

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

WILLIAM CARTER,)	
)	
<i>Plaintiff,</i>)	
)	
v.)	Case No. 17 C 7241
)	
CITY OF CHICAGO, RONALD WATTS,)	Judge LaShonda A. Hunt
DARRYL EDWARDS, ALVIN JONES,)	
KALLATT MOHAMMED, JOHN)	
RODRIGUEZ, CALVIN RIDGELL, JR.,)	
ELSWORTH J. SMITH, JR., GEROME)	
SUMMERS, JR., AND KENNETH YOUNG,)	
JR.,)	
)	
<i>Defendants.</i>)	

**DEFENDANT CITY OF CHICAGO’S RESPONSE TO PLAINTIFF’S LOCAL RULE
56.1(B)(3) STATEMENT OF ADDITIONAL MATERIAL FACTS IN RESPONSE TO
THE CITY OF CHICAGO’S MOTION FOR SUMMARY JUDGMENT**

Defendant City of Chicago (“City”), by its attorneys, Special Assistant Corporation Counsel at Burns Noland LLP, and for its Response to Plaintiff’s Statement of Material Facts Pursuant to Local Rule 56.1(b)(3), states:

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.)

RESPONSE: Undisputed.

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.)

RESPONSE: Undisputed.

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).

RESPONSE: The City objects to this paragraph on the basis it is vague (“police officer defendants”) and contains improper legal argument and conclusions (“exonerated because of the wrongdoing of the police officer defendants”). See L.R. 56.1(d)(4); *Patterson v. Ind. Newspapers, Inc.*, 589 F.3d 357, 359 (7th Cir. 2009) (appropriate to strike argumentative facts); *Alvares v. Bd. of Educ. of City of Chicago*, 2021 WL 1853220, at *1 (N.D. Ill. May 10, 2021) (citing *Cady v. Sheahan*, 467 F.3d 1057, 1060–61 (7th Cir. 2006) (“disregard legal arguments in the statement of facts”)).

Subject to and without waiving these objections: Partially disputed as phrased. Undisputed Exhibit 16 lists 178 lawsuits filed in this district that had been part of *In re: Watts Coordinated Proceedings*, Master Docket Case No. 19-cv-1717, for coordination of pretrial proceedings in cases with similar claims and defendants. Disputed that all 178 cases involve persons arrested by the police officers who are defendants in this case, and disputed that all of those persons were arrested and convicted “because of the wrongful conduct” of the Defendant Officers.

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.)

RESPONSE: The City objects to this paragraph as immaterial to its motion for summary judgment and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of its summary judgment motion. The City further objects to this paragraph as immaterial because it involves subject matter beyond the relevant *Monell* time period. The City also objects to plaintiff’s attempt to use this report in opposition to summary judgment because it is hearsay. *Gunville v. Walker*, 583 F.3d 979, 985 (7th Cir. 2009) (“A party may not rely upon inadmissible hearsay to oppose a motion for summary judgment”).

Subject to and without waiving the objections: Undisputed that in January 2017, the Department of Justice released a report entitled “Investigation of the Chicago Police Department” (the “DOJ Report”).

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.)

RESPONSE: The City objects to this paragraph as argumentative (“found”) and vague (“code of silence”). The City objects to this paragraph as immaterial to its motion for summary judgment and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of its summary judgment motion. The City further objects to this paragraph as irrelevant because it involves subject matter beyond the relevant *Monell* time period. The City also objects to Plaintiff’s incomplete description or characterization of the language in this document in an attempt to unfairly create a disputed issue of fact to avoid summary judgment. Moreover, the City objects to Plaintiff’s attempt to use this report in this case because it is hearsay. *Gunville, supra*.

Subject to and without waiving the objections, disputed in part. Undisputed that the quoted phrase is contained in the DOJ Report on page 8. Disputed that the quoted passage represented a “finding” by the DOJ and disputed that the language of the DOJ Report is material to the City’s motion for summary judgment. DOJ broadly investigated patterns and practices of the Chicago Police Department as the DOJ Report described its investigation as follows: “Our investigation assessed CPD’s use of force, including deadly force, and addressed CPD policies, training, reporting, investigation, and review *related to officer use of force*.” See Plaintiff’s Ex. 17 (DOJ Report) at 1 (emphasis added). The DOJ Report was initiated in response to “longstanding

concerns about CPD officers' *use of force*, and the City's systems for detecting and correcting the *unlawful use of force*." *Id.* (emphasis added).

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.)

RESPONSE: The City objects to this paragraph as argumentative ("found") and immaterial to its motion for summary judgment and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of its summary judgment motion. The City further objects to this paragraph as immaterial because it involves subject matter beyond the relevant *Monell* time period. The City also objects to Plaintiff's incomplete description or characterization of the language in this document in an attempt to unfairly create a disputed issue of fact to avoid summary judgment. Moreover, the City objects to Plaintiff's attempt to use this report in this case because it is hearsay. *Gunville, supra*.

Subject to and without waiving the objections, disputed in part. Undisputed that the language quoted in paragraph 6 is contained on page 75 of the DOJ Report. Disputed that the record citation supports the assertion that the DOJ "did not make any finding that the code of silence was limited to excessive force cases."

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.)

RESPONSE: The City objects to this paragraph as argumentative ("found"), immaterial to its motion for summary judgment, and inconsistent with the purposes of Local Rule 56.1(b)(3), as it fails to set forth an additional fact or facts requiring denial of its summary judgment motion. The City further objects to this paragraph as immaterial because it involves subject matter beyond the relevant *Monell* time period. The City also objects to Plaintiff's incomplete description or

characterization of the language in this document in an attempt to unfairly create a disputed issue of fact to avoid summary judgment. Moreover, the City objects to Plaintiff's attempt to use this report in this case because it is hearsay. *Gunville, supra*.

Subject to and without waiving the objections, disputed in part. Undisputed that CPD Rule 14 prohibits police officers from making false statements, and that the three words quoted in paragraph 7 are contained on page 75 of the DOJ Report. The City disputes the DOJ's purported "finding" as described in this paragraph. (Dkt. #211, ¶¶ 78-83; 88-89).

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.)

RESPONSE: Undisputed the City enacted Chapter 2-78 of the Chicago Municipal Code, which established the Civilian Office of Police Accountability ("COPA") to investigate alleged police misconduct "within its jurisdiction." Chicago Municipal Code, Chapter 2-78-110, Plaintiff's Ex. 18, Dkt. 230-18, at 4. In further responding, the City clarifies that not every type of alleged police misconduct falls within COPA's jurisdiction. COPA is authorized to investigate complaints against police officers alleging domestic violence, excessive force, coercion, verbal abuse, sexual misconduct, discharge of a firearm, deaths in custody or as a result of police action, officer-involved deaths, improper searches, and denial of access to counsel. Chapter 2-78-120(b)-(f). Plaintiff's Ex. 18, at 4-5.

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.)

RESPONSE: The City objects to this paragraph as immaterial to its motion for summary judgment and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of its summary judgment motion. The City further objects on the basis of relevance because the subject matter is outside of the relevant *Monell* time period.

Subject to and without waiving the objections: Undisputed.

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.)

RESPONSE: The City objects to this paragraph as immaterial to its motion for summary judgment and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of its summary judgment motion. The City further objects on the basis of relevance because the document is outside the relevant *Monell* time period.

Subject to and without waiving the objections: Undisputed the Commission on Police Integrity recommended “the Chicago Police Department look not just at the records of individual police officers but also at units within the Department,” and “As the Chicago Police Department moves toward a comprehensive early-warning system, therefore, an effort should be made to identify specific units which have a higher than usual rate of allegations of misconduct.” Plaintiff’s Ex. 19, at 21.

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.)

RESPONSE: The City objects to this paragraph as immaterial to its motion for summary judgment and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of its summary judgment motion. The City further objects on the basis of relevance because the document is outside the relevant *Monell* time period.

Subject to and without waiving the objections: Disputed in part. Undisputed that on December 6, 2015, Mayor Rahm Emanuel appointed the Police Accountability Task Force, which issued a report in April 2016 (“PATF Report”). *See* Plaintiff’s Ex. 20, at 1; 22. Disputed that findings of the Police Accountability Task Force are conclusions of the City because the PATF

Report “is the product of the Police Accountability Task Force and its affiliated Working Groups” and “it should not be assumed that every Task Force (or Working Group) member embraces in totality every formulation in this report or even that all participants would agree with any given recommendation if it were taken in isolation.” *See* Plaintiff’s Ex. 20, at 143.

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.)

RESPONSE: The City objects to this paragraph as immaterial to its motion for summary judgment and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of its summary judgment motion. The City also objects to Plaintiff’s incomplete description or characterization of the language in this document in an attempt to unfairly create a disputed issue of fact to avoid summary judgment. In addition, the statement in this paragraph relies on hearsay. The City further objects on the basis of relevance because the document is outside the relevant *Monell* time period.

Subject to and without waiving the objections: Disputed in part. Disputed that findings of the Police Accountability Task Force are conclusions of the City as asserted by Plaintiff because the PATF Report “is the product of the Police Accountability Task Force and its affiliated Working Groups” and “it should not be assumed that every Task Force (or Working Group) member embraces in totality every formulation in this report or even that all participants would agree with any given recommendation if it were taken in isolation.” *See* Plaintiff’s Ex. 20, at 143. The City therefore disputes the assertion in paragraph 12 predicated on this erroneous contention. Undisputed that the language quoted in paragraph 12 is contained on page 14 of the PATF Report.

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.)

RESPONSE: The City objects to this paragraph as argumentative (“found”), immaterial to its motion for summary judgment, and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of summary judgment. The City also objects to Plaintiff’s incomplete description or characterization of the language in this document in an attempt to unfairly create a disputed issue of fact to avoid summary judgment. In addition, the statement in this paragraph relies on hearsay. The City further objects on the basis of relevance because the document is outside the relevant *Monell* time period.

Subject to and without waiving the objections: Disputed in part. Disputed that findings of the Police Accountability Task Force are conclusions of the City as asserted by Plaintiff because the PATF Report “is the product of the Police Accountability Task Force and its affiliated Working Groups” and “it should not be assumed that every Task Force (or Working Group) member embraces in totality every formulation in this report or even that all participants would agree with any given recommendation if it were taken in isolation.” *See* Plaintiff’s Ex. 20, at 143. The City therefore disputes the assertions in paragraph 13 predicated on this erroneous contention. Undisputed that the words and phrases quoted in paragraph 13 are contained on page 12 or page 70 in the PATF Report.

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.)

RESPONSE: The City objects to this paragraph as ambiguous and argumentative (“Nothing . . . suggests”) and improper to the extent it fails to assert a concise fact. The City objects to this paragraph as immaterial to its motion for summary judgment and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of its summary judgment motion. In addition, the City objects to the extent the statement in this

paragraph relies on hearsay. The City further objects on the basis of relevance because the document is outside the relevant *Monell* time period.

Subject to and without waiving the objections: Disputed in part. Disputed that the record citation supports the assertion that nothing in the PATF Report “suggests the code of silence is limited to excessive force cases.” Disputed that findings of the Police Accountability Task Force are conclusions of the City as asserted by Plaintiff because the PATF Report “is the product of the Police Accountability Task Force and its affiliated Working Groups” and “it should not be assumed that every Task Force (or Working Group) member embraces in totality every formulation in this report or even that all participants would agree with any given recommendation if it were taken in isolation.” *See* Plaintiff’s Ex. 20, at 143. Undisputed pages 69-70 of the PATF Report do not state the alleged “code of silence” is “limited to excessive force cases.”

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.)

RESPONSE: The City objects to this paragraph as immaterial to its motion for summary judgment and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of its summary judgment motion. The City also objects to Plaintiff’s incomplete description or characterization of the language in this document in an attempt to unfairly create a disputed issue of fact to avoid summary judgment. In addition, the statement in this paragraph relies on hearsay. The City further objects on the basis of relevance because the document is outside the relevant *Monell* time period.

Subject to and without waiving the objections: Disputed in part. Disputed that findings of the Police Accountability Task Force are conclusions of the City as asserted by Plaintiff because the PATF Report “is the product of the Police Accountability Task Force and its affiliated Working Groups” and “it should not be assumed that every Task Force (or Working Group) member

embraces in totality every formulation in this report or even that all participants would agree with any given recommendation if it were taken in isolation.” *See* Plaintiff’s Ex. 20, at 143. The City therefore disputes the assertion in paragraph 15 predicated on this erroneous contention. Undisputed that the language quoted in paragraph 15, except for the bracketed portion, is contained on page 6 of the PATF Report.

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.)

RESPONSE: The City objects to this paragraph as immaterial to its motion for summary judgment and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of its summary judgment motion. The City also objects to Plaintiff’s incomplete description or characterization of the language in this document in an attempt to unfairly create a disputed issue of fact to avoid summary judgment. In addition, the statement in this paragraph relies on hearsay. The City further objects on the basis of relevance because the statement is outside the relevant *Monell* time period.

Subject to and without waiving the objections: Disputed in part. Disputed that the PATF Report provides the full content or context of then-Mayor Emanuel’s’ comments. Undisputed that in a December 9, 2015 speech to the City Council, Mayor Emanuel stated, in part: “This problem is sometimes referred to as the Thin Blue Line. Other times it is referred to as the code of silence. It is the tendency to ignore, deny or in some cases cover-up the bad actions of a colleague or colleagues.” Further responding, Mayor Emanuel’s remarks on the “code of silence” were general statements he made while discussing the case of Laquan McDonald. Mayor Emanuel never said there was a pervasive code of silence, and he expressly referenced a “tiny fraction” of officers in his remarks. (*See* City Ex. 61).

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.)

RESPONSE: The City objects to this paragraph as immaterial to its motion for summary judgment and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of its summary judgment motion. In addition, the statement in this paragraph relies on hearsay. It is improper to use experts as an apparent conduit for inserting hearsay; this paragraph is phrased as though the statement is offered for the truth of the matters asserted. See *Loeffel Steel Products, Inc. v. Delta Brands, Inc.*, 387 F.Supp.2d 794, 808 (N.D. Ill. 2005) (FRE 703 does not “allow a witness, under the guise of giving expert testimony, to in effect become the mouthpiece of the witnesses on whose statements or opinions the expert purports to base his opinions.”). The City further objects on the basis of relevance because a statement from 1994 is outside the relevant *Monell* time period.

Subject to and without waiving the objections: Disputed in part. Undisputed the report of plaintiff’s expert Jon Shane purports to quote from the deposition of Janet Hanna. As to Hanna, undisputed she testified in a separate case that she was told in 1994 “we do not 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. And after that situation, if you have an issue with that officer or what happened, you can confront them. If you don’t feel comfortable working with them anymore, you can go to the watch commander and request a new partner.” Disputed that police officer recruits are trained at the Academy not to break the “code of silence.” All CPD police officers, including the Defendant Officers in this case, are trained regarding the CPD’s rules, regulation, and orders, including General Order G.O. 93-3, which requires police officers to immediately report misconduct that comes to their attention. City’s Statement of Undisputed Material Facts, Dkt.

#211, ¶¶ 77-83; 88-89; City Ex. 62, at CITY-BG-058576, CITY-BG-058584; *see also* City Group Ex. 63 (excerpts of Defendant Officers' depositions and answers to interrogatories).

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.)

RESPONSE: The City objects to this paragraph as containing improper legal argument and conclusions ("without lawful justification;" "knew to be false;" "false testimony"). The City further objects to this paragraph as immaterial to its motion for summary judgment and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of its summary judgment motion. In addition, the statement in this paragraph relies on hearsay. *See Friends of Milwaukee's Rivers & All. for Great Lakes v. Milwaukee Metro. Sewerage Dist.*, 2006 WL 2691525, at *1 (E.D. Wis. Sept. 20, 2006) (Fed. R. Evid. 803(8)(A) does not allow "preliminary or interim evaluative opinions" of agency staff into evidence). Moreover, findings reached by an investigating agency are not admissible because evidence of violations of the general rules and policies of the CPD are inadmissible. *Cooper v. Dailey*, 2012 WL 1748150, at *1 (N.D. Ill. May 16, 2012). Finally, COPA reports are inadmissible under Fed. R. Evid. 403 because they carry "a substantial risk of unfair prejudice and confusion that outweighs [their] probative value." Order, *Stevenson v. City of Chicago*, No. 17 C 4839. Dkt. #366, at 3-4 (N.D. Ill. Aug. 8, 2022) (Durkin, J.)¹ ("Introducing evidence of COPA's findings therefore risks usurping the role of the jury, which may feel compelled to accept (or reject) those findings uncritically" and admitting COPA's reports would lead to "the oft-feared 'trial within a trial' that Rule 403 is meant to guard against").

¹ A copy of Judge Durkin's Order is attached as Exhibit 1 to the City's Reply in support of its motion for summary judgment.

Subject to and without waiving the objections: Disputed in part. Undisputed that Jamar Lewis is the plaintiff in Case No. 19-cv-7552; that Jamar Lewis was arrested by Police Officers Summers and Ridgell, among others; that Exhibit 21 includes the Executive Summary from the COPA investigation of Log #1087717; and, that the language in this paragraph is supported by COPA's Executive Summary (at 2) with respect to Officers Summers and Ridgell. The City disputes any suggestion or inference COPA's findings and recommendations represent a final decision in the administrative process or constitute a binding final determination by the City, as COPA's recommendations are subject to review by the Superintendent of Police and/or the Police Board, among other additional steps in the administrative process. Chapter 2-78-130(a); Plaintiff's Ex. 18, Dkt. 230-18, at 7-8.

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.)

RESPONSE: The City objects to this paragraph as containing improper legal argument, conclusions, and argumentative phrases ("without any lawful basis;" "unlawfully arrested;" "false police reports;" "made-up story"). The City further objects to this paragraph as immaterial to its motion for summary judgment and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of its summary judgment motion. The City also objects to this paragraph because it violates Local Rule 56.1 by containing multiple, discrete assertions. In addition, the statement in this paragraph relies on hearsay. *Friends of Milwaukee's Rivers, supra*. Moreover, findings reached by an investigating agency are not admissible because evidence of violations of the general rules and policies of the CPD are inadmissible. *Cooper, supra*. Finally, COPA reports are inadmissible under Fed. R. Evid. 403

because they carry “a substantial risk of unfair prejudice and confusion that outweighs [their] probative value.” *Stevenson v. City of Chicago, supra*.

Subject to and without waiving these objections: Disputed in part. Undisputed Lionel White is the plaintiff in Case No. 17-cv-2877; that Lionel White was arrested on April 24, 2006, by Police Officer Alvin Jones; that Exhibit 22 includes the Executive Summary from the COPA investigation of Log #1085254; and, COPA’s Executive Summary states Officer Jones “arrested Lionel White without justification and falsified multiple reports regarding the events surrounding the arrest.” The City disputes the Executive Summary supports the assertions in paragraph 19 regarding Defendants Mohammed, Smith, Gonzalez, Bolton, Manuel Leano, and Nichols, but the City does not dispute COPA recommended sustained findings in Log #1085254 for certain allegations against Defendants Smith, Leano, Bolton, Gonzalez, and Nichols. The City disputes any suggestion or inference COPA’s findings and recommendations represent a final decision in the administrative process or constitute a binding final determination by the City, as COPA’s recommendations are subject to review by the Superintendent of Police and/or the Police Board, among other additional steps in the administrative process. Chapter 2-78-130(a); Plaintiff’s Ex. 18, Dkt. 230-18, at 7-8.

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.)

RESPONSE: The City objects to this paragraph as containing improper legal argument, conclusions, and argumentative phrases (“unlawful arrests;” “false police reports;” “testified falsely”). The City further objects to this paragraph as immaterial to its motion for summary judgment and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of its summary judgment motion. The City also objects to

this paragraph because it violates Local Rule 56.1 by containing multiple, discrete assertions. In addition, the statement in this paragraph relies on hearsay. *Friends of Milwaukee's Rivers, supra*. Moreover, findings reached by an investigating agency are not admissible because evidence of violations of the general rules and policies of the CPD are inadmissible. *Cooper, supra*. Finally, COPA reports are inadmissible under Fed. R. Evid. 403 because they carry “a substantial risk of unfair prejudice and confusion that outweighs [their] probative value.” *Stevenson v. City of Chicago, supra*.

Subject to and without waiving these objections: Partially disputed. Disputed that Exhibit 23 includes the Executive Summary from COPA Log #1085254. Undisputed that Ben Baker and Clarissa Glenn are plaintiffs in Case No. 16-cv-8940; that Officers Watts and Jones arrested Baker and Glenn on December 11, 2005; that Exhibit 23 includes the Executive Summary from the COPA investigation of Log #1087742; and, COPA’s Executive Summary states Watts and Jones falsely arrested Baker and Glenn, and states that Jones falsified reports and testified falsely under oath in court proceedings regarding the arrests. The City disputes the Executive Summary supports the remaining assertions in this paragraph. The City disputes any suggestion or inference COPA’s findings and recommendations represent a final decision in the administrative process or constitute a binding final determination by the City, as COPA’s recommendations are subject to review by the Superintendent of Police and/or the Police Board, among other additional steps in the administrative process. Chapter 2-78-130(a); Plaintiff’s Ex. 18, Dkt. 230-18, at 7-8.

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)

RESPONSE: The City objects to this paragraph as containing improper legal argument, conclusions, and argumentative phrases (“sought to hide,” “unlawfully arrest,” “false police

reports;” “perjured testimony;” “wrongdoing”). The City further objects to this paragraph as immaterial to its motion for summary judgment and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of its summary judgment motion. The City also objects to this paragraph because it violates Local Rule 56.1 by containing multiple, discrete assertions. In addition, the statement in this paragraph relies on hearsay. *Friends of Milwaukee's Rivers, supra*. Moreover, findings reached by an investigating agency are not admissible because evidence of violations of the general rules and policies of the CPD are inadmissible. *Cooper, supra*. Finally, COPA reports are inadmissible under Fed. R. Evid. 403 because they carry “a substantial risk of unfair prejudice and confusion that outweighs [their] probative value.” *Stevenson v. City of Chicago, supra*.

Subject to and without waiving these objections: Partially disputed. Disputed that Exhibit 23 includes the Executive Summary of COPA Log #1089277. Undisputed that Angelo Shenault, Jr. is the plaintiff in Case No. 18-cv-3478; that Angelo Shenault, Jr. was arrested on March 3, 2008, by Chicago police officers; that Exhibit 24 includes the Executive Summary from the COPA investigation of Log #1089277; and that COPA’s Executive Summary states Officers Nichols and Leano “authored false reports and/or provided false testimony to support Shenault’s arrest.” The City does not dispute pages 6-7 of COPA Log #1089277 indicate COPA recommended a sustained finding against Officer Jones concerning the allegation that Jones “became aware” Shenault was arrested without justification on March 3, 2008 “and failed to report such misconduct.” The City disputes any assertion in paragraph 21 inconsistent with the foregoing. The City disputes any suggestion or inference COPA’s findings and recommendations represent a final decision in the administrative process or constitute a binding final determination by the City, as COPA’s recommendations are subject to review by the Superintendent of Police and/or the Police Board,

among other additional steps in the administrative process. Chapter 2-78-130(a); Plaintiff's Ex. 18, Dkt. 230-18, at 7-8.

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.)

RESPONSE: The City objects to this paragraph as containing improper legal argument ("framed"). The City further objects to this paragraph as immaterial to its motion for summary judgment and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of its summary judgment motion. The City also objects because the statement in this paragraph relies on hearsay. *Gunville, supra*.

Subject to and without waiving these objections: Partially disputed. Undisputed Rickey Henderson was arrested on June 25, 2002 and convicted in Case Number 02-CR-19048. Disputed that Henderson's arrest was improper and that he was convicted "as a result," because Henderson's conviction in Case Number 02-CR-19048 was the "result" of his guilty plea in that case. Plaintiff's Ex. 25, at ¶16.

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.

RESPONSE: The City objects to this paragraph as immaterial to its motion for summary judgment and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of its summary judgment motion. Subject to and without waiving this objection: Undisputed.

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.)

RESPONSE: The City objects to this paragraph as containing improper legal argument (“framed”). The City further objects to this paragraph as immaterial to its motion for summary judgment and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of its summary judgment motion. The City also objects because the statement in this paragraph relies on hearsay. *Gunville, supra*.

Subject to and without waiving these objections: Partially disputed. Undisputed Robert Lindsey and Germin Sims both were arrested on October 15, 2009 and convicted in Case No. 09 CR 20361. The City disputes any suggestion or inference that Lindsey’s and Sims’ arrests and subsequent convictions were improper because their convictions in Case Number 09 CR 20361 resulted from their guilty pleas in that case. Plaintiff’s Ex. 28 at ¶20; Plaintiff’s Ex. 29 at ¶20.

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.

RESPONSE: The City objects to this paragraph as immaterial to its motion for summary judgment and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of its summary judgment motion. The City further objects to the extent this paragraph is partially unsupported (Exhibit 31 was not attached).

Subject to and without waiving these objections: Undisputed.

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.)

RESPONSE: The City objects that the citation to the record in this paragraph does not support the assertions contained in paragraph 26. The City further objects to this paragraph as immaterial to its motion for summary judgment and inconsistent with the purposes of Local Rule

56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of its summary judgment motion, as this case does not involve an investigation by OPS or IPRA.

Subject to and without waiving the objections: Partially disputed. Undisputed plaintiff's expert Jon Shane's report (at page 73) indicates IPRA replaced OPS in 2007, but the City disputes Shane's purported conclusion asserted in paragraph 26. Further responding, Defendants, including the City, have filed a motion to bar Shane, which is currently pending before the Court.

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.*)

RESPONSE: The City objects and asks the Court to disregard this statement as compound and violative of Local Rule 56.1(d)(1) for not being concise because it presents multiple facts covering different topics and references Shane's categorization of 586 allegations purportedly sourced from multiple CR files. The City further objects to this paragraph as vague, ambiguous, and argumentative ("similar to"), which is too vague to enable a meaningful answer. The City also objects that the record citation does not support the assertion that the 586 allegations pertain to the Defendant Officers. The City objects to this paragraph as immaterial to its motion for summary judgment and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of its summary judgment motion.

Subject to and without waiving the objections, and to the extent a response is required: The City does not dispute Shane's report in Exhibit 34 contains Table 13 at page 37, which purports to reflect Shane's characterization of 586 complaint allegations. The assertion that "nearly 150 allegations [] are similar to Plaintiff's allegations here" is not supported by the cited pages of Exhibit 34 and is otherwise too vague to enable the City to verify its accuracy. The City disputes

the basis for Shane's conclusions. Defendants, including the City, have filed a motion to bar Shane, which is currently pending before the Court.

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.)

RESPONSE: The City objects and asks the Court to disregard this statement as compound, argumentative, and violative of Local Rule 56.1(d)(1) for not being concise because it presents multiple facts (requiring the review of hundreds of CR files) covering different topics. The City further objects to this paragraph as vague, ambiguous, and argumentative ("frequently failed"), to which a meaningful answer cannot be provided. The City also objects to the term "interview" on the basis that it is ambiguous, subject to multiple interpretations, and argumentative as used by Shane in his report. The City specifically objects to the materiality of the assertions in this paragraph based on Shane's misleading definition of "interview."

Subject to and without waiving the objections, to the extent an answer is required: Disputed that Table 13 (in Ex. 34 at 37) supports the assertion in paragraph 28. Based on Shane's misleading definition of "interview," the City disputes the basis for Shane's findings that rely on his definition. Further responding, Defendants, including the City, have filed a motion to bar Shane, which is currently pending before the Court.

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.)

RESPONSE: Undisputed plaintiff's expert Jon Shane so opined, but the City disputes the basis for such a conclusion. *Wendler & Ezra, P.C. v. American Int'l Group, Inc.*, 521 F.3d 790, 791 (7th Cir. 2008) ("an expert's *ipse dixit* is inadmissible" because "[a]n expert who supplies nothing but a bottom line supplies nothing of value to the judicial process."). Further responding,

Defendants, including the City, have filed a motion to bar Shane, which is currently pending before the Court.

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.)

RESPONSE: Undisputed plaintiff's expert Jon Shane so opined, but the City disputes the basis for such a conclusion. *Wendler & Ezra*, 521 F.3d at 791 ("an expert's *ipse dixit* is inadmissible" because "[a]n expert who supplies nothing but a bottom line supplies nothing of value to the judicial process."). Further responding, Defendants, including the City, have filed a motion to bar Shane, which is currently pending before the Court.

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.)

RESPONSE: Undisputed plaintiff's expert Jon Shane so opined, but the City disputes the basis for such a conclusion. *Wendler & Ezra*, 521 F.3d at 791 ("an expert's *ipse dixit* is inadmissible" because "[a]n expert who supplies nothing but a bottom line supplies nothing of value to the judicial process."). Further responding, Defendants, including the City, Defendants, including the City, have filed a motion to bar Shane, which is currently pending before the Court.

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.)

RESPONSE: The City objects to this paragraph as lacking a concise statement of fact or an additional fact or facts requiring denial of its summary judgment motion. The City further objects that this paragraph asserts argumentative conclusions rather than a statement of fact.

Subject to and without waiving the objections: Undisputed Shane reviewed data and purported to explain his conclusions based on that data in his report. The City disputes the basis

for and validity of Shane's conclusions and opinions. Further responding, Defendants, including the City, filed a motion to bar Shane, which is currently pending before the Court.

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.)

RESPONSE: The City objects to this paragraph as argumentative ("found"), immaterial to its motion for summary judgment, and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of its summary judgment motion. The City further objects to this paragraph as immaterial because it involves subject matter outside of the relevant *Monell* time period. The City also objects to plaintiff's incomplete description or characterization of the language in this document in an attempt to unfairly create a disputed issue of fact to avoid summary judgment. Moreover, the City objects to plaintiff's attempt to use the report in this case because it is hearsay. *Gunville, supra*.

Subject to and without waiving the objections: Undisputed that the quoted language is contained on page 32 of the so-called 1972 Metcalfe Report.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on **February 10, 2025**, I electronically filed the foregoing **Defendant City of Chicago's Response to Plaintiff's Local Rule 56.1(b)(3) Statement of Additional Material Facts in Response to the City of Chicago's Motion** with the Clerk of the Court using the ECF system, which sent electronic notification of the filing on the same day to counsel of record.

s/ Paul A. Michalik
