definitions. Clear expectations regarding independence and periodic reassignment can help preserve critical oversight while maintaining collaboration with investigative teams.

Contributing Factor 40: No formal supervisory structure existed for private defense counsel. Without standardized oversight, private attorneys may lack the institutional support, guidance, or accountability necessary for preparing complex cases.

Recommendation 25: The Michigan Bar Association and other relevant state bodies should consider developing supervisory models for private defense counsel handling serious criminal matters. This could include mentorship, reporting mechanisms, requiring the completion of, e.g., a certain number of criminal misdemeanor cases before being allowed to represent clients in felony cases, or other structures that promote consistency while respecting attorney independence. Certification or continuing education requirements focused on trial preparation, evidence review, and case management could enhance the overall quality and consistency of defense representation.

Conclusion

Eric Anderson's 2010 conviction of armed robbery suffered from miscommunications in the investigation process, evidentiary weaknesses, and flawed pretrial and trial procedures that ultimately led to the charges being vacated and dismissed in 2019. Through the SER, which included review of key documents, interviews with participants in the initial legal processes, and discussions among stakeholders in the Wayne County criminal justice system, WCSERT identified dozens of contributing factors and recommendations. In particular, WCSERT found support for measures safeguarding the accuracy of identifications, improving investigation management and documentation, leveraging pretrial procedures to ensure the availability of evidence and witnesses, improving community partnerships, ensuring adequate funding, and investing in training and oversight of counsel. WCSERT hopes these recommendations can be successfully implemented to help prevent future events like Mr. Anderson's flawed conviction.

Appendix A. Timeline.

DATE	EVENT
4/18/10 ~3 A.M.	A shooting takes place at a Coney Island restaurant on Woodward Avenue in Detroit. In video footage from security cameras inside the Coney Island, a man who appears to be Eric Anderson is seen entering the Coney Island while gunfire comes from a group of individuals who are retreating to the back exit of the restaurant several yards away. When the gunfire begins, the person flinches twice. Just before the second flinch, the figure pivoted to his left before leaving the frame towards the entrance/exit of the Coney Island. The shooter(s) are visible from a security camera in the back of the Coney Island. One is later identified as the Affiant who confessed to the shooting on Archdale St for which Anderson was convicted. A companion of the Affiant also appears to have fired shots. This shooting forms the basis of Mr. Anderson's alibi.
4/18/10 ~3:20-3:40 A.M.	Victim 1 and Victim 2 are robbed at gunpoint on the street outside Victim 1's house at 18500 Archdale in Detroit. Omeaka Taylor, Victim 1's mother, is inside the house and is awoken when the robbers inadvertently set off her car alarm. She looks out the window and yells at the robbers, then runs outside the house as the robbers run away from the scene. This robbery is the criminal event for which Mr. Anderson was convicted.
4/18/10 3:33 A.M.	Mr. Anderson is treated for a gunshot wound to foot at Sinai Grace hospital. Per medical records, he is admitted at 3:33 A.M., examined at 4:00 A.M., and has an x-ray on his wounded foot at 4:48 A.M..
4/18/10 4:34 A.M.	Victim 1's mother provides a description of the robbers to first-responding DPD officers. She says Suspect 1 as taller and was wearing a mask over his face. She describes Suspect 2 as shorter than Suspect 1, wearing a tan mask and beige t-shirt. Victim 1 and Victim 2 are not interviewed by DPD at this time, despite being at the house when the first DPD responders arrive and interview Victim 1's mother.
4/18/10 4:53 A.M.	Victim 1 is treated at Sinai Grace hospital for face injuries from pistol whipping. He is admitted to Sinai Grace at 4:53 A.M. and receives a CT scan at 5:48 A.M..

DATE	EVENT
4/18/10 5:10 A.M.	Mr. Anderson is interviewed by a DPD officer at Sinai Grace about his gunshot wound; Mr. Anderson states that he was shot just as he entered the Coney Island. He further states that he did not see the person who shot him.
4/18/10 7:02 A.M.	Victim 1 is discharged from Sinai Grace hospital.
4/18/10 7:36 A.M.	Mr. Anderson is discharged from Sinai Grace hospital.
4/27/10	Nine days after the robbery, Victim 1 gives a statement to DPD identifying Mr. Anderson as one of his assailants. Victim 1 also states that he saw the other assailant at Sinai Grace Hospital after the attack, and that he was told by a nurse that Mr. Anderson was being treated there with a gunshot wound.²⁰ In Victim 1's statement, he said that he recognized Mr. Anderson "from the neighborhood." He was aided in his identification by a female friend of his who was also Mr. Anderson's former girlfriend. Victim 1 then looked at his friend's Facebook page, found a picture of her and Anderson and provided it to the DPD. Until this moment, DPD did not know who Mr. Anderson was and had not linked him in any way to the robbery on Archdale St.
4/28/10	A DPD officer interviews Victim 2. Victim 2 states that after he and Victim 1 parked in the driveway and got out of Matthew's car, they saw friends in another car. As Victim 2 was getting into his car parked on the street, Victim 1's was walking towards "the car" with the friends and then two men walked up to them and pulled guns. The friends then took off. After the robbery, the two men told Victim 2 and Victim 1 to "walk to the corner," which they did. When they got there, Victim 2 called 911. Victim 2 described both assailants as black males between 19-23 with black handguns and one as 6'-6'1".
4/28/10	A DPD Sergeant interviews the mother of Victim 1. She states that she saw the assailants after the robbery, but does not provide any further identification.

²⁰ Note: There is no physical evidence supporting either of these assertions, and Victim 1 testified that he did not see Mr. Anderson at the hospital at any point.

DATE	EVENT
4/28/10	A DPD Sergeant interviews the female friend of Victim 1 who provided him with the identification of Mr. Anderson. The friend states that she received a phone call from Victim 1 at approximately 3:30 A.M. on 4/18/10, during which Victim 1 told her that Victim 1 had been robbed and pistol whipped. The friend stated that she had attended prom with Mr. Anderson and suspected him of the robbery because she knew he did that "kind of stuff." She also stated that she spoke with Mr. Anderson on the phone on 4/19/10, the day after the shooting. At that time, Mr. Anderson denied the responsibility for the robbery and said that he had been shot in downtown Detroit at that time. The DPD Sergeant asked the female friend if she had direct knowledge of Mr. Anderson's involvement in the robbery, and she had none.
4/28/10	DPD issue and receive a signature for an arrest warrant for Mr. Anderson for the Archdale St. robbery.
4/28/10	A DPD Officer interviews Mr. Anderson. Mr. Anderson denies any presence at or involvement in the Archdale St. robbery and states that he was downtown, got shot, and went to Sinai Grace hospital that night.
4/29/10	Mr. Anderson is interviewed by a DPD Sergeant. Mr. Anderson states that during the night of the robbery Mr. Anderson was shot at the Coney Island on Woodward Ave. near the Western Union. Mr. Anderson was with his friend at the time (the Driver). Mr. Anderson was wearing wheat brown Timberlands, black jeans with artwork on the back pocket, a gray or green hoodie, and a black Tigers baseball cap with a gray bill. After being shot, Mr. Anderson had the Driver drop him off at Sinai Grace hospital to be treated for his wound.

DATE	EVENT
5/12/10 ²¹	The Driver is interviewed by a DPD Officer. The Driver states that on the night of the robbery, he picked Mr. Anderson up around 11 P.M. to go to a club downtown. They were unable to enter the club and rode around downtown until the clubs let out. Around 2:30 A.M. they went to the Coney Island on Woodward, where Mr. Anderson was shot in the foot. The driver corroborates that he took Mr. Anderson to Sinai Grace hospital.
6/2/10	A preliminary hearing is conducted in Mr. Anderson's prosecution. Victim 1 testifies and identifies Mr. Anderson as his assailant. A DPD Sergeant testifies that after reviewing the Coney Island video, he was not able to establish that Mr. Anderson was at the Coney Island or was shot there. The Court holds Mr. Anderson's case over.
8/5/10	Hearing on Defendant's motion to quash evidence related to Victim 1's identification of Mr. Anderson; the motion is denied. The court notes that a witness list should have been presented to the defense but has not been. The court also rejects bond for Mr. Anderson despite changes in the trial schedule.
9/15/10	Mr. Anderson rejects a plea bargain that would have provided him probation with two unarmed robbery charges on the basis that he is innocent of all charges. The judge aggressively questions Mr. Anderson's intelligence and concludes the hearing by saying "there will be no pleas accepted after today."
11/2/10	Jury selection is conducted for Mr. Anderson's trial.

²¹ Note: The statement is dated 5/12/12, but it appears that it is dated incorrectly (as opposed to occurring after Anderson's trial).

DATE	EVENT
11/3/10 – 11/4/10	Jury trial of Mr. Anderson for the robberies at Archdale St. Victims 1 and 2 testify and Victim 1 identifies Mr. Anderson as the robber. A DPD Sergeant testifies as he did in the preliminary hearing and states that the alibi is not strong as one could get from the Coney Island at the time of the shooting to Archdale St. in time to commit the robbery at the time it was reported by Victim 1. The Sergeant also advances a theory that Mr. Anderson's gunshot wound was the result of a self-inflicted gunshot as he ran from the scene of the robbery. The Driver and an associate of Mr. Anderson's both testify to Mr. Anderson's presence at Sinai Grace for treatment for a gunshot wound on the night of the robberies. The female friend of Victim 1 who provided the original linkage of Mr. Anderson to the robberies does not appear at the trial, and the video footage from the Coney Island is not shown by either party.
11/5/10	Jury returns verdict finding Mr. Anderson guilty of two counts of armed robbery, one count of assault with intent to rob, and one count of weapons felony firearm.
11/19/10	Mr. Anderson's counsel makes a motion for judgment notwithstanding the verdict, highlighting the alibi evidence. The motion is denied. A sentencing hearing is held for Mr. Anderson. Mr. Anderson maintains his innocence on all charges. The court sentences him to 13-20 years concurrent on the first three counts and 2 years consecutive on the fourth count (weapons felony firearm.)

DATE	EVENT
8/16/12	The Michigan Court of Appeals affirms Mr. Anderson's conviction but remands the case for resentencing. The Court found that • Viewing the evidence in the light most favorable to the prosecution, there was sufficient evidence to support the victim's identification of Mr. Anderson as one of the robbers • Although it might have been appropriate to add a "missing witness" instruction to the jury instructions in Mr. Anderson's case regarding Mr. Anderson's former girlfriend, who did not appear as a witness in the case, any error did not result in a miscarriage of justice • Defense counsel was not ineffective for failing to suppress Victim 1's identification of Mr. Anderson or for failing to present additional corroboration for Mr. Anderson's alibi.
7/28/14	Mr. Anderson files a habeas petition in the United States District Court for the Eastern District of Michigan. He claims that: • The failure to give a "missing witness" jury instruction regarding his former girlfriend violated his rights to due process; and • His trial counsel was ineffective for failing to move to suppress the identification, failing to compel the production of his former girlfriend at trial, and failing to adequately present his alibi.
3/29/17	The federal District Court denies Mr. Anderson's habeas petition, finding that Mr. Anderson did not establish that Arielle Johnson's testimony would have exculpated him. The Court also rejects Mr. Anderson's claim of ineffective defense counsel.
4/24/17	Mr. Anderson files a pro se motion for certificate of appealability on district court's denial of habeas, focusing on his ineffective assistance of counsel claim and arguing that he is actually innocent.
10/25/17	The United States Sixth Circuit Court of Appeals denies Mr. Anderson's motion.

DATE	EVENT
3/2018	Mr. Anderson files a petition for assistance with the Wayne County Prosecutor's Conviction Integrity Unit (CIU). He provides new evidence of his innocence in the form of an affidavit from the Affiant. The affidavit, dated 3/9/18 and attached to the questionnaire, states that the Affiant and another man committed the Archdale St. robberies for which Mr. Anderson was convicted, and that Mr. Anderson did not participate in the robberies. Mr. Anderson's petition further states that the Affiant is willing to discuss the case in more detail with prosecutors.
3/16/18	The Director of the CIU confirms receipt of Mr. Anderson's submission.
3/29/18	The CIU requests the police file in Mr. Anderson's case from DPD.
8/30/18	The CIU confirms that the Michigan Innocence Clinic does not represent Mr. Anderson at this time.
9/10/18	The Michigan Innocence Clinic sends the CIU a copy of its file from its prior representation of Mr. Anderson.
10/29/18- 11/2/18	A CIU investigator begins reviewing Mr. Anderson's case file and subpoenas Anderson's medical records from Sinai Grace Hospital.
11/15/18	A CIU investigator drafts an initial report laying out the facts of Mr. Anderson's case and trial. He notes the affidavit as new evidence.
11/16/18	The CIU writes to the Michigan Department of Corrections requesting photos of Anderson's foot, a jail call list, emails, JPAY records, and visitor's list records from 2015 through the present.

DATE	EVENT
11/19/18	CIU investigators: - Review security footage from the Coney Island and identify Affiant as one of the shooters and Mr. Anderson as the individual in the distinctive jeans in the footage. The investigators note that Affiant is “especially short,” and is wearing a tan patterned t-shirt. These facts match the initial description of Suspect 1 in the robbery given by Victim 1’s mother, and they do not match a description of Mr. Anderson. - Review medical records, including photos and a radiology report of Anderson’s bullet wounds and scars. They determine that it is not likely the wounds were self-inflicted based on the entry/exit wounds and angle. - Rereview video footage from the Coney Island and conclude that with Anderson turning to the left, the bullet could have struck the inner side of the left foot at a right to left angle, downward.
11/19/18	Investigators from the CIU interview the Affiant by phone. The Affiant confirms his confession to the robberies and states that his phone records would place him at the scene of the crime. The Affiant acknowledged that he had come in contact with Anderson on a van ride to the Michigan Department of Corrections. The Affiant says that he created the content of the affidavit himself, working on it in the law library, because he didn’t want an innocent person to be in jail for something that he did.

DATE	EVENT
12/5/18	The CIU interviews the Affiant a second time. The Affiant states that he was with Mr. Anderson the night of the robbery. They went to a club downtown and then to the Coney Island where Mr. Anderson was shot. The Affiant then drove away from the Coney Island with three other men. After dropping off two other men near Archdale St., the Affiant and a known associate (Known Associate) drove past Victims 1 and 2 on Archdale St. The Monte Carlo owned by Victim 1 stood out to the Affiant and his associate, because Affiant wanted some parts from this car for his own Monte Carlo. Affiant stated that Affiant and Known Associate then robbed Victims 1 and 2 at gunpoint, taking from them money, phones, and car keys. When Known Associate used the starter on the car keys, a van in the driveway started, a woman yelled at them from inside the house and turned on a porch light, and Affiant and Known Associate ran away.
12/20/18	The CIU interviews the Driver who took Mr. Anderson to Sinai Grace from the Coney Island. The Driver confirmed his prior statements to DPD that he accompanied Mr. Anderson to Sinai Grace after Mr. Anderson was shot at the Coney Island. that he was with Anderson the night of the robbery.
1/4/19	A CIU Investigator drafts a case memo for the CIU Director, reporting that: • Affiant has confessed to the crime for which Mr. Anderson was convicted, also implicating Known Associate, who is deceased; • Mr. Anderson's medical records seem inconsistent with the prosecution's theory of a self-inflicted gunshot wound; and • Surveillance footage from the Coney Island makes clear that both Mr. Anderson and Affiant were present, Affiant as one of the shooters and Mr. Anderson as an apparent shooting victim.
1/10/19	The CIU submits to DPD a request for forensic analysis of the video footage from the Coney Island as well as a comparison of pants provided by Mr. Anderson's parents to the jeans worn by the shooting victim in the video who is believed to be Mr. Anderson.

DATE	EVENT
1/17/19	A DPD Sergeant who specializes in forensic video analysis completes a forensic analysis report. The Sergeant compared the submitted pants to still shots of the pants worn by the individual purported to be Anderson and after noting several points of comparison between the two submissions, concluded that he “cannot exclude the known pants from consideration as being the same pants seen in the images” from the surveillance video. The report also an individual in a tan t-shirt (identified elsewhere as Affiant) that can be seen holding a possible handgun on his left hip and a second individual in a black hooded sweatshirt and a baseball hat who can be observed holding a firearm in his left hand and discharging the weapon. The sparks from that firing were captured by the camera system. The analyst in this case was the same analyst who procured the video from the Coney Island during the original investigation.
2/16/19	A private polygraph agency conducts a polygraph on Affiant, who is indicated as giving truthful responses to committing the robberies and to Mr. Anderson having no role in them.
3/1/19	The CIU interviews Mr. Anderson. Mr. Anderson repeats his whereabouts throughout the night, which have not deviated from his original interview at Sinai Grace on April 18, 2010. Mr. Anderson states that it is his understanding that Affiant and a Known Associate of Affiant committed the robberies.
3/7/19	The CIU interviews Anderson a second time. Anderson repeats his account of the night of the robbery. He states that, although he does not have firsthand knowledge, he has learned from a third party that Affiant committed the robbery. As to the second assailant, Mr. Anderson states that he has heard a couple of names as the second robber, but says that he “did not inquire too hard” and says he believed that Affiant would first try to inaccurately identify a deceased associate as the second assailant.

DATE	EVENT
3/14/19	A CIU investigator sends the CIU Director a final recommendation for relief memorandum. The memorandum: • Recommends the exoneration of Mr. Anderson, as the CIU investigation both indicates Mr. Anderson is innocent of the crime and identifies the likely perpetrators. • The medical records accompanied with the forensic analysis of the surveillance footage show a more plausible account of how Anderson sustained his injuries than that submitted by the prosecution. • Analysis of the Coney Island footage corroborates Affiant's statements to the polygrapher that it was he and Known Associate who committed the robberies. The footage shows the two men armed with handguns with attire and heights that match the eyewitness description provided the night of the crimes by Victim 1's mother. That description does not fit Mr. Anderson. • Victim 1's identification has many known weaknesses, including being tainted when his female friend (and Mr. Anderson's former girlfriend) suggested that Mr. Anderson was the perpetrator because he "does that kind of stuff." • The case against Affiant is only strengthened when viewing Affiant's known criminal history at the time of the incident, as he was involved in other robberies, including with Known Associate. In addition, Affiant passed a polygraph taking credit for the crime and repudiated Anderson's involvement. The memorandum continues that despite the evidence against Affiant and Known Associate, the WCPO is not in a position to charge them. First, Victims 1 and 2 were nonresponsive to the CIU's requests for interviews during this investigation and would most likely be uncooperative given their statements to CIU. Second, Victim 1 has already testified that two different individuals were his assailants, rendering a subsequent identification useless in court. Third, Known Associate is currently serving a prison sentence of mandatory life, making an additional trial inefficient.
4/30/19	Wayne County Judge Donald L. Knapp enters a stipulated order granting Mr. Anderson relief from judgment and dismissing the charges against him.

Appendix B. Table of Contributing Factors and Recommendations

CONTRIBUTING FACTORS	RECOMMENDATIONS
- Mr. Anderson was arrested and convicted on the eyewitness testimony of a single individual without any corroborating physical evidence. - System variables exist that made the identification more challenging for the victims, including: - The assailants wore masks during the robbery - It was dark and there was no streetlight - The assailants had weapons - Victim 1 was hit in the face with a weapon and was bleeding in ways that may have impaired his vision - Victim 1's eyewitness identification of Mr. Anderson was made using a non-contemporaneous photo of Mr. Anderson, suggested by a potentially biased source with no actual knowledge of the events in question. - No photo array or other procedure was conducted to verify the victim's ability to identify Anderson. - The process leading Victim 1 to find the photo used to identify Mr. Anderson, searching a specific social media account looking for a known person at the suggestion of Victim 1's friend, was inherently suggestive, and the victim's limited prior familiarity with Anderson raises questions about the strength and reliability of the identification. - No witness statements were taken until nine (9) days after the robbery, reducing the recency of the identification and reducing the likelihood of finding any physical evidence at the scene.	Recommendation 1: DPD should implement policies²² discouraging arrests based solely on single-source identifications unless exigent circumstances exist or unless the identification has particular credibility (e.g., domestic violence or sexual assault allegations where the accused perpetrator is well-known to the witness). Supervisors should ensure that all possible avenues are explored for corroborating evidence before approving arrest warrants based on single-source uncorroborated identifications. When such identifications are used, they should be accompanied by documentation justifying the exception and reviewed by a supervisor. Recommendation 2: In non-fatal shooting cases, DPD and WCPO should develop joint charging guidance that elevates the evidentiary threshold when a case relies solely on a single eyewitness identification. The guidance should discourage prosecution in the absence of corroboration unless clear, documented indicators of reliability are present. Charging decisions should be supported by an assessment of whether the witness had a meaningful opportunity to observe the suspect and whether any corroborating evidence (e.g., physical evidence, video, or motive) is available or has been reasonably ruled out. Absent such indicators, charging should be deferred until further investigative steps are taken. Recommendation 3: In cases where the suspect was masked, visually obscured, or viewed only briefly, WCPO should seek additional corroboration or validation of the identification before charges are authorized based on that identification alone. In such cases, prosecutors should be required to confirm

²² After Anderson was arrested and unrelated to his case, DPD independently implemented protocols for the administration of photo arrays in criminal investigations. However, it is not known whether these protocols would have prevented Anderson's arrest, as police at the time treated the arrest as a "known suspect ID" given the victim's assertions that he recognized Anderson "from the neighborhood."

CONTRIBUTING FACTORS	RECOMMENDATIONS
7. An Assistant Wayne County Prosecutor working closely with the DPD Non-Fatal Shooting group did not identify or question any of the potential weaknesses of the victim's eyewitness identification. 8. A Third Circuit Judge approved the arrest warrant notwithstanding its thin evidentiary foundation.	whether corroborating evidence has been sought or whether the witness's visual capacity was meaningfully impaired. <u>Recommendation 4:</u> DPD should include "visual conditions" as a prompt in ID documentation forms—asking investigators to record whether the witness could clearly view the suspect's face, lighting conditions, duration of observation, and whether a mask or obstruction was present. <u>Recommendation 5:</u> DPD should endeavor to investigate the scene of a shooting and take detailed witness statements as soon as reasonably possible and in any event within [x] days of the event and should track and evaluate cases where that standard is not met. <u>Recommendation 6:</u> DPD & WCPO should require that photo identification acquisition history is included in the warrant request report and they and any approving judge should review it for potential influence or bias during pre-charge decision-making. <u>Recommendation 7:</u> In cases relying solely on uncorroborated eyewitness identification, DPD and WCPO should note the existence of a sole eyewitness and a lack of corroborating physical evidence and should provide a statement for supervisors on why they recommend moving forward with the case. To strengthen the integrity of this recommendation, departments should consider requiring a secondary review before an arrest warrant is authorized by DPD and/or before the case is accepted for prosecution by the WCPO
9. The file lacked documentation to suggest that DPD conducted any investigation into the identity of the second assailant. This gap limited DPD's ability to explore whether another individual, rather than Anderson, may have been involved. 10. The DPD file was incomplete and at times apparently inaccurate, complicating the ability of downstream stakeholders in DPD, WCPO, and defense attorneys to fully evaluate the strength of the case against Mr. Anderson.	<u>Recommendation 8:</u> Continued investment in case management systems—with searchable notes, case-linking alerts, and real-time supervisor dashboards—should be paired with department-wide training to promote consistent use and oversight. Improvements to shift structures and email notification systems that enable timely OIC involvement at scenes should be sustained and evaluated for effectiveness. Regular audits and ComStat processes should be used to verify documentation compliance and flag potential investigative gaps in real time.

CONTRIBUTING FACTORS	RECOMMENDATIONS
11. Neither Victim 1 nor Anderson’s ex-girlfriend were fully questioned about her role, relationship, or assistance in identifying Anderson or any possible ulterior motive she would have in suggesting Anderson as the perpetrator of the robbery. The potential for bias in her identification of Anderson was never documented (and potentially never evaluated) by DPD. 12. The investigation took place at a time when it was not policy to record witness interviews or suspect interrogations, and no such recordings were made.	DPD has since adopted a policy for the video recording of witness interviews and suspect interrogations. SEE [POLICY]
13. A community and Department focus on successfully closing non-fatal shooting cases may have contributed to the speed with which Mr. Anderson was arrested. 14. DPD policy states that when an officer signs an arrest warrant, the case is marked “closed” for statistical purposes, even if the case is not accepted by WCPO for prosecution.	<u>Recommendation 9:</u> DPD should require documentation of all investigative steps taken to identify any suspect described in victim or witness accounts. Case files should include notation of follow-up actions—even if no new leads are developed—to reduce premature narrowing of investigative focus and to allow for appropriate supervisory review prior to the issuance of an arrest warrant. Supervisory check-ins should be encouraged when only one of multiple suspects described has been identified or investigated, especially prior to submitting an arrest warrant. <u>Recommendation 10:</u> When a witness’s identification of a suspect involves assistance from another individual, such as providing a name or directing them to a photo, DPD should ensure that any follow-up captures any potential motive the second individual might have in providing the assistance. Interviews with both the witness and the assisting party should explore the timing, content, and potential influence of those conversations.
15. Technologies like ShotSpotter, Project Green Light (license plate tracking), doorbell cameras, facial recognition, and continuous GPS-based phone location data were not available in 2010. As a result, there was no independent method to test Anderson’s claim that he had been shot elsewhere, to cross-reference timelines, or to capture surveillance footage.	DPD has adopted many of these technologies, which were not available at the time of Mr. Anderson’s case, and continues to evaluate how evolving technologies can be accurately and efficiently applied to police investigations while respecting constitutional freedoms.

CONTRIBUTING FACTORS	RECOMMENDATIONS
16. Subsequent investigation of Mr. Anderson after his arrest was limited to disproving his alibi rather than seeking out other possible perpetrators. 17. The robbery and the Coney Island shooting were investigated by separate DPD teams in different precincts, limiting investigators' ability to recognize possible links between the two incidents, including the plausibility of Anderson's alibi. 18. Gaps in supervision and information sharing limited coordination across the investigative team. The Officer in Charge (OIC) had broad discretion to lead the investigation, but rotating shift structures limited continuity in investigative leadership. At the same time, DPD lacked centralized systems for case note tracking, real-time documentation review, and automated alerts linking related cases. These structural and technological limitations contributed to silos in investigative efforts and impaired supervisory visibility.	<u>Recommendation 11:</u> DPD should continue expanding cross-precinct review procedures and case-linking prompts. When shared individuals or locations appear across incident types, supervisory review should be triggered to evaluate potential links and ensure coordinated follow-up.
19. Mr. Anderson, who was under no obligation to do so, chose not to provide names of any other individuals who could have corroborated his whereabouts on the night in question. 20. Neither DPD nor WCPO nor Mr. Anderson's defense attorney investigated Mr. Anderson's alibi thoroughly. Important details about the jeans suggesting the truth of Anderson's presence at the Coney Island were not submitted into evidence or shown at trial, nor was the video of the shooting shown at trial. 21. Defense counsel did not play available video evidence that may have had probative value. 22. Defense counsel did not attempt to use an expert to evaluate the medical records of Mr. Anderson's gunshot to contest the prosecution theory of a misfire from waist level while running being the cause of the wound.	<u>Recommendation 12:</u> DPD should develop internal guidance to prompt early and complete follow-up when a suspect names an alibi witness. Where feasible, more than one point of corroboration should be sought, and the results—positive, negative, or inconclusive—should be documented prior to charging. <u>Recommendation 13:</u> Defense attorneys should actively investigate any potentially exculpatory information that appears credible and can be independently verified, particularly when it may corroborate a defendant's stated alibi. Early, proactive follow-up increases the likelihood of preserving supportive evidence and identifying corroborating witnesses.

CONTRIBUTING FACTORS	RECOMMENDATIONS
23. Only one video expert was available within DPD at the time, limiting the department's ability to timely review, enhance, or assess the relevance of surveillance footage from the Coney Island incident.	
24. The courtroom environment was perceived as unfavorable to the defense, with judicial comments and interventions that may have affected how the jury viewed defense counsel and the defense's case. The tone and conduct of courtroom proceedings may have signaled skepticism toward the defense, undermining jury perceptions of fairness even absent formal error.	<u>Recommendation 14:</u> Trial judges should be encouraged to reflect on how tone, timing, and frequency of interventions may influence jury perception, especially when overseeing criminal trials with credibility-based defenses.
25. A breakdown in communication occurred between prosecutors and between the WCPO and DPD, who was handling the service of subpoenas for witnesses in the Anderson case, regarding the subpoena status of a key witness, causing the witness not to be available at trial. 26. Anderson's ex-girlfriend, who provided the lone data point connecting Anderson to the case and also stated to police that she had no direct knowledge of his involvement in the robbery, was not subpoenaed for trial. 27. Anderson's defense attorney did not raise the ex-girlfriend's absence from the trial until the end of the second day despite knowing that she was a student at Michigan State and additional steps to secure her appearance might be needed. 28. The trial judge allowed the trial to proceed to the jury without a key witness to the case over defense objections. 29. Judicial emphasis on speed and docket efficiency may have placed procedural pressure on counsel and may have limited the court's support for or flexibility in resolving evidentiary issues or delays at trial.	<u>Recommendation 15:</u> Third Circuit Court judges should oversee and enforce structured pretrial hearings to ensure witness coordination and trial readiness. An in-person scheduling hearing no later than 30 days before trial should confirm all witness endorsements, designate which party is responsible for securing each witness, and address unresolved logistical issues. A final scheduling conference one week before trial should verify that all subpoenas have been served, witnesses are expected to appear, and exhibits are ready. Witness lists must be submitted by court-imposed deadlines, and judges should actively track attorney compliance and take corrective action if lists provided by attorneys are incomplete or untimely. Any gaps or inconsistencies identified at either stage should be documented and addressed before trial proceeds. <u>Recommendation 16:</u> Defense counsel should take proactive steps to ensure the attendance of any witness central to the defense theory. Third Circuit Court judges should support this responsibility by clearly assigning obligations during pretrial scheduling and ensuring that procedural mechanisms—such as deadline enforcement and judicial oversight—help both parties follow through on securing their respective witnesses.

CONTRIBUTING FACTORS	RECOMMENDATIONS
30. No clear procedural steps were taken by either the prosecution or defense to ensure that Anderson's ex-girlfriend would testify at trial. 31. The witness that provided the sole linkage of Mr. Anderson to the robbery, despite stating to police that she had no actual knowledge connecting Mr. Anderson to the robbery, did not testify at trial.	<u>Recommendation 17:</u> WPCO should reinforce existing internal case transfer protocols that include documentation of pending tasks—such as unresolved subpoenas—and assign clear responsibility for follow-up when cases are reassigned. When transfers of cases occur, witness logistics should be treated as a formal checkpoint requiring signoff from incoming and outgoing prosecutors. <u>Recommendation 18:</u> Third Circuit Court judges should remain mindful of how efforts to manage efficiency, including the transfer or rescheduling of cases, may impact the ability of counsel – both prosecutors and defense attorneys – to respond to evolving logistical or evidentiary issues. Even in time-sensitive dockets, maintaining space for reasonable adjustments can promote fairness without compromising overall case flow.
32. The actual perpetrator did not confess to the robbery until 2018, eight years after Anderson's conviction. 33. Other individuals with relevant information involving the robberies did not come forward at the time of trial or in the years that followed. Several witnesses, including those present on the night of the incident, did not initially disclose what they knew. Some spoke only when contacted during the CIU's later review, limiting the opportunity to test Anderson's account in real time. 34. Conflicting statements and credibility concerns—both from the actual perpetrator and other witnesses—initially undermined the confession's impact and contributed to delays in post-conviction relief. Witnesses changed their accounts over time, and some offered statements that conflicted with prior trial testimony. These discrepancies complicated the CIU's ability to evaluate the confession and required extended investigation.	<u>Recommendation 19:</u> Agencies should continue to develop, invest, and build partnerships with community intermediaries who can support information-sharing in a safe and trusted environment.

CONTRIBUTING FACTORS	RECOMMENDATIONS
35. A general reluctance among individuals with relevant case knowledge to speak openly with police, counsel, or CIU hindered the flow of information. Although not uncommon in serious cases, the hesitancy of certain individuals to come forward—whether due to fear, mistrust, or perceived risk—limited the ability of both defense counsel and investigators to fully evaluate competing narratives. These dynamics persisted through the investigation, trial, and post-conviction phases.	
36. The actual perpetrator’s confession was complicated by inconsistent polygraph results.	<u>Recommendation 20:</u> Criminal justice professionals should approach polygraph results with great caution and should continue to pursue other indicia of guilt or innocence when determining how to proceed in the investigation or adjudication of a criminal case.
37. Clearance pressures associated with non-fatal shootings may have accelerated the investigative timeline and case progression. DPD, working under pressure to resolve non-fatal shooting cases, moved cases forward quickly. While such efforts supported community safety goals, they may have limited the time available to fully develop alternative theories or follow up on emerging leads.	<u>Recommendation 21:</u> Agencies should be funded and structured to support both efficiency and thoroughness. Investigative teams need sufficient resources and staffing to pursue all relevant leads without being constrained by clearance targets or volume-based expectations.
38. Resource limitations, staffing transitions, and experience gaps affect WCPO’s prosecutorial capacity. As DPD resolves more cases and refers them for prosecution, WCPO faces constraints in absorbing and reviewing the resulting caseload. Turnover and limited staffing make it more difficult to ensure experienced attorneys are assigned to complex matters, potentially impacting the depth and continuity of case review.	<u>Recommendation 22:</u> Each agency within the system should be supported and funded in proportion to its role, and resource studies should be periodically conducted (e.g., every x years) to assess funding levels relative to caseloads. When DPD is equipped to pursue and clear more cases, WCPO should be resourced accordingly to maintain balance and avoid downstream bottlenecks. <u>Recommendation 23:</u> WCPO should continue efforts to retain and assign experienced attorneys to review and supervise cases involving serious charges. Supporting long-term staffing and supervisory continuity will help strengthen review quality and institutional knowledge.

CONTRIBUTING FACTORS	RECOMMENDATIONS
39: An Assistant Prosecuting Attorney (APA) worked closely with the non-fatal shooting team, potentially limiting independent prosecutorial review. Having an APA working within the DPD offices facilitates efficient review and collaborative case development, but it may reduce the space for independent assessment over time. Proximity and familiarity between the supporting APA and investigative teams can gradually diminish the “second set of eyes” function that helps catch issues early. 39. No formal supervisory structure existed for private defense counsel. Without standardized oversight, private attorneys may lack the institutional support, guidance, or accountability necessary for preparing complex cases.	<u>Recommendation 24:</u> WCPO should consider formalizing assignments of APAs to consult with DPD on legal standards for charging with scheduled rotations and structured role definitions. Clear expectations regarding independence and periodic reassignment can help preserve critical oversight while maintaining collaboration with investigative teams. <u>Recommendation 25:</u> The Michigan Bar Association and other relevant state bodies should consider developing supervisory models for private defense counsel handling serious criminal matters. This could include mentorship, reporting mechanisms, requiring the completion of, e.g., a certain number of criminal misdemeanor cases before being allowed to represent clients in felony cases, or other structures that promote consistency while respecting attorney independence. Certification or continuing education requirements focused on trial preparation, evidence review, and case management could enhance the overall quality and consistency of defense representation.

Appendix C. Limitations of the SER

The participants in the SER made every effort to conduct a thorough, objective review of the events that led to the withdrawal of charges against Mr. Anderson in 2019, and to ensure that the contributing factors identified were thorough and accurate. No review is perfect, however, and the reviewers acknowledged some limitations on the ability to review the case, including: the unavailability of certain key participants in the case due to death, inability to establish contact with past participants, or unwillingness of past participants to participate; the time period between the events in question and the review, which may have impacted the recollection of individuals interviewed; and a lack of complete documentation of actions taken during the case period.

Appendix D. Participants in the SER

The following individuals participated in the Sentinel Event Review (in alphabetical order):

Todd Bettison, Chief, DPD

Tracey Brame, Director Cooley Innocence Project

Joe Kurily, WCPO CIU

Marilena David-Martin, Director, State Appellate Defender's Office

Grant Ha, General Counsel, DPD

John Hollway, Executive Director, Quattrone Center for the Fair Administration of Justice
(Coordinator)

Joe Jansen, Chief, Special Prosecution, WCPO

Chief Judge Donald Knapp

Patricia Little, WCPO CIU

Margaret Mackie, Dechert LLP (Coordinator)

Mike McGinnis, Professional Standards, DPD

Rebecca McKay, Commander, Major Crimes, DPD

Maria Miller, Director of Communications, WCPO

Beth Greenberg Morrow, Director, Oakland County Prosecutor's Office CIU

Janet Napp, WCPO CIU

Val Newman, Deputy Chief and Director, CIU

Jay Schleppenbach, Shook, Hardy & Bacon LLP (Coordinator)

Kari Sloan, Deputy Chief, DPD

Brian Surma, Chief, Homicide, WCPO

Judge Margaret Van Houten

Leon Weiss, WCPO CIU

Kym Worthy, Wayne County Prosecutor