

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

William Carter,)
Plaintiff,)
) No. 17-cv-7241
-vs-)
) (Judge Hunt)
City of Chicago, et al.,)
)
)
Defendants.)

**PLAINTIFF'S LOCAL RULE 56.1(b)(3) STATEMENT
OF ADDITIONAL MATERIAL FACTS IN RESPONSE
TO CITY OF CHICAGO'S MOTION**

Plaintiff submits the following statement of additional facts pursuant to Local Rule 56.1(b)(3) in response to the City of Chicago's Motion for Summary Judgment (ECF No. 199):¹

1. On July 10, 2017, the Cook County Circuit Court entered orders vacating plaintiff's convictions in 04-CR-9579, 04-CR-17677, and 06-CR-13571. (Plaintiff's Exhibit 14, Orders in 04-CR-9579, 04-CR-17677, and 06-CR-13571.)

2. On September 14, 2017, the Cook County Circuit Court entered orders granting plaintiff certificates of innocence in 04-CR-9579, 04-CR-17677, and 06-CR-13571. (Plaintiff's Exhibit 15, Orders Granting Certificates of Innocence in 04-CR-9579, 04-CR-17677, and 06-CR-13571.)

¹ Plaintiff files the exhibits cited below as attachments to a separate document titled "Plaintiff's Summary Judgment Exhibits."

3. 178 separate lawsuits have now been filed in this district for persons arrested by the police officer defendants, convicted of offenses in the Circuit Court of Cook County, and subsequently exonerated because of the wrongdoing of the police officer defendants. (Plaintiff's Exhibit 16, *In Re: Watts Coordinated Pretrial Proceedings*, 1:19-cv-01717, Listing of Related Cases)

4. The Department of Justice wrote its 2017 Report, Investigation of the Chicago Police Department, pursuant to 42 U.S.C. § 14141. (Plaintiff's Exhibit 17 at 1, Investigation of the Chicago Police Department, January 13, 2017.)

5. The Department of Justice found in its 2017 Report that that "a code of silence among Chicago police officers exists, extending to lying and affirmative effort to conceal evidence." (Plaintiff's Exhibit 17 at 8, Investigation of the Chicago Police Department, January 13, 2017.)

6. The Department of Justice did not make any finding that the code of silence was limited to excessive force cases but found that "a code of silence exists and officers and community members know it." (Plaintiff's Exhibit 17 at 75, Investigation of the Chicago Police Department, January 13, 2017.)

7. The Department of Justice found in 2017 that CPD's Rule 14, which prohibits making false statements, "is largely ignored." (Plaintiff's Exhibit 17 at 78, Investigation of the Chicago Police Department, January 13, 2017.)

8. The City of Chicago created its "Civilian Office of Police Accountability" ("COPA") to investigate misconduct complaints against Chicago police officers. (Plaintiff's Exhibit 18, Chicago Municipal Code, Chapter 2-78-110.)

9. On February 7, 1997, the Mayor of the Chicago appointed a "Commission on Police Integrity" to "examine the root causes of police corruption." (Plaintiff's Exhibit 19 at 2, Report of the Commission on Police Integrity, November 1997.)

10. One of the recommendations of the Commission was that "the Chicago Police Department look ... at units within the Department ... to identify specific units which have a higher than usual rate of allegations of misconduct." (Plaintiff's Exhibit 19 at 21, Report of the Commission on Police Integrity, November 1997.)

11. The City appointed another commission in 2016; their report is known as the "Police Accountability Task Force," (Plaintiff's Exhibit 20, Police Accountability Task Force, Recommendations for Reform, April 2016.)

12. Defendant City of Chicago, through the Task Force, concluded was that “Chicago’s police accountability system is broken.” (Plaintiff’s Exhibit 20 at 14, Police Accountability Task Force, Recommendations for Reform, April 2016.)

13. Defendant City of Chicago, through the Task Force, found that code of silence as “deeply entrenched” in the Chicago Police department and that “[t]he code of silence is institutionalized and reinforced by CPD rules and policies that are also baked into the labor agreements between the various police unions and the City.” (Plaintiff’s Exhibit 20 at 12, 70, Police Accountability Task Force, Recommendations for Reform, April 2016.)

14. Nothing in the Task Force report suggests that the code of silence is limited to excessive force cases. (Plaintiff’s Exhibit 20 at 69-70, Police Accountability Task Force, Recommendations for Reform, April 2016.)

15. The Task Force acknowledged that “false arrests, coerced confessions, and wrongful convictions are also a part of this history [of police misconduct in Chicago].” (Plaintiff’s Exhibit 20 at 6, Police Accountability Task Force, Recommendations for Reform, April 2016.)

16. Then-Mayor of Chicago Rahm Emanuel told the Chicago City Council on December 9, 2015 that there was a “code of silence” in the

Chicago Police Department. (Plaintiff's Exhibit 20 at 69, Police Accountability Task Force, Recommendations for Reform, April 2016.)

17. In May of 1994, new police officers were taught at the Police Academy not to "break the code of silence. Blue is blue. You stick together. If something occurs on the street that you don't think is proper, you go with the flow ...[Y]ou never break the code of silence." (Shane Report of April 1, 2024 at 89-90, ECF No. 204, quoting from deposition of Officer Hanna.)

18. Defendant Officers Summers and Ridgell arrested Jamar Lewis (plaintiff in 19-cv-7552) without lawful justification, made reports documenting the arrest containing information that they knew to be false, and provided false testimony to secure Lewis' conviction. (Plaintiff's Exhibit 21 at 2, Chicago Civilian Office of Police Accountability, Executive Summary, Log #1087717.)

19. On April 24, 2006, after defendants Watts and Jones had arrested Lionel White (plaintiff in 17-cv-2877) without any lawful basis, defendants Mohammed, Smith, Gonzalez, Bolton, Manuel Leano, and Nichols unlawfully arrested 11 persons at the Ida B. Wells projects and prepared false police reports with the made-up story that each arrestee had approached an officer, asked for narcotics and tendered cash. (Plaintiff's

Exhibit 22, Chicago Civilian Office of Police Accountability, Executive Summary, Log #1085254.)

20. On December 11, 2005, police officer defendants Watts and Jones arrested Baker and Glenn (plaintiffs in 16-cv-8940) because they had resisted demands from the officers to pay protection. After making the unlawful arrests, Watts and Jones made false police reports, and Jones then testified falsely under oath at court proceedings. (Plaintiff's Exhibit 23, Chicago Civilian Office of Police Accountability, Executive Summary, Log #1085254.)

21. On March 3, 2008, officers Nichols and Leano sought to hide the unlawful arrest of Angelo Shenault, Jr. (plaintiff in 18-cv-3478), by preparing false police reports and officer perjured testimony at court proceedings. (Plaintiff's Exhibit 23, Chicago Civilian Office of Police Accountability, Executive Summary, Log #1089277.) Defendant officer Jones knew that Shenault, Jr. had been unlawfully arrested but did not take any action to correct the wrongdoing. (*Id.* at 6-7)

22. Rickey Henderson was framed by members of the Watts team on June 25, 2002, and convicted in Case Number 02-CR-19048 as a result. (Plaintiff's Exhibit 25 ¶¶ 11-17, Affidavit of Rickey Henderson.)

23. Henderson's conviction was vacated on September 24, 2018 at the request of the State's Attorney of Cook County (Plaintiff's Exhibit 26, Order in 02-CR-19048, September 24, 2018) and the Circuit Court of Cook County granted his request for a certificate of innocence on November 2, 2018. (Plaintiff's Exhibit 27, Order in 02-CR-19048, November 2, 2018). Henderson's civil action is pending as No. 19-cv-129.

24. Robert Lindsey and Germin Sims and were framed by members of the Watts team on October 15, 2009. (Plaintiff's Exhibit 28 ¶¶ 2-20, Affidavit of Robert Lindsey, Plaintiff's Exhibit 29 ¶¶ 4-20, Affidavit of Germin Sims.)

25. Lindsey's and Sims's convictions were vacated on February 13, 2019 at the request of the State's Attorney of Cook County (Plaintiff's Exhibit 30-31, Orders in 09-CR-20361, February 13, 2019) and the Circuit Court of Cook County granted their requests for a certificate of innocence on March 18, 2019. (Plaintiff's Exhibit 32-33, Orders 09-CR-20361, February 13, 2019). Lindsey and Sim's civil action is pending as No. 19-cv-2347.

26. Dr. Jon Shane, one of plaintiff's experts, concluded that the City's police disciplinary system was ineffective when investigations were conducted by the "Office of Professional Standards" and then by the

“Independent Police Authority,” which replaced OPS in 2007. (Shane Report of April 1, 2024 at 78, ECF No. 204.)

27. Dr. Shane examined 586 allegations of misconduct against the Defendants. (Plaintiff’s Exhibit 34 at 36-37, Shane Report of April July 25, 2023.) Out of nearly 150 allegations that are similar to Plaintiff’s allegations here, including allegations of dishonest conduct (i.e., lying, theft, and other integrity violations) and unlawful search, entry, or arrest, only one allegation was sustained. (*Id.*)

28. In its investigations, the Chicago Police Department CPD frequently failed to interview the accused officers or even conduct any investigation of complaints. (Plaintiff’s Exhibit 34 at 36-37, Shane Report of April July 25, 2023.)

29. Dr. Shane’s first primary opinions is: The Chicago Police Department did not follow accepted practices for conducting police misconduct investigations, and CPD’s investigations did not comport with nationally accepted standards. (Shane Report of April 1, 2024 at 11, ECF No. 204.)

30. Dr. Shane’s second primary opinions is: The defendant officers accrued complaints at a rate that notified officials of a need for intervention and supervisory measures to stop adverse behavior and correct deficiencies,

and the City's response to that notice did not comport with nationally accepted standards. (Shane Report of April 1, 2024 at 11, ECF No. 204.)

31. Dr. Shane's third primary opinions is: The Chicago Police Department's accountability systems from 1999-2011 did not meet nationally accepted standards and did not effectively respond to patterns of allegations against officers that emerged during that time. (Shane Report of April 1, 2024 at 11-12, ECF No. 204.)

32. Dr. Shane explains his opinions in his report, and also explains the data on which it is based. (Shane Report of April 1, 2024 at 66-72, ECF No. 204.)

33. The 1972 Metcalfe Report found that internal affairs "...complaints from citizens of abusive conduct by police are almost universally rejected by the Police Department's self-investigation system" (Plaintiff's Exhibit 35 at 32.)

/s/ Joel A. Flaxman
Joel A. Flaxman
ARDC No. 6292818
Kenneth N. Flaxman
200 S Michigan Ave, Ste 201
Chicago, IL 60604
jaf@kenlaw.com
Attorneys for Plaintiff