EXHIBIT 5

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

HESTER MENDEZ and GILBERT MENDEZ for themselves and on behalf of their minor children, PETER MENDEZ AND JACK MENDEZ,

Plaintiff,

v.

CITY OF CHICAGO, *et al.*

Defendants.

No. 18-cv-5560

Judge Franklin U. Valderrama

ORDER

On the evening of November 7, 2017, Chicago Police Officers executed a search pursuant to a warrant at the apartment of Hester Mendez and Gilbert Mendez (together, the Mendezes) (the Incident). The target of the warrant, however, actually lived in the upstairs apartment. The Mendezes, individually and on behalf of their minor children Peter and Jack (Peter and Jack) (collectively, Plaintiffs), sued the City of Chicago (the City), several Chicago Police Officers—Officers Cappello, Donnelly, Hernandez, Guzman, and Sehner, and Sergeant Egan—who procured and/or executed the search warrant (Defendant Officers), and Sergeant Egan and Lieutenant Dari, the supervisors who approved the warrant (collectively, Defendants) under 42 U.S.C § 1983 and under state law. R. 657, Fifth Am. Compl.[1] Defendants deny violating Plaintiffs' constitutional rights. *See generally* R. 660, Jnt. Final Pretrial Memo.

The Court set this matter for trial commencing on April 21, 2025. R. 588. The parties have filed motions *in limine*. *See generally* R. 617, Pls.' MIL; R. 637, Defs.' MIL. The Court addresses Plaintiffs' Motions *in Limine* Nos. 19 and 21, as well as a portion of No. 20, in this Order. The Court will issue separate Order(s) addressing the remaining motions *in limine* and other pretrial filings.

[1]Citations to the docket are indicated by "R." followed by the docket number or filing name, and, where necessary, a page or paragraph citation.

Legal Standard

"A district court is accorded a wide discretion in determining the admissibility of evidence under the Federal Rules." *Sprint/United Mgmt. Co. v. Mendelsohn*, 552 U.S. 379, 384 (2008) (cleaned up).[2] A motion *in limine* is "any motion, whether made before or during trial, to exclude anticipated prejudicial evidence before the evidence is actually offered." *Luce v. United States*, 469 U.S. 38, 40 n.2 (1984). A motion *in limine* permits "the trial judge to eliminate from further consideration evidentiary submissions that clearly ought not be presented to the jury because they clearly would be inadmiss[i]ble for any purpose." *Jonasson v. Lutheran Child & Family Servs.*, 115 F.3d 436, 440 (7th Cir. 1997). A motion *in limine*, however, should not be used to resolve factual disputes or weigh evidence. *Montes v. Cicero Pub. Sch. Dist. No. 99*, 2016 WL 11943663, at *6 (N.D. Ill. Aug. 8, 2016) (cleaned up). The Court excludes evidence on a motion *in limine* only if the evidence is clearly not admissible for any purpose. *See Hawthorne Partners v. AT&T Technologies, Inc.,* 831 F. Supp. 1398, 1400 (N.D. Ill. 1993). Unless evidence meets this exacting standard, evidentiary rulings must be deferred until trial so questions of foundation, relevancy, and prejudice may be resolved in context. *Id.* at 1400–01. Moreover, denial of a motion *in limine* does not necessarily mean that all evidence contemplated by the motion is admissible; rather, it only means that, at the pretrial stage, the Court is unable to determine whether the evidence should be excluded. *Id.* at 1401. Finally, rulings *in limine* are provisional. "*[I]n limine* rulings are not binding on the trial judge, and the judge may always change his mind during the course of a trial." *Ohler v. United States*, 529 U.S. 753, 758 n.3 (2000).

Analysis

I. Plaintiffs' Motions *in Limine*

A. Motion *in Limine* No. 19: Barring Certain Opinions of Jeffrey Noble

Plaintiffs' Motion *in Limine* No. 19 seeks to exclude certain opinions of Defendants' police practice expert, Jeffrey Noble. Plaintiffs challenge Noble's opinions that: (1) the Chicago Police Department (CPD) took reasonable and appropriate steps to identify, investigate, and discipline officers who engaged in misconduct during at least the period of 2012–17 (the *Monell* period); (2) there is no evidence that CPD turned a blind eye toward accepting complaints of officers' misconduct, conducting reasonable administrative investigations, or imposing reasonable disciplinary actions when warranted; (3) CPD/the City had reasonable

[2]This Order uses (cleaned up) to indicate that internal quotation marks, alterations, and citations have been omitted from quotations. *See* Jack Metzler, *Cleaning Up Quotations*, 18 Journal of Appellate Practice and Process 143 (2017).

policies and conducted reasonable investigations into complaints of officer misconduct; (4) there was "no evidence" of various flaws in the City's policy accountability system, of a Code of Silence, and various components of Plaintiffs' Monell theories; (5) independent oversight is rare, but not better or worse than other forms of oversight; and (6) "no reasonable CPD officer could believe they could act inappropriately with impunity and that nothing would happen" invades the province of the jury." Pls.' MIL at 53–65.

Plaintiffs do not dispute Noble's qualifications but contend that his opinions should be barred because his methodology is novel and unreliable, he relied on undisclosed materials, and his opinions lack foundation, relevance, and assert improper legal conclusions. *See* Pls.' MIL at 53–65. The Court addresses each contested opinion and Plaintiffs' corresponding arguments in turn.

1. Legal Standard

Rule 702 of the Federal Rules of Evidence governs the admissibility of expert testimony. Fed. R. Evid. 702; *Artis v. Santos*, 95 F. 4th 518, 525 (7th Cir. 2024). Rule 702 allows the admission of testimony by an expert—that is, someone with the requisite "knowledge, skill, experience, training, or education"— to help the trier of fact "understand the evidence or [ ] determine a fact in issue." Fed. R. Evid. 702. An expert witness is permitted to testify when (1) "the testimony is based on sufficient facts or data," (2) "the testimony is the product of reliable principles and methods," and (3) the expert has reliably applied "the principles and methods to the facts of the case." *Id*.

The district court serves as the gate-keeper who determines whether proffered expert testimony is reliable and relevant before accepting a witness as an expert. *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993). "[T]he key to the gate is not the ultimate correctness of the expert's conclusions," rather, "it is the soundness and care with which the expert arrived at her opinion[.]" *C.W. ex rel. Wood v. Textron, Inc.*, 807 F.3d 827, 834 (7th Cir. 2015) (cleaned up). Under Rule 702 and *Daubert*, the district court must "engage in a three-step analysis before admitting expert testimony. The court must determine (1) whether the witness is qualified; (2) whether the expert's methodology is scientifically reliable; and (3) whether the testimony will assist the trier of fact to understand the evidence or to determine a fact in issue." *EEOC v. AutoZone, Inc.*, 2022 WL 4596755, *13 (N.D. Ill. Sept. 30, 2022) (cleaned up). The focus of the district court's *Daubert* inquiry "must be solely on principles and methodology, not on the conclusions they generate." *Daubert*, 509 U.S. at 595. The expert's proponent bears the burden of proving by a preponderance of the evidence the expert's testimony satisfies Rule 702. *See United States v. Saunders*, 826 F.3d. 363, 368 (7th Cir. 2016). District courts have broad discretion in

determining the admissibility of expert testimony. *Lapsley v. Xtek, Inc.*, 689 F. 3d 802, 810 (7th Cir. 2012).

2. Noble's Reasonableness Opinions

Regarding Noble's opinions that CPD/the City had "reasonable" policies and conducted "reasonable" investigations into complaints of officer misconduct, Plaintiffs argue that such opinions should be barred, as Noble's reasonableness standard has not been subjected to peer review; is not accepted in the relevant community; and was developed expressly for the purposed of testifying. Pls.' MIL at 57–58. Other courts, note Plaintiffs, have barred Noble from offering such an opinion. *Id.* at 59–60 (citing *In Estate of Loury by Hudson v. City of Chicago*, 2021 WL 1020990 (N.D. Ill. Mar. 17, 2021)).

Defendants counter that the Seventh Circuit has consistently accepted expert opinions based on a reasonable standard, and Noble's methodology in this case is both reliable and rooted in a thorough review of the evidence. R. 645, Defs.' *Daubert* Resp. at 21 (citing, *inter alia*, *Jimenez v. City of Chicago*, 732 F.3d 710 (7th Cir. 2013)); *Abdullah v. City of Madison*, 423 F.3d 763 (7th Cir. 2005)). As for *Hudson*, that case, according to Defendants, is distinguishable, as Noble's analysis here avoids the analytical gaps identified in that decision. Resp. at 22–23. At bottom, assert Defendants, Plaintiffs' criticism goes to the weight, not the admissibility, of Noble's opinions. The Court agrees with the Defendants.

First, Plaintiffs' assertion that the "reasonable" standard is "not recognized by any authority," Pls.' MIL at 57, is incorrect. Courts in this Circuit have routinely permitted expert testimony on reasonable police practices. *See*, *e.g.*, *Jimenez*, 732 F.3d at 721 (allowing expert testimony on "reasonable investigative procedures"); *see also Abdullahi v. City of Madison*, 423 F.3d 763, 772 (7th Cir. 2005) (commenting that expert's testimony could be relevant to jury in determining whether officers deviated from reasonable police practices); *Sanders v. City of Chicago*, 2016 WL 1730608, at *10 (N.D. Ill. May 2, 2016) ("Dr. Gaut's opinions . . . go to the issue of whether Defendant Officers' investigative conduct departed from reasonable police practices, which is relevant to Sanders' theory of the case") (citing *Jimenez*, 732 F.3d at 721–22). These precedents underscore that Noble's reliance on a reasonableness standard is consistent with accepted practices in the field.

Second, Plaintiffs' reliance on *Hudson* is misplaced. In *Hudson*, the court barred a number of Noble's opinions, concluding "there is simply too great an analytical gap between the data and the opinion[s] proffered," as the "mere citation in a footnote to articles about certain police codes of ethics does not sufficiently

explain the professional standards Noble purportedly applied." 2021 WL 1020990, at *3. However, contrary to Plaintiffs' suggestion, *Hudson* is not tantamount to a categorical rejection of Noble's opinions anchored in a "reasonable" standard.

As Defendants rightfully note, "the determination of whether an expert's testimony is to be allowed is made on a case-by-case basis." Defs.' *Daubert* Resp. at 23 (citing *Lapsley*, 689 F.3d at 810). Here, unlike in *Hudson*, Noble does more than cite a footnote to support his "reasonable" opinions. For instance, in reaching the conclusion that the IPRA and IAD investigations were reasonable, Noble states that he reviewed 85 investigations in this case alone and he has personally reviewed over 2,000 IAD and IPRA investigations based on his experience and then delineates the steps taken in those investigations that make them reasonable (*i.e.*, tracking numbers on all complaints, obtaining complainant signatures, canvassing to location additional witnesses, etc.). R. 617-24, Noble Report ¶¶ 34–37. This hardly qualifies as "subjective impressions" devoid of "facts or data." *Brown v. Burlington N. Santa Fe Ry. Co.,* 765 F.3d 765, 772 (7th Cir. 2014). Put differently, Noble's approach in this case provides a sufficient foundation for his opinions.

For these reasons, the Court declines to bar Noble's "reasonable" opinions. To the extent that Plaintiffs wish to dispute the weight of his opinions, a Motion *in Limine* is not the appropriate vehicle to do so.

3. Undisclosed Materials

Next, Plaintiffs contend that Noble's opinions regarding the quality of the City's/CPD's police accountability system also fail because he relied upon undisclosed materials. Pls.' MIL at 61–62. Specifically, Noble relies in part on more than 2,000 CRs he reviewed. *Id*. However, according to Plaintiffs, Noble testified at his deposition that the 2,000 plus CR files he referenced are not part of the discovery in this case, and that he has not provided those CR files to defense counsel. *Id.* at 62. Therefore, argue Plaintiffs, his opinions that rely on undisclosed opinions must be barred. *Id.* (citing *Musser v. Gentiva Health Servs*., 356 F.3d 751, 758 (7th Cir. 2004) ("The exclusion of non-disclosed evidence is automatic and mandatory under Rule 37(c)(1) unless non-disclosure was justified or harmless.")).

Predictably, Defendants disagree, arguing that there is no prohibition on an expert basing his or her opinions on information obtained during the course of their career. Defs.' *Daubert* Resp. at 26–27. Defendants emphasize that Noble's reliance on CRs is consistent with standard practices for police practices experts, who often review such materials to assess patterns or practices of misconduct. *Id*. The only case cited by Plaintiffs, *Musser*, is distinguishable, posit Defendants, as that case involved

exclusion of an expert who was not disclosed as an expert under Rule 26(a)(2). *Id.* at 26 (citing 356 F.3d at 755). The Court agrees with Defendants.

Indeed, as the Court previously found in its Order on Defendants' motions to bar some of Plaintiffs' experts, police practices experts often rely on CRs when opining on a pattern or practice of misconduct, and courts have consistently held that the number of CRs reviewed by the expert goes to the weight of the testimony, not its admissibility. R. 577, *Daubert* Order at 25 (citing, *Arias v. Allegretti*, 2008 WL 191185, at *3 & n.1 (N.D. Ill. Jan. 22, 2008) (noting courts within this District have approved an expert's review of CRs as a method for establishing a pattern or practice, and the number of CRs reviewed by the expert goes to the weight of the testimony); *Obrycka v. City of Chicago*, 2011 WL 2633783, at *4 (N.D. Ill. July 5, 2011) (police practices expert's opinions admissible based on review of CRs and his "extensive professional experience"); *Gilfand v. Planey*, 2011 WL 4036110, at *10 (N.D. Ill. Sept. 9, 2011)). In this case, Noble's reliance on the CRs provides a sufficient basis for his opinions. And, in the absence of any authority that stands for the proposition that an expert can only rely on disclosed materials, so long as the expert's *opinions* themselves have been disclosed in accordance with Rule 26(a)(2), the Court declines to bar Noble's opinions on this basis.

Consequently, the Court declines to bar Noble's testimony concerning CPD's police accountability system. Plaintiffs, however, retain their right to probe the thoroughness of Noble's reliance on the 2,000 plus CR files before the fact finder.

4. "No Evidence" Opinions

Noble, observe Plaintiffs, offered several opinions that there was "no evidence" of flaws in the City's policy accountability system or Code of Silence within CPD. Pls.' MIL at 63. These opinions, from Plaintiffs' perspective, are flawed because Noble failed to review meaningful discovery relevant to those opinions and he has not discussed the reasoning behind those "no evidence" findings. *Id.* Defendants disagree, contending that Plaintiffs ignore the context in which Noble's opinions were made. The way Defendants see it, if Plaintiffs believe that Noble did not perform a thorough analysis, they are free to explore that issue at trial. Defs.' *Daubert* Resp. at 28.

The Court again agrees with Defendants. Analyzing Noble's report as a whole, the Court finds that his opinions are supported by sufficient evidentiary bases to withstand Plaintiffs' admissibility challenge. For example, Noble references General Order 93-03, Administrative Special Orders 05-02 and 05-04, CPD Rules and Regulations (including Rules 14 and 22), and other policies that demonstrate the CPD's commitment to managing employee conduct. *See* Noble Report ¶¶ 63(e)-(g),

64(a)-(e), 63-65, 35(a)-(n)). These references provide an adequate foundation for Noble's opinions and counters Plaintiffs' claim that his analysis lacked meaningful discovery.

Additionally, the Court observes that Noble's "no evidence" findings are framed within the broader context of his review of CPD policies and practices. While Plaintiffs may argue that Noble's review was not exhaustive, this contention is best addressed through cross-examination and the presentation of contrary evidence at trial.

The Court, therefore, denies Plaintiffs' Motion *in Limine* No. 19. However, Plaintiffs retain the right to challenge Noble's findings through cross-examination and by presenting contrary evidence at trial, consistent with standard procedures for addressing admissible evidence.

5. Lack of Foundation, Relevance, or Improper Legal Conclusions

Finally, Plaintiffs move to exclude several of Noble's opinions, asserting that these opinions either lack a proper foundation, are irrelevant, or constitute impermissible legal conclusions. Pls.' MIL at 64–65. The Court will evaluate each challenged opinion individually, alongside the Plaintiffs' respective arguments.

a. Independent Oversight Opinion

First, Plaintiffs argue that Noble's opinion that "independent oversight is rare—but not any better or worse than other forms of oversight" should be barred, as, Noble has testified in other matters "that he is not saying that independent oversight is better than police-led oversight." Pls.' MIL at 64 (citing R. 617-25, Noble *Gipson* Dep.). Plaintiffs point out that Noble has elsewhere acknowledged that establishing that CPD had independent oversight for its disciplinary system is not relevant to the quality of the system. *Id.* (citing Noble *Gipson* Dep.). Defendants counter that Plaintiffs fail to raise an issue of admissibility. Defs.' *Daubert* Resp. at 29. In Defendants' view, the fact that Noble may have made a statement in a different case that could be seen as contradictory to his current opinion is an issue for cross-examination. The Court agrees with Defendants.

Discrepancies, such as those raised by Plaintiffs, generally pertain to the weight and credibility of the witness's testimony, not its admissibility. Indeed, "[w]hether the positions asserted [previously by Noble] contradict his opinions in this action is not properly the subject of a *Daubert* motion. The crediting or discrediting of [Noble's] opinion based on [previous statements] poses an issue to be determined

at trial." *In re Allstate Corp. Securities Litig.*, 2022 WL 842737, at *14 (N.D. Ill. Jan. 10, 2022).

Furthermore, beyond that which is tethered to Noble's purported prior statement, Plaintiffs do not advance any developed arguments regarding the relevance of Noble's independent oversight opinion. *See generally* Pls.' MIL. Consequently, the Plaintiffs waive this contention. *See Lewis v. Mills*, 677 F.3d 324, 332 (7th Cir. 2012) ("Unsupported and underdeveloped arguments are waived.") (cleaned up).

For these reasons, the Court denies Plaintiffs' motion as to Noble's oversight opinion.

b. Affidavit Requirement Opinion

Second, Plaintiffs assert that Noble should not be permitted to inform the jury that Illinois state law requires an affidavit to pursue police misconduct investigations, arguing that such testimony constitutes an improper legal opinion and that "any instruction on the law should come from the Court." Pls.' MIL at 64 (citing *Simmons v. City of Chi.*, 2017 WL 3704844, at *11 (N.D. Ill. Aug. 28, 2017) (excluding Noble's legal opinions on the nature and effect of the affidavit requirement)). In response, Defendants correctly highlight that, in *Simmons*, Noble's perspective on the state of law was excluded, partly due to stipulation, judicial notice, and/or court instruction addressing the ability of police departments to investigate complaints not supported by an affidavit. Defs.' *Daubert* Resp. at 29. Defendants posit—without citing supporting authority—that absent a similar procedure in this case, Noble should be permitted to explain the state law requirement. *Id.* The Court, however, disagrees.

While stipulations, judicial notices, and instructions regarding this matter remain unresolved, it is well-established that Federal Rule of Evidence 704 does not permit expert opinions to consist of legal conclusions, as these do not assist the trier of fact. Moreover, the "interpretation of state statutes [is] a subject for the court, not expert testimony." *See Baker v. City of Chicago*, 2024 WL 5112397, at *5 (N.D. Ill. Aug. 20, 2024) (citing *United States v. Lupton*, 620 F.3d 790, 799–800 (7th Cir. 2010)). The Court encourages the parties to agree to (a) stipulation(s) on this subject to the extent possible.

Accordingly, the Court grants the Plaintiffs' motion as to Noble's opinion regarding the state law affidavit requirement.

c. Reasonable CPD Officer Opinion

Third, Plaintiffs seek to bar Noble's testimony that "no reasonable CPD officer could believe they could act inappropriately with impunity and that nothing would happen," arguing that such testimony "invades the province of the jury and states an inappropriate opinion on the states-of-mind of CPD officers." Pls.' MIL at 64–65 (citing *Good Shepherd Manor Found., Inc. v. City of Momence*, 323 F.3d 557, 564 (7th Cir. 2003) for the proposition that "expert testimony as to legal conclusions that will determine the outcome of the case is inadmissible."). Plaintiffs further assert that Noble lacks foundation to opine on the mental state of CPD's officers and that he fails to identify the standard by which he used to reach his conclusion. *Id*.

Defendants clarify that Noble's opinion is based on the totality of the evidence he reviewed, concluding that a "reasonable CPD officer" would not believe they could act with impunity, rather than opining on the mental state of any specific individual. Defs.' *Daubert* Resp. at 30. Defendants argue that Noble is not stating a legal conclusion but instead providing information to measure abstract legal concepts based on the evidence he reviewed. *Id*. (citing, *inter alia*, Fed. R. Evid. 704(a); *Pittman by & through Hamilton v. Cnty. of Madison*, 970 F.3d 823, 829 (7th Cir. 2020); *United States v. Blount*, 502 F.3d 674, 680 (7th Cir. 2007)).

Plaintiffs' challenge here is far from a model of clarity. Defendants' characterization of this contention as "miscellaneous" is, if anything, generous. It is not apparent to the Court whether Plaintiffs object to Noble's "reasonable CPD officer" opinion on the grounds that it lacks foundation, improperly usurps the role of the fact finder, asserts a legal conclusion, or is flawed due to Noble's alleged failure to identify applicable standards upon which he relied to reach his conclusion. Putting clarity to one side, Plaintiffs fail to sufficiently support or develop either theory.

Consequently, the Court construes this barebones conclusory analysis as a waiver, as "it is not this [C]ourt's responsibility to research and construct the parties' arguments." *Gross v. Town of Cicero, Ill.*, 619 F.3d 697, 704 (7th Cir. 2010). Plaintiffs' failure to articulate a clear and developed basis for their objection leaves the Court without sufficient grounds to exclude Noble's "reasonable CPD officer" opinion. *Hall v. Flannery*, 840 F.3d 922, 924 (7th Cir. 2016) (perfunctory and underdeveloped arguments concerning an expert's testimony and methodology are forfeited). While the Court recognizes the importance of ensuring expert testimony meets the requisite standards of reliability and relevance, Fed. R. Evid. 401; 702, it cannot engage in speculative analysis or remedy deficiencies in Plaintiffs' arguments. *United States v. Sineneng-Smith*, 140 S. Ct. 1575, 1579 (2020) ("In our adversarial system of adjudication, we follow the principle of party presentation, [which is] designed around

the premise that parties represented by competent counsel know what is best for them, and are responsible for advancing the facts and argument entitling them to relief.") (cleaned up).

Furthermore, the Court agrees with Defendants that Noble's opinion, grounded in his review of the totality of the evidence, provides a framework for assessing abstract legal concepts rather than reaching impermissible legal conclusions. *United States v. Blount*, 502 F.3d 674, 680 (7th Cir. 2007). Plaintiffs' challenges, however, remain underdeveloped, lacking specific examples or detailed reasoning that would allow the Court to meaningfully evaluate the merit of their objections. *Gross*, 619 F.3d at 704.

Nevertheless, the Court acknowledges that cross-examination is the appropriate vehicle for Plaintiffs to probe the basis, credibility, and implications of Noble's opinion. Plaintiffs retain the opportunity to challenge the opinion's weight and persuasiveness before the fact finder.

Absent a well-supported argument, the Court cannot supplant Plaintiffs' conclusory assertions with its own reasoning and must therefore reject their challenge on this point. *Shipley v. Chicago Bd. of Election Commissioners*, 947 F.3d 1056, 1063 (7th Cir. 2020) (arguments that are perfunctory and underdeveloped can be denied on that basis alone).

B. Motion *in Limine* No. 20: Barring Certain *Monell* Evidence

The Court already issued an Order addressing most of Plaintiffs' Motion *in Limine* No. 20, which seeks to bar certain *Monell* evidence that either (1) falls outside of the *Monell* period; or (2) is not related to the Plaintiffs' *Monell* theory in this case. R. 714, Second MIL Order at 26–27. However, the Court reserved ruling on Plaintiffs' request to bar testimony from Defendants' *Monell* expert, Jeffrey Noble (Noble), from testimony about the legislative history of 50 ILCS 725/3.8 (and its predecessor statutes), and CPD's efforts related thereto, between 2003 and 2011. Pls.' MIL at 67.

According to Plaintiffs, this testimony should be excluded because Noble has no qualifications to opine on legislative intent and no foundation to discuss the City's actions from 2003–2011, but also the evidence is too far removed from the *Monell* period to be probative. *Id.* While Noble will not opine on legislative intent, state Defendants, he will testify to the background relating to the affidavit requirement. R. 638, Defs.' Resp. at 16. This testimony, from Defendants' perspective, "is critical to defending against the deliberate indifference prong." *Id.* Defendants posit that this demonstrates that the City did make efforts to be able to investigate without an

affidavit, but was precluded from it and those efforts inform why the policy was what it was during the *Monell* period." *Id.*

The Court agrees with Plaintiffs that Noble may not opine on legislative intent of 50 ILCS 725/3.8, and its predecessor statutes, the legislative history, or the affidavit requirements contained in the statute (as discussed in the Courts resolution of Motion *in Limine* No. 19). *See Baker*, 2024 WL 5112397, at *5 (citing *Lupton*, 620 F.3d at 799–800). This ruling should not be read to hold that *no* witness may testify about the legislative history itself (that is, what was introduced, opposed, and passed), as the Court finds that the 9-year period before the *Monell* period is so not far removed as to make the legislative history irrelevant to the City's deliberate indifference starting in 2012.

C. Motion *in Limine* No. 21: Barring Evidence that Illinois Law Prohibited the City from investigating citizen Complaints of Police Misconduct

Plaintiffs' Motion *in Limine* No. 21 seeks to bar testimony, argument, or suggestion that Illinois law prevented the City from investigating officer misconduct without a signed affidavit from the complainant. Pls.' MIL at 67–71. Plaintiffs argue that such evidence should be excluded for two reasons: (1) it is false (and at best, highly misleading) and (2) any testimony from Noble or the City's Rule 30(b)(6) witnesses would be legal conclusions. *Id.* at 69–71.

Defendants object, arguing that the motion misconstrues their defense. Defendants assert that neither Noble nor any City witness is claiming that an affidavit override was not possible. Rather, the argument is that "because the sworn affidavit requirement was in place until 2021, the City could not proceed with anonymous complaints unless there was objective, verifiable evidence that could allow for an override." Defs.' Resp. at 16–17. This is part of the City's defense to Plaintiffs' claim that it failed to investigate and discipline CPD officers. *Id.* at 17.

The Court agrees with Defendants that evidence about Illinois law's affidavit requirement and the collective bargaining agreement's requirement of objective, verifiable evidence for the affidavit override are permissible. However, the Court finds that Noble's opinions about the legislative intent, as well as about what the law permitted officers to do (or not do) is impermissible legal conclusion, or unsupported by any foundation. Defendants may introduce this evidence through a City witness, such as Shannon Hayes, but not through their *Monell* expert.

Plaintiffs' Motion *in Limine* No. 21 is granted in part and denied in part.

Dated: April 18, 2025

United States District Judge
Franklin U. Valderrama