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EXHIBIT 3

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STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT COURT

No. D-101-CV-2023-02838

STATE OF NEW MEXICO, EX REL.,
RAÚL TORREZ, ATTORNEY GENERAL,
Plaintiff

vs.

META PLATFORMS, INC.;
INSTAGRAM, LLC;
META PAYMENTS, INC.; and
META PLATFORMS TECHNOLOGIES, LLC,
Defendants

VIDEOTAPED DEPOSITION of
BRIAN LEVINE, Ph.D.
Friday, September 19, 2025
9:09 a.m.

Held at: Covington & Burling LLP
One International Place
Boston, Massachusetts

Megan M. Castro, RPR, CSR #152614
Court Reporter

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1 validation of the age of users, and the
2 presence of a very motivated and adversarial
3 set of perpetrators."

4 A. If I can finish, "And a demonstrable
5 lack of ability to mitigate abuse on their
6 platforms has resulted in a scale of CSAM/CSEC
7 incidents never seen before."

8 Q. So that is what you write.

9 I wanted to ask you about this
10 reference "to motivated and adversarial set of
11 perpetrators."

12 What did you mean by "motivated and
13 adversarial perpetrators"?

14 A. So in my experience from talking to law
15 enforcement -- let me start again if that is
16 okay.

17 If I look at, for example, I will give
18 you two examples. If I look at the number of
19 reports to NCMEC from Meta Platforms of known
20 child sexual abuse material, that number is so
21 large that it is not just an accidental click,
22 it is not an accidental upload. It seems to me
23 a lot of people who are motivated to try again
24 and again and again to upload known content,

1 those computational methods, and Meta talks
2 about this, sometimes the items were published
3 and then they learned they were CSAM and that
4 generated a report. So not all of the reports
5 are due to Meta catching it before it was
6 published. That is a motivated set of
7 perpetrators.

8 And I have seen myself that on
9 Instagram, for example, there are people who
10 will create an account and then say, when I get
11 suspended, here is my next account name. And
12 then they will get suspended and then that is
13 the next account name. So that is a lot of
14 motivation and aggression.

15 Q. So when you say "motivation," you are
16 talking about motivation by child sex
17 predators?

18 A. Yes.

19 Q. And when you say "adversarial," you
20 mean that they are adversarial in trying to
21 evade Meta's controls?

22 A. Well, the example I just gave is one
23 where they say, on Meta's platforms, they say,
24 "My next account when I get suspended is the

1 user reporting systems before rolling out its
2 default end-to-end encryption on Messenger?

3 A. So, again, I would quibble with the
4 word "enhancement." But if you asked me did
5 they make effort, I saw some discussions about
6 it in items I reviewed in discovery.

7 Q. And did you evaluate whether those
8 enhancements were -- led to positive
9 improvements that didn't require scanning of
10 content?

11 ATTORNEY GRUETZMACHER: Object to the
12 form.

13 A. I didn't have an opportunity to
14 evaluate that.

15 BY ATTORNEY HESTER:

16 Q. Are you aware that Meta enhanced its
17 systems for preventing the posting of CSAM and
18 CSEC before rolling out end-to-end encryption?

19 A. So, again, the word "enhancement" leads
20 me to say I wasn't. To my knowledge, during
21 discovery, from what I read, there wasn't clear
22 documentation of an enhancement, but perhaps a
23 change or a desire.

24 Q. Did you evaluate any changes that Meta

1 So if the suspicious behavior is based on the
2 content, well, then it won't be available in
3 this system. So I am going to have to infer
4 that it is an account that they know through
5 metadata, I will call it. For instance, if
6 they believe someone is of a certain age, and
7 we already discussed that Meta doesn't always
8 have a good estimate of someone's age, then
9 they might suspect why is this adult talking to
10 a child who is not known to them before.

11 That is a suspicious behavior.

12 However, nothing beats a cryptographic
13 match to known CSAM that is observable on
14 content. And, given the evasion techniques
15 that are trivial and yet undetected by Meta
16 that we talked about before, they are really
17 tying a hand behind their back here to go with
18 these really light signals.

19 I just -- if I could say one more
20 thing. Flipping through this document just
21 now, this appears to be a document written by
22 people at Meta about Meta without any peer
23 review, external committee standards, or
24 anything.

1 So that is the context that I am seeing
2 here.

3 Q. Well, I wanted to ask you a narrower
4 question again, which is, I take it you did not
5 evaluate this technology that is being
6 discussed here to understand how effective it
7 was?

8 A. I didn't have the opportunity to do
9 that in the discovery materials I was provided.
10 Nor was I given the opportunity to examine
11 Meta's source code, Meta's running systems,
12 Meta's data. These are all private pieces of
13 information that weren't available to me.

14 Q. You could have found this document that
15 I have handed you, Exhibit 4, because it is
16 public. Right?

17 A. Is it public?

18 Q. Yes. I mean, it is on their website.

19 A. I was focused on the 2 million
20 documents that were part of discovery, perhaps
21 a part of that as well. Since it is relevant
22 to what we are talking about, I expect it was.

23 ATTORNEY GRUETZMACHER: I just want to
24 note for the record, this document has been

1 marked as highly confidential, attorney's eyes
2 only. So we will reserve our right to dispute
3 that it is, in fact, public.

4 ATTORNEY HESTER: Okay.

5 BY ATTORNEY HESTER:

6 Q. But you are not aware -- you have never
7 seen the document, so you didn't evaluate the
8 technologies that were discussed in this
9 document?

10 A. Well, so, again, I don't know what is
11 discussed in this document. Because we read
12 about two sentences. So it is hard for me to
13 the answer that question. But I am aware of my
14 training and experience, and I think it is
15 pretty -- it is not hard to speculate and it is
16 just a speculation that examining content is a
17 much higher -- will lend you a much higher
18 accuracy than examining subtle signals.

19 ATTORNEY HESTER: Let's go off the
20 record just a second.

21 THE VIDEOGRAPHER: The time is
22 2:17 p.m., and we are off the record.

23 (Recess taken at 2:17 p.m.)

24 (Recess ended at 2:17 p.m.)

1 information to evaluate them.

2 Q. So my question is actually pretty
3 narrow. You did not evaluate the reasons for
4 the decline in NCMEC reports on Facebook
5 Messenger between 2021 and 2023?

6 A. I think you are right that I didn't
7 have the opportunity to evaluate that
8 precisely.

9 ATTORNEY HESTER: Let's mark these two
10 reports.

11 (Exhibit 5, 2024 CyberTipline Reports by
12 Electronic Service Providers (ESPs), marked
13 for identification.)

14 (Exhibit 6, 2023 CyberTipline Reports by
15 Electronic Service Providers (ESPs), marked
16 for identification.)

17 BY ATTORNEY HESTER:

18 Q. Dr. Levine, I have handed you two
19 documents. Exhibit 5 is entitled, "2024
20 CyberTipline reports by electronic service
21 providers published by NCMEC."

22 And Exhibit 6 is the 2023 CyberTipline
23 reports by electronic service providers also
24 published by NCMEC.

1 A. I discuss -- I provide NCMEC's
2 statement on it on page 98 of my report.

3 And they say, "Even when NCMEC adjusts
4 for Facebook's bundling and realignment of
5 content, it reports to the CyberTipline, the
6 numbers demonstrate that Facebook reported
7 approximately 6.9 million less reports in 2024
8 than it did in 2023."

9 Then they say, "For years, NCMEC" --
10 and this is their opinion. "For years, NCMEC
11 has anticipated a negative impact on
12 CyberTipline reporting as more online platforms
13 adopt it, defaults E2EE, on their platforms
14 without adequate safeguards for child
15 protection," and then they continue.

16 Q. So that is exactly what I wanted to
17 focus on.

18 So you have the statement in your
19 report of page 98 that NCMEC says that, after
20 you adjust for this bundling change in Facebook
21 reporting, that Facebook had 6.9 million fewer
22 reports than in 2023. Correct?

23 A. It did. And it is in the context of a
24 really negative statement from NCMEC.

1 apologize. Let me start again.

2 So CyberTips and the accounting or
3 counting of CyberTips is a complicated issue.
4 What you know from CyberTips being filed is
5 that that is a company that has something in
6 place, whether human moderators or algorithmic,
7 to detect known CSAM.

8 And that just because -- I think I draw
9 two general conclusions. If there is a lot of
10 CyberTips, it might mean the company is active.
11 But it also means that so are perpetrators on
12 the platform. If there are no CyberTips filed,
13 or very few, you cannot necessarily, without
14 other information, argue there are no
15 perpetrators on the platform or that they
16 are -- or whether it is the case they are
17 ignoring content on their platform.

18 Q. Right. So let me go back and just
19 break that down a little bit.

20 You said when you see a large volume of
21 CyberTips, it may mean that a company is
22 active. And when you said "active," you mean
23 active in detecting CSAM?

24 A. It may mean that they have employed

1 algorithmic methods, but it doesn't mean that
2 they -- for example, in this particular
3 sentence, I said Facebook reported 15.8 million
4 reports to NCMEC.

5 I don't know whether that is 95 percent
6 of the content of Facebook's platform or
7 1 percent of the content. All I know is just
8 that they made that many reports.

9 So it tells me that perpetrators are
10 active, and it tells me that they have
11 something in place, but I don't know whether
12 they are doing a job good. Nor do I know,
13 similarly, whether companies that don't report
14 or have very few reports have done a good job
15 preventing perpetrators or whether they are
16 just not looking.

17 Q. Right. So putting it the other way
18 around, you can't tell just from the level of
19 NCMEC reporting whether that reflects that a
20 company is doing a really good job of detecting
21 the CSAM on its platform. You can't tell just
22 from the NCMEC report?

23 A. Because I don't have enough
24 information. We can only, for example, assume

1 that many attempts were made or successfully
2 made to publish CSAM on someone's platform.

3 Q. But if Facebook is reporting, as you
4 reflected here, 94 percent of the NCMEC reports
5 filed in a year, it, at a minimum, reflects
6 that Facebook is looking for CSAM on its
7 platform.

8 A. It reflects that they are looking for
9 CSAM. What it doesn't tell me, I just can't
10 evaluate, is whether they are detecting
11 1 percent of the activity on their platform or
12 99 percent of it. We just don't have the
13 information. It also tells me that
14 perpetrators come again and again to attempt
15 it. And that is a strong signal.

16 Q. But perpetrators could also be coming
17 again and again to other platforms that are not
18 reporting that level of reports to NCMEC.
19 Correct?

20 A. Yes.

21 Q. And that is what you don't know?

22 A. That is one of the things we don't
23 know.

24 Q. You go on in that same paragraph to say