

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

Leoncio Elizarri, individually and )  
for others similarly situated, )  
 )  
*Plaintiff*, )  
 )  
-vs- )  
 )  
Sheriff of Cook County and Cook )  
County, Illinois, )  
 )  
*Defendants*. )  
 )  
No. 17-cv-8120  
(*Judge Seeger*)

## JOINT STATUS REPORT

Pursuant to the Court's order of October 22, 2020, the parties submit the following Joint Status Report:

1. Defendants have returned all the property belonging to the named plaintiffs.

2. The parties have not completed discovery and propose that the Court extend discovery to January 29, 2021. The parties acknowledge that the Court may not view this request as the “short extension” to which the Court referred in its order of October 22, 2020 and offer the following to attempt to justify the request:

## A. Plaintiffs' Position

a. This case changed on September 28, 2020 when defendant Sheriff served an amended answer to interrogatory four of plaintiffs' second

set of interrogatories. Plaintiffs attach a copy of the amended interrogatory answer is attached as Exhibit 1.

b. Until service of the amended answer, the position of the Sheriff was that it had stopped destroying the property of detainees who left the Cook County Jail for the Illinois Department of Corrections, as set forth in Plaintiffs' Motion for Class Certification, ECF No. 92 at 2-4.

c. The Sheriff stated in its amended interrogatory answer that it had begun to dispose of detainee property "as of late 2018." (Exhibit 1 at 2.)

d. The Sheriff also stated in its amended interrogatory answer that it was storing "approximately 5,000" property bags. (Exhibit 1 at 2.) This is substantially less than the 57,640 property bags that the Sheriff was storing in 2011. (ECF No. 92 at 6.)

e. Plaintiffs therefore seek to undertake discovery about the shrinkage of the stored property and about the Sheriff's previously unannounced decision to begin to dispose of detainee property "as of late 2018." Plaintiffs may also seek to amend the operative complaint (and add additional plaintiffs). Plaintiffs will propound written discovery (if defendants do not supplement their Rule 26 disclosures) to identify the persons involved in the decision to begin to dispose of detainee property and to obtain the documents, if any, relevant to that decision and to the

inventory shrinkage. Plaintiffs then seeks to depose the relevant decisionmakers.

**B. Defendants' Position**

- a. Defendants seeks to depose the representative of the estate of Leoncio Elizarri and any other fact witnesses the plaintiffs' will rely on to support their Motion for Class Certification (ECF No. 92.)
- b. Defendant Sheriff, based on experience during the COVID pandemic in other pending litigation, anticipates that scheduling depositions of Sheriff's employees will require more time than usual.
- c. Defendants anticipate additional written discovery between the parties.

Respectfully submitted,

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Cook County*

## **Exhibit 1**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

LEONCIO ELIZARRI and GREGORY L. )  
JORDAN, individually and for others )  
similarly situated, )  
Plaintiffs, )  
v. ) No. 17 cv 8120  
SHERIFF OF COOK COUNTY and ) Judge Thomas M. Durkin  
COOK COUNTY, ILLINOIS, )  
Defendants. )

**DEFENDANT, SHERIFF OF COOK COUNTY'S**  
**AMENDED ANSWER TO SECOND SET OF INTERROGATORY NO. 4**

NOW COMES the Defendant, SHERIFF OF COOK COUNTY, by and through its attorneys, SANCHEZ DANIELS & HOFFMAN LLP and as its Amended Answer to Plaintiff's Second Set of Interrogatory No. 4, previously answered June 2019 states as follows:

4. Describe the Sheriff's current procedure, if any, for disposition of property sent to the warehouse, as referred to in the Court's order of April 1, 2019 at 4.

**ANSWER:** Due to the pendency of the *Elizarri* litigation, the subject detainee property that might have been disposed of pursuant to the policies and procedures of the Cook County Department of Corrections, including Procedure 109 and Policies 305, 315 or 717, or pursuant to 20 Ill. Adm. Code 701.60(d), is not currently being disposed of by the Office of the Cook County Sheriff.

**AMENDED ANSWER:**

Defendant objects to the Interrogatory as vague to the extent that it seeks information on a process for "disposition of property sent to the warehouse", as the operative Complaint contains no references related to a warehouse, and there appears to be no dispute of a legal or factual issue concerning "disposition of property sent to the warehouse", as opposed to general issue of disposition of compliant property bags that were not destroyed pursuant to CCDOC policies in effect at the time, regardless of where they may have been stored.

To the extent that Plaintiff's Second Interrogatory No. 4 seeks information for disposition of a collection of compliant property that was not destroyed pursuant to CCDOC policies in effect at the time that they were collected, as described in paragraphs 14-21 and 33-36 of the Amended Complaint. (ECF Dkt. 42), such property remains in the custody of the CCDOC. Those property bag number approximately 5,000.

To the extent that Plaintiff's Second Interrogatory No. 4 seeks to know the *current* procedure for the disposition of detainee property, Defendant directs Plaintiff to CCDOC procedure 109 and policies 305, 315, 717 or pursuant 20 Ill. Adm. Code 701.60(d), previously produced by this Defendant.

With respect to the subject compliant property bags which were previously eligible for destruction, but had not been destroyed, the Office of the Cook County Sheriff did not destroy such bags. Those bags are among the approximately 5,000 inventoried at this time. However, the Sheriff's Office did not continue to accumulate compliant property bags which were otherwise eligible for destruction, and now follows its property retention and destruction policies.

Currently and as of late 2018, this Defendant has been following its policies, procedures and the law related to the destruction of detainee property. As such, Defendant currently does not hold property after the specified time period and has followed its policies, procedures and the law regarding the disposal of property,

**VERIFICATION**

Pursuant to 28 U.S.C. § 1746, I, Khara Coleman, Assistant General Counsel with the Office of the Cook County Sheriff, state under penalty of perjury, and pursuant to Federal Rule of Civil Procedure 33(b)(5), that the information contained in Sheriff of Cook County's Amended Answer to Plaintiff's Second Set of Interrogatory No. 4, *Elizarri et al v. Sheriff et al*, 17 cv 8120, is true and correct to the best of my knowledge, information and belief. The Responses provided herein are not based on my sole recollection, memory or knowledge, but rather were drafted based upon consultation with employees of the Office of the Cook County Sheriff, based upon review of records and documents in the possession of the Cook County Sheriff's Office, and upon advice and consultation of our attorneys.

Date: 9-25-2020



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