

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

GOLEATHER JEFFERSON,	)	
	)	
Plaintiff,	)	
	)	
	)	Case No. 18 C 8182
v.	)	
	)	Judge Harry D. Leinenweber
	)	
CITY OF CHICAGO, RONALD WATTS,	)	Magistrate Judge Sheila M. Finnegan
PHILIP CLINE, DEBRA KIRBY, ALVIN	)	
JONES, MANUEL LEANO, KALLATT	)	
MOHAMMED, DOUGLAS NICHOLS, JR.,	)	(This case is part of <i>In re: Watts</i>
and ELSWORTH J. SMITH, JR.,	)	<i>Coordinated Pretrial Proceedings</i> , Master
	)	Docket Case No. 19 C 1717)
Defendants.	)	

**DEFENDANT CITY OF CHICAGO’S ANSWER TO PLAINTIFF’S COMPLAINT**

Defendant, City of Chicago (“City”), by its attorney, Terrence M. Burns of Reiter Burns LLP, for its answer to plaintiff’s complaint, states:

1. This is a civil action arising under 42 U.S.C. § 1983. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 1343 and 1367.

**ANSWER:** The City admits plaintiff’s complaint asserts claims pursuant to federal statutes and Illinois law that seek to invoke the jurisdiction of this Court. The City denies liability to plaintiff for any and all claims asserted in the complaint.

**I. Parties**

2. Plaintiff Goleather Jefferson is a resident of the Northern District of Illinois.

**ANSWER:** The City lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2.

3. Defendant City of Chicago is an Illinois municipal corporation.

**ANSWER:** The City admits it is a municipal corporation duly incorporated under the laws of the State of Illinois.

4. Defendants Ronald Watts, Alvin Jones, Manuel Leano, Kallatt Mohammed, Douglas Nichols, Jr., and Elsworth J. Smith Jr. (the "individual officer defendants") were at all relevant times acting under color of their offices as Chicago police officers. Plaintiff sues the individual officer defendants in their individual capacities.

**ANSWER:** Paragraph 4 asserts legal conclusions to which no response is required. To the extent a response to those allegations is deemed necessary, the City denies the commission of the criminal acts alleged against certain individual defendants in the complaint would be within the scope of a police officer's employment or under color of law. In further response, the City admits Defendants Ronald Watts, Alvin Jones, Manuel Leano, Kallatt Mohammed, Douglas Nichols, Jr., and Elsworth Smith Jr. (collectively, the "Defendant Officers") were police officers employed by the Chicago Police Department ("CPD") at certain times alleged in the complaint. The City admits the complaint purports to sue the individual defendant officers in their individual capacities. The City denies any remaining allegations contained in paragraph 4 inconsistent with the foregoing.

5. Defendant Philip Cline was at all relevant times Superintendent of the Chicago Police Department. Plaintiff sues Cline in his individual capacity.

**ANSWER:** The City admits Mr. Cline served as Superintendent of Police from approximately November 2003 to April 2007. The City admits the complaint purports to sue Mr. Cline in his individual capacity. The City denies the remaining allegations contained in paragraph 5 that are inconsistent with the foregoing.

6. Defendant Debra Kirby was at all relevant times the Assistant Deputy Superintendent of the Chicago Police Department, acting as head of the Chicago Police Department Internal Affairs Division. Plaintiff sues Kirby in her individual capacity.

**ANSWER:** The City admits Ms. Kirby served as Assistant Deputy Superintendent of the CPD in charge of its Internal Affairs Division from approximately July 2004 through March

2008. The City admits the complaint purports to sue Ms. Kirby in her individual capacity. The City denies any remaining allegations contained in paragraph 6 inconsistent with the foregoing.

## **II. Overview**

7. Plaintiff Goleather Jefferson is one of many victims of the criminal enterprise run by convicted felon and former Chicago Police Sergeant Ronald Watts and his tactical team at the Ida B. Wells Homes in the 2000's.

**ANSWER:** The City admits Defendant Watts is a convicted felon who formerly held the rank of sergeant in the CPD. The City lacks knowledge or information sufficient to form a belief as to the individuals that plaintiff alleges to be part of the vague and undefined phrase "Watts and his tactical team," and it therefore makes no further response to the allegations in this paragraph incorporating that term. The City is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 7.

8. As of the date of filing, fifty individuals who were framed by the Watts Gang have had their convictions vacated by the Circuit Court of Cook County.

**ANSWER:** The City lacks knowledge or information sufficient to form a belief as to the individuals that plaintiff alleges to be part of the argumentative, vague, and undefined term "Watts Gang," and it therefore makes no further response to the allegations in this paragraph incorporating that term. The City is without knowledge or information sufficient to form a belief as to the truth of the vague and argumentative allegations that remain in paragraph 8.

9. Several other victims of the Watts Gang are currently prosecuting federal lawsuits. Pursuant to an order of the Court's Executive Committee dated July 12, 2018, these cases have been coordinated for pretrial proceedings with the lead case *Baker v. City of Chicago*, 16-cv-8940.

**ANSWER:** The City lacks knowledge or information sufficient to form a belief as to the individuals that plaintiff alleges to be part of the argumentative, vague, and undefined term "Watts Gang," and it therefore makes no further response to the allegations in this paragraph incorporating that term. The City admits the existence of *In re: Watts Coordinated Pretrial*

*Proceedings*, Master Docket Case No. 19 C 1717, which includes a number of federal lawsuits against Defendant Watts and others that have been coordinated for pretrial proceedings by the Executive Committee of the United States District Court, Northern District of Illinois, and that *Baker v. City of Chicago, et al.*, Case No. 16 C 8940, is part of that coordinated proceeding. The City denies liability to the plaintiffs in the federal lawsuits that are part of the coordinated proceedings.

10. The Executive Committee's Order states that additional cases, such as this one, filed with similar claims and the same defendants shall be part of these coordinated pretrial proceedings.

**ANSWER:** The City admits the existence of the Executive Committee Order creating *In re: Watts Coordinated Pretrial Proceedings*, Master Docket Case No. 19 C 1717, and that this lawsuit is part of those coordinated proceedings. The City denies the remaining allegations contained in paragraph 10 inconsistent with the foregoing.

11. The Watts Gang of officers engaged in robbery and extortion, used excessive force, planted evidence, fabricated evidence, and manufactured false charges.

**ANSWER:** The City lacks knowledge or information sufficient to form a belief as to the individuals that plaintiff alleges to be part of the argumentative, vague, and undefined term "Watts Gang of officers," and it therefore makes no further response to the allegations in this paragraph incorporating that term. To the extent the allegations of this paragraph are intended to refer to the Defendant Officers, the City admits Defendants Watts and Mohammed were arrested and charged with theft of government funds, and that they both pleaded guilty to those charges. The City lacks knowledge or information of the misconduct involving plaintiff as alleged in the complaint against the Defendant Officers. The City is without knowledge or information sufficient to form a belief as to the truth of any remaining allegations contained in paragraph 11.

12. High ranking officials within the Chicago Police Department were aware of the Watts Gang's criminal enterprise, but failed to take any action to stop it.

**ANSWER:** The City lacks knowledge or information sufficient to form a belief as to the “high ranking officials” to whom plaintiff is referring, or those individuals that plaintiff alleges to be part of the argumentative, vague, and undefined term “Watts Gang,” and it therefore makes no further response to the allegations in this paragraph incorporating those terms. To the extent the allegations of this paragraph are intended to refer to the Defendant Officers, the City admits that CPD received information alleging Defendants Watts and Mohammed were engaging in criminal misconduct against drug dealers at the Ida B. Wells housing complex, and that CPD’s Internal Affairs Department (“IAD”) participated with federal authorities in a federally-led investigation of those allegations. The City denies the remaining allegations in paragraph 12.

13. The Chicago Police Department’s official policies or customs of failing to discipline, supervise, and control its officers, as well as it’s a [*sic*] “code of silence,” were a proximate cause of the Watts Gangs’ criminal enterprise.

**ANSWER:** The City lacks knowledge or information sufficient to form a belief as to the individuals that plaintiff alleges to be part of the argumentative, vague, and undefined term “Watts Gang,” and it therefore makes no further response to the allegations in this paragraph incorporating that term. The City denies the “official policies or customs” alleged in this paragraph and further denies policies or customs of the CPD were a proximate cause of Defendant Watts’ or Defendant Mohammed’s criminal activities.

14. Watts Gang officers arrested Jefferson without probable cause, fabricated evidence against him, and framed him for drug possession, a charge for which he served about six months.

**ANSWER:** The City lacks knowledge or information sufficient to form a belief as to the individuals that plaintiff alleges to be part of the argumentative, vague, and undefined term “Watts Gang,” and it therefore makes no further response to the allegations in this paragraph incorporating that term. Based on police department reports and court documents, the City admits plaintiff was arrested on September 12, 2006 and charged with possession of a controlled

substance, and that plaintiff ultimately pleaded guilty to and was convicted of that charge in Case No. 06 CR 23620, and sentenced to probation. Based on police department reports, court documents, and plaintiff's guilty plea, the City denies the remaining allegations in paragraph 14.

15. Based on the powerful evidence that has become known about the Watts Gang's nearly decade-long criminal enterprise, the Circuit Court of Cook County has vacated plaintiff's conviction and granted him a certificate of innocence.

**ANSWER:** The City lacks knowledge or information sufficient to form a belief as to the individuals that plaintiff alleges to be part of the argumentative, vague, and undefined term "Watts Gang," and it therefore makes no further response to the allegations in this paragraph incorporating that term. The City admits on information and belief plaintiff's conviction in Case No. 06 CR 23620 was vacated and that the Circuit Court of Cook County granted plaintiff a Certificate of Innocence, but it denies the Certificate has any relevant legal bearing on this case. The City is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 15.

16. Goleather Jefferson brings this lawsuit to secure a remedy for his illegal incarceration, which was caused by: the Watts Gang officers, the failure of high-ranking officials within the Chicago Police Department to stop the Watts Gang, the code of silence within the Chicago Police Department, and the Chicago Police Department's defective discipline policy.

**ANSWER:** The City lacks knowledge or information sufficient to form a belief as to the individuals that plaintiff alleges to be part of the argumentative, vague, and undefined term "Watts Gang," and it therefore makes no further response to the allegations in this paragraph incorporating that term. The City admits plaintiff's complaint seeks damages, but it denies liability to plaintiff for any of the claims and/or damages asserted therein. The City denies the remaining allegations contained in paragraph 16.

### **III. False Arrest and Illegal Prosecution of Plaintiff<sup>1</sup>**

17. On September 12, 2006, plaintiff was arrested by the individual officer defendants in a common area of a building at the Ida B. Wells Homes.

**ANSWER:** The City admits police department reports reflect that plaintiff was arrested by Officers Mohammed and Smith on September 12, 2006, in the stairwell of a building at 559 E. Browning in Chicago.

18. At the time of plaintiff's arrest:

- a. None of the individual officer defendants had a warrant authorizing the arrest of plaintiff;
- b. None of the individual officer defendants believed that a warrant had been issued authorizing the arrest of plaintiff;
- c. None of the individual officer defendants had observed plaintiff commit any offense; and
- d. None of the individual officer defendants had received information from any source that plaintiff had committed an offense.

**ANSWER:** Based on police department reports, the City admits the allegations in paragraph 18(a) and denies the allegations in paragraphs 18(c) and 18(d). The City is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 18(b).

19. After arresting plaintiff, the individual officer defendants conspired, confederated, and agreed to fabricate a false story in an attempt to justify the unlawful arrest, to cover-up their wrongdoing, and to cause plaintiff to be wrongfully detained and prosecuted.

**ANSWER:** The City is without knowledge or information of the misconduct involving plaintiff as alleged in the complaint against the Defendant Officers. Based on police department reports, court records, and plaintiff's guilty plea, the City denies the remaining allegations contained in paragraph 19.

---

<sup>1</sup> Although they do not conform with pleading rules, to the extent that titles used throughout the complaint require an answer, the City denies on information and belief all wrongful conduct alleged in these titles.

20. The false story fabricated by the individual officer defendants included their false claim that they had arrested plaintiff after seeing him holding United States currency in one hand and four bags of drugs in the other hand.

**ANSWER:** The City is without knowledge or information of the misconduct involving plaintiff as alleged in the complaint against the Defendant Officers. Based on police department reports, court records, and plaintiff's guilty plea, the City denies the remaining allegations contained in paragraph 20.

21. The acts of the individual officer defendants in furtherance of their scheme to frame plaintiff included the following:

- a. One or more of the individual officer defendants prepared police reports containing the false story, and each of the other individual officer defendants failed to intervene to prevent the violation of plaintiff's rights;
- b. One or more of the individual officer defendants attested through the official police reports that they witnessed the false story, and each of the other individual officer defendants failed to intervene to prevent the violation of plaintiff's rights;
- c. Defendant Watts formally approved one or more of the official police reports, knowing that they contained the false story; and
- d. One or more of the individual officer defendants communicated the false story to prosecutors, and each of the other individual officer defendants failed to intervene to prevent the violation of plaintiff's rights.

**ANSWER:** The City is without knowledge or information of the misconduct involving plaintiff as alleged in the complaint against the Defendant Officers. Based on police department reports, court records, and plaintiff's guilty plea, the City denies the remaining allegations contained in paragraph 21.

22. The wrongful acts of the individual officer defendants were performed with knowledge that the acts would cause plaintiff to be wrongfully held in custody and falsely prosecuted for an offense that had never occurred.

**ANSWER:** The City is without knowledge or information of the misconduct involving plaintiff as alleged in the complaint against the Defendant Officers. Based on police department



reports, court records, and plaintiff's guilty plea, the City denies the remaining allegations contained in paragraph 22.

23. Plaintiff was charged with a drug offense because of the wrongful acts of the individual officer defendants.

**ANSWER:** Based on police department reports, the City admits plaintiff was charged with a drug offense. The City is without knowledge or information of the misconduct involving plaintiff as alleged in the complaint against the Defendant Officers. Based on police department reports, court records, and plaintiff's guilty plea, the City denies the remaining allegations contained in paragraph 23.

24. Plaintiff knew that proving that the individual officer defendants had concocted the charges against him would not be possible.

**ANSWER:** The City is without knowledge or information of the misconduct involving plaintiff as alleged in the complaint against the Defendant Officers. Based on police department reports, court records, and plaintiff's guilty plea, the City denies the allegations contained in paragraph 24 that the criminal charges were "concocted." The City is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 24.

25. Accordingly, even though he was innocent, plaintiff, pleaded guilty to one charge of drug possession on October 30, 2006, and received a sentence of twenty four months probation. Plaintiff later violated his probation and was sentenced to one year of imprisonment on January 11, 2008.

**ANSWER:** Based on court documents, the City admits that on October 30, 2006, plaintiff pleaded guilty to possession of a controlled substance and was convicted following a court hearing in which the judge found that a factual basis existed for the plea and plaintiff affirmed under oath the truth and correctness of that factual basis. The City further admits court documents reflect that plaintiff was sentenced to 24 months' probation, and that he later was sentenced on

January 11, 2008 to one year in custody of IDOC for violating his probation. The City denies the remaining allegations contained in paragraph 25 inconsistent with the foregoing.

26. Plaintiff was deprived of liberty during his incarceration because of the above-described wrongful acts of the individual officer defendants.

**ANSWER:** The City is without knowledge or information of the misconduct involving plaintiff as alleged in the complaint against the Defendant Officers. Based on police department reports, court records, and plaintiff's guilty plea, the City denies the remaining allegations contained in paragraph 26.

27. Plaintiff was continuously in custody from his arrest on September 12, 2006 until he was sentenced to probation on October 30, 2006.

**ANSWER:** The City is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 27.

28. Plaintiff served additional time in custody before he received his one-year prison sentence on January 11, 2008, for which he was confined in the Illinois Department of Corrections from January 14, 2008 until he paroled out on March 17, 2008.

**ANSWER:** The City is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 28.

#### **IV. Plaintiff's Exoneration**

29. Plaintiff challenged his conviction after he learned that federal prosecutors and lawyers for other wrongfully convicted individuals had discovered the Watts Gang's criminal enterprise.

**ANSWER:** The City lacks knowledge or information sufficient to form a belief as to the individuals that plaintiff alleges to be part of the argumentative, vague, and undefined term "Watts Gang," and it therefore makes no further response to the allegations in this paragraph incorporating that term. The City is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 29 concerning plaintiff's reasons for challenging his conviction. The City denies any remaining allegations contained in paragraph 29.

30. On September 24, 2018, the Circuit Court of Cook County granted the State's motion to set aside plaintiff's conviction; immediately thereafter, the Court granted the State's request to *nolle prosequi* the case.

**ANSWER:** The City admits on information and belief plaintiff's conviction in Case No. 06 CR 23620 was vacated on September 24, 2018. The City is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 30.

31. On November 2, 2008, the Circuit Court of Cook County granted plaintiff a certificate of innocence.

**ANSWER:** The City admits on information and belief the Circuit Court of Cook County granted plaintiff a Certificate of Innocence in Case No. 06 CR 23620, but it denies the Certificate was granted on the date alleged above. The City denies the Certificate has any relevant legal bearing on this case, and it denies any remaining allegations contained in paragraph 31.

**V. Plaintiff's Arrest and Prosecution Were Part of a Long-Running Pattern Known to High Ranking Officials within the Chicago Police Department**

32. Before the Watts Gang engineered plaintiff's above-described wrongful arrest, detention, and prosecution, the Chicago Police Department had received numerous civilian complaints that defendant Watts and the Watts Gang were engaging in robbery, extortion, the use of excessive force, planting evidence, fabricating evidence, and manufacturing false charges against persons at the Ida B. Wells Homes.

**ANSWER:** To the extent this paragraph refers to or relies on allegations made in the preceding paragraphs, the City adopts and restates its prior answers and responses thereto. The City lacks knowledge or information sufficient to form a belief as to the individuals that plaintiff alleges to be part of the argumentative, vague, and undefined term "Watts Gang," and it therefore makes no further response to the allegations in this paragraph incorporating that term. To the extent the allegations of this paragraph are intended to refer to the Defendant Officers, the City admits that CPD received information in 2004 alleging Defendant Watts was engaging in criminal misconduct against drug dealers at the Ida B. Wells housing complex, and that CPD's IAD

participated with federal authorities in a joint federally-led investigation of those allegations. The City further admits Defendant Mohammed was subsequently included as a target of the investigation. The City is without knowledge or information of the misconduct involving plaintiff as alleged in the complaint against the Defendant Officers. Based on police department reports, court records, and plaintiff's guilty plea, the City denies the allegations in paragraph 32 that plaintiff's arrest, detention, and prosecution were "wrongful." The City denies any remaining allegations in paragraph 32 inconsistent with the foregoing.

33. Criminal investigators corroborated these civilian complaints with information they obtained from multiple cooperating witnesses.

**ANSWER:** The City lacks knowledge or information sufficient to form a belief as to the "criminal investigators" to whom plaintiff is referring. To the extent the allegations of this paragraph are intended to refer to investigators involved in the federally-led investigation in which CPD's IAD participated, the City admits on information and belief certain individuals made allegations to those investigators claiming that Defendant Watts was engaging in criminal misconduct at the Ida B. Wells housing complex. The City is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 33.

34. Before the Watts Gang engineered plaintiff's above-described wrongful arrest, detention, and prosecution, defendants Cline and Kirby knew about the above-described credible allegations of serious wrongdoing by Watts and the Watts Gang and knew that criminal investigators had corroborated these allegations.

**ANSWER:** The City lacks knowledge or information sufficient to form a belief as to the individuals that plaintiff alleges to be part of the argumentative, vague, and undefined term "Watts Gang," and it therefore makes no further response to the allegations in this paragraph incorporating that term. To the extent the allegations of this paragraph are intended to refer to the Defendant Officers, the City admits that CPD received information in 2004 alleging Defendant Watts was engaging in criminal misconduct against drug dealers at the Ida B. Wells housing

complex, and that CPD's IAD participated with federal authorities in a joint federally-led investigation of those allegations. The City further admits Defendant Mohammed was subsequently included as a target of the investigation. The City is without knowledge or information of the misconduct involving plaintiff as alleged in the complaint against the Defendant Officers. Based on police department reports, court records, and plaintiff's guilty plea, the City denies the allegations in paragraph 34 that plaintiff's arrest, detention, and prosecution were "wrongful." The City denies any remaining allegations in paragraph 34 inconsistent with the foregoing.

35. Defendants Cline and Kirby also knew, before the Watts Gang engineered plaintiff's above-described wrongful arrest, detention, and prosecution, that, absent intervention by the Chicago Police Department, Watts and his gang would continue to engage in robbery and extortion, use excessive force, plant evidence, fabricate evidence, and manufacture false charges.

**ANSWER:** The City lacks knowledge or information sufficient to form a belief as to the individuals that plaintiff alleges to be part of the argumentative, vague, and undefined term "Watts Gang," and it therefore makes no further response to the allegations in this paragraph incorporating that term. To the extent the allegations of this paragraph are intended to refer to the Defendant Officers, the City admits that CPD received information in 2004 alleging Defendant Watts was engaging in criminal misconduct against drug dealers at the Ida B. Wells housing complex, and that CPD's IAD participated with federal authorities in a joint federally-led investigation of those allegations. The City further admits Defendant Mohammed was subsequently included as a target of the investigation. The City is without knowledge or information of the misconduct involving plaintiff as alleged in the complaint against the Defendant Officers. Based on police department reports, court records, and plaintiff's guilty plea, the City denies the allegations in paragraph 35 that plaintiff's arrest, detention, and prosecution were "wrongful." To the extent this paragraph suggests or infers the City, Cline, and/or Kirby were

obligated to take actions that would have interfered with, obstructed, and/or exposed a pending confidential investigation, the City denies those allegations. The City denies any remaining allegations in paragraph 35 inconsistent with the foregoing.

36. The Internal Affairs Division of the Chicago Police knew about the lawlessness of Watts and his gang by 2004.

**ANSWER:** The City lacks knowledge or information sufficient to form a belief as to the individuals that plaintiff alleges to be part of the argumentative, vague, and undefined term “Watts and his gang,” and it therefore makes no further response to the allegations in this paragraph incorporating that term. To the extent the allegations of this paragraph are intended to refer to the Defendant Officers, the City admits that CPD received information in 2004 alleging Defendant Watts was engaging in criminal misconduct involving drug dealers at the Ida B. Wells housing complex, and that CPD’s IAD participated with federal authorities in a joint federally-led investigation of those allegations. The City denies any remaining allegations contained in paragraph 36 inconsistent with the foregoing.

37. Defendants Cline and Kirby had the power and the opportunity to prevent Watts and his gang from continuing to engage in the above-described wrongdoing.

**ANSWER:** The City lacks knowledge or information sufficient to form a belief as to the individuals that plaintiff alleges to be part of the argumentative, vague, and undefined term “Watts and his gang,” and it therefore makes no further response to the allegations in this paragraph incorporating that term. To the extent the allegations of this paragraph are intended to refer to the Defendant Officers, the City admits that CPD’s IAD participated with federal authorities in a joint federally-led investigation of allegations that Watts, and later Mohammed, may have been engaging in criminal activity against drug dealers at the Ida B. Wells housing complex. The City states that the federal government determined it would be and was in charge of the joint investigation, and that the United States Attorney’s Office would control and did control the results

of everything that resulted from the investigation. To the extent this paragraph alleges or infers the City, Cline, and/or Kirby were obligated to take actions that would have interfered with, obstructed, and/or exposed a pending confidential investigation, the City denies those allegations. The City denies the remaining allegations in paragraph 37.

38. Defendants Cline and Kirby deliberately chose to turn a blind eye to the pattern of wrongdoing by Watts and his gang.

**ANSWER:** The City lacks knowledge or information sufficient to form a belief as to the individuals that plaintiff alleges to be part of the argumentative, vague, and undefined term “Watts and his gang,” and it therefore makes no further response to the allegations in this paragraph incorporating that term. The City denies the remaining allegations contained in paragraph 38.

39. As a direct and proximate result of the deliberate indifference of defendants Cline and Kirby, Watts and his gang continued to engage in robbery and extortion, use excessive force, plant evidence, fabricate evidence, and manufacture false charges against persons at the Ida B. Wells Homes, including but not limited to the wrongful arrest, detention, and prosecution of plaintiff, as described above.

**ANSWER:** The City lacks knowledge or information sufficient to form a belief as to the individuals that plaintiff alleges to be part of the argumentative, vague, and undefined term “Watts and his gang,” and it therefore makes no further response to the allegations in this paragraph incorporating that term. The City denies the remaining allegations contained in paragraph 39.

## **VI. Official Policies and Customs of the Chicago Police Department Were the Moving Force behind the Defendants' Misconduct**

40. At all relevant times, the Chicago Police Department maintained official policies and customs that facilitated and condoned the Defendants' misconduct.

**ANSWER:** The City denies the allegations contained in paragraph 40.

### **A. Failure to Discipline**

41. At all relevant times, the Chicago Police Department maintained a policy or custom of failing to discipline, supervise, and control its officers. By maintaining this policy or custom, the City caused its officers to believe that they could engage in misconduct with impunity because their actions would never be thoroughly scrutinized.

**ANSWER:** The City denies the allegations contained in paragraph 41.

42. Before plaintiff's arrest, policymakers for the City of Chicago knew that the Chicago Police Department's policies or customs for disciplining, supervising, and controlling its officers were inadequate and caused police misconduct.

**ANSWER:** The City denies the allegations contained in paragraph 42.

43. Despite their knowledge of the City's failed policies and customs for disciplining, supervising, and controlling its officers, the policymakers failed to take action to remedy these problems.

**ANSWER:** The City denies the allegations contained in paragraph 43.

44. Before the Watts Gang engineered plaintiff's above-described wrongful arrest, detention, and prosecution, the individual officer defendants had been the subject of numerous formal complaints of official misconduct.

**ANSWER:** The City lacks knowledge or information sufficient to form a belief as to the individuals that plaintiff alleges to be part of the argumentative, vague, and undefined term "Watts Gang," and it therefore makes no further response to the allegations in this paragraph incorporating that term. To the extent the allegations of this paragraph are intended to refer to the Defendant Officers, the City admits on information and belief each of the individual defendants was the subject of complaints alleging misconduct against them as police officers. The City denies a complaint alleging misconduct that results in the opening of a Complaint Log or Complaint Register investigation constitutes evidence the alleged misconduct occurred. The City denies any remaining allegations or inferences in paragraph 44 inconsistent with the foregoing.

45. As a direct and proximate result of the Chicago Police Department's inadequate policies or customs for disciplining, supervising, and controlling its officers and the policymakers' failure to address these problems, Watts and his gang continued to engage in robbery and extortion, use excessive force, plant evidence, fabricate evidence, and manufacture false charges against persons at the Ida B. Wells Homes, including but not limited to the wrongful arrest, detention, and prosecution of plaintiff; as described above.

**ANSWER:** The City lacks knowledge or information sufficient to form a belief as to the individuals that plaintiff alleges to be part of the argumentative, vague, and undefined term



“Watts and his gang,” and it therefore makes no further response to the allegations in this paragraph incorporating that term. The City denies the remaining allegations contained in paragraph 45.

**B. Code of Silence**

46. At all relevant times, the Chicago Police Department maintained a "code of silence" that required police officers to remain silent about police misconduct. An officer who violated the code of silence would be severely penalized by the Department.

**ANSWER:** The City denies the allegations as phrased in paragraph 46, and it further states the “code of silence” as described is directly contrary to the rules, policies, and training of the CPD.

47. At all relevant times, police officers were trained at the Chicago Police Academy not to break the code of silence. Officers were instructed that "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. But you never break the code of silence."

**ANSWER:** The City denies on information and belief the allegations contained in paragraph 47, and further states that any “code of silence” is directly contrary to the rules, policies, and training of the CPD.

48. This "code of silence" facilitated, encouraged, and enabled the individual officer defendants to engage in egregious misconduct for many years, knowing that their fellow officers would cover for them and help conceal their widespread wrongdoing.

**ANSWER:** The City denies the allegations contained in paragraph 48.

49. Consistent with this "code of silence," the few people within the Chicago Police Department who stood up to Watts and his gang or who attempted to report their misconduct were either ignored or punished, and the Watts Gang was thereby able to engage in misconduct with impunity.

**ANSWER:** The City lacks knowledge or information sufficient to form a belief as to the individuals that plaintiff alleges to be part of the argumentative, vague, and undefined terms “Watts Gang” or “Watts and his gang,” and it therefore makes no further response to the allegations

in this paragraph incorporating either term. The City denies the remaining allegations as phrased in paragraph 49.

50. Watts and his gang are not the first Chicago police officers whom the City of Chicago allowed to abuse citizens with impunity while the City turned a blind eye.

**ANSWER:** The City lacks knowledge or information sufficient to form a belief as to the individuals that plaintiff alleges to be part of the argumentative, vague, and undefined term “Watts and his gang,” and it therefore makes no further response to the allegations in this paragraph incorporating that term. The City denies the remaining allegations in paragraph 50.

51. One example of this widespread practice is Chicago police officer Jerome Finnigan, who was convicted and sentenced on federal criminal charges in 2011. One of the charges against Finnigan involved his attempt to hire a hitman to kill a police officer whom Finnigan believed would be a witness against him.

**ANSWER:** The City admits former police officer Jerome Finnigan was convicted and sentenced on criminal charges in 2011, and it admits on information and belief one of the charges against Finnigan was based on his alleged attempt to hire someone to kill a police officer whom Finnigan understood might be a potential witness against him in criminal proceedings. The City denies the allegations pertaining to Finnigan are evidence of an alleged widespread practice, and it denies the relevance of those allegations to the claims in plaintiff’s complaint. The City further denies it “turned a blind eye” to Finnigan’s misconduct or had a “widespread practice” of turning a blind eye to police officer misconduct. The City denies any remaining allegations contained in paragraph 51.

52. Finnigan was part of a group of officers in the Defendant City’s Special Operations Section who carried out robberies, home invasions, unlawful searches and seizures, and other crimes.

**ANSWER:** The City admits Finnigan and other members of the CPD’s Special Operations Section were convicted of various criminal charges. The City denies any remaining allegations in paragraph 52 inconsistent with the foregoing.

53. Finnigan and his crew engaged in their misconduct at around the same time that plaintiff was subjected to the abuses described above.

**ANSWER:** To the extent this paragraph refers to or relies on allegations “described above” in preceding paragraphs, the City adopts and restates its prior answers and responses thereto. The City lacks knowledge or information sufficient to form a belief as to identities of the individuals that plaintiff alleges to be part of Finnigan’s “crew.” The City is without knowledge or information of the misconduct involving plaintiff as alleged in the complaint against the individual defendants, and it is without knowledge or information sufficient to form a belief as to the truth of any remaining allegations contained in paragraph 53.

54. Finnigan, like the defendants in this case, had been the subject of many formal complaints of misconduct.

**ANSWER:** The City is without knowledge or information sufficient to form a belief as to the meaning of the vague and argumentative term “many.” In further response, the City admits the Defendant Officers had been the subjects of complaints of alleged misconduct over the course of their careers. The City denies a complaint alleging misconduct that results in the opening of a Complaint Log or Complaint Register investigation constitutes evidence that the alleged misconduct occurred. The City denies any remaining allegations contained in paragraph 54 inconsistent with the foregoing.

55. Finnigan revealed at his criminal sentencing hearing in 2011, "You know, my bosses knew what I was doing out there, and it went on and on. And this wasn't the exception to the rule. This was the rule."

**ANSWER:** The City admits Finnigan made a statement at his criminal sentencing hearing and refers to the transcript of that statement for its content. The City is without knowledge or information sufficient to form a belief as to the truthfulness of Finnigan’s statement or the truthfulness, credibility, or motives of Finnigan in making the statement.

56. Defendants Watts and Mohammed were criminally charged in federal court in February 2012 after shaking down a federal informant they believed was a drug dealer.

**ANSWER:** The City admits on information and belief that on November 21, 2011, Defendants Watts and Mohammed were caught in an undercover sting operation stealing government funds they believed to be drug proceeds from a cooperating witness working with the FBI, and that Watts and Mohammed subsequently were charged with federal crimes.

57. Defendant Mohammed pleaded guilty in 2012.

**ANSWER:** The City admits on information and belief the allegations contained in paragraph 57.

58. Defendant Watts pleaded guilty in 2013.

**ANSWER:** The City admits on information and belief the allegations contained in paragraph 58.

59. In the case of *Obrycka v. City of Chicago et al.*, No. 07-cv-2372 (N.D. Ill.), a federal jury found that as of February 2007, "the City [of Chicago] had a widespread custom and/or practice of failing to investigate and/or discipline its officers and/or code of silence."

**ANSWER:** The City admits the jury entered a verdict against it in *Obrycka v. City of Chicago, et al.*, Case No. 07 C 2372, but states that the District Court in *Obrycka* subsequently noted the basis for the jury's verdict was "unclear" and was "based on the unique facts of [that] case." *Id.*, Mem. Op. & Order, Dkt. #712, at 10. Further answering, the City denies the *Obrycka* case is applicable to the facts and circumstances alleged in the complaint.

60. In December 2015, Chicago Mayor Rahm Emanuel acknowledged the continued existence of the code of silence within the Chicago Police Department; Emanuel, speaking in his capacity as Mayor, admitted that the code of silence leads to a culture where extreme acts of abuse are tolerated.

**ANSWER:** The City admits that on December 9, 2015, Mayor Rahm Emanuel stated, in part, the following: "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.” The City denies that any code of silence within the CPD is pervasive, widespread, or a well-settled custom or practice to which the City’s final policymakers have been deliberately indifferent. Further responding, the City states that any “code of silence” is directly contrary to the rules, policies, and training of the CPD.

61. In April 2016, the City's Police Accountability Task Force found that the 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."

**ANSWER:** The City admits the existence of the April 2016 Report issued by the Police Accountability Task Force (“PATF Report”), and that the language quoted in this paragraph is contained within that Report. The City states that paraphrasing snippets of text taken from the PATF Report is an oversimplification and imprecise representation of that report. The City further states that any “code of silence” is directly contrary to the rules, policies, and training of the CPD. In further responding, the City denies it has been deliberately indifferent to the type of misconduct alleged in the complaint and denies the PATF Report is applicable to plaintiff’s allegations.

62. In an official government report issued in January 2017, the United States Department of Justice found that "a code of silence exists, and officers and community members know it."

**ANSWER:** The City admits the existence of the January 2017 Department of Justice report entitled “Investigation of the Chicago Police Department” (the “DOJ Report”). The City admits the DOJ Report states, in part, “current officers and former high-level CPD officials interviewed during our investigation” shared the opinion that a “code of silence” existed within CPD. The City denies that any code of silence within the CPD is pervasive, widespread, or a well-settled custom or practice to which the City’s final policy makers have been deliberately indifferent. The City further states that any purported code of silence is directly contrary to the rules, policies, and training of the CPD.

63. The same code of silence in place during the time period at issue in the *Obrycka* case and recognized by the Mayor, the Task Force, and the Department of Justice was also in place when plaintiff suffered the wrongful arrest, detention, and prosecution described above.

**ANSWER:** The City denies the allegations as phrased in paragraph 63.

64. As a direct and proximate result of the City's code of silence, Watts and his gang continued to engage in robbery and extortion, use excessive force, plant evidence, fabricate evidence, and manufacture false charges against persons at the Ida B. Wells Homes, including but not limited to the wrongful arrest, detention, and prosecution of plaintiff, as described above.

**ANSWER:** The City denies the allegations contained in paragraph 64.

## **VII. Claims<sup>2</sup>**

65. As a result of the foregoing, all of the defendants caused plaintiff to be deprived of rights secured by the Fourth and Fourteenth Amendments.

**ANSWER:** The City makes no answer or response to the allegations of paragraph 65 to the extent directed against other defendants. As directed against it, the City denies the allegations contained in paragraph 65.

66. As a supplemental state law claim against defendant City of Chicago only: as a result of the foregoing, plaintiff was subjected to a malicious prosecution under Illinois law.

**ANSWER:** The City denies the allegations contained in paragraph 66.

67. Plaintiff hereby demands trial by jury.

**ANSWER:** The City admits plaintiff's complaint includes a jury demand.

WHEREFORE, Defendant, City of Chicago, denies that plaintiff is entitled to any judgment whatsoever as against it, and it requests that this Court enter judgment in its favor and against plaintiff on all claims in plaintiff's complaint, and for its costs and such further relief as this Court deems just.

---

<sup>2</sup> In accordance with the Joint Stipulation filed in *In re: Watts Coordinated Pretrial Proceedings*, Master Docket Case No. 19 C 1717 (Dkt. #186), the City adopts and incorporates as part of its responsive pleadings in this matter the representative Joint Motion to Dismiss Certain Claims in Flaxman Plaintiffs' Complaints (Dkt. #173 on the Master Docket) to the extent applicable to the claims in this complaint.

### **AFFIRMATIVE DEFENSES**

Defendant, City of Chicago, without prejudice to its denials and all other statements in its answer and elsewhere, for its affirmative defenses to plaintiff's complaint, states:

1. To the extent individual employees of the City of Chicago or its police department are not liable as alleged in the complaint, the City would not be liable. 745 ILCS 10/2-109.

2. The City is not liable for the claims alleged under state law because a public employee is not liable for his or her acts or omissions in the execution or enforcement of any law unless such acts or omissions constitute willful and wanton conduct. 745 ILCS 10/2-202.

3. Under the Illinois Tort Immunity Act, defendants are not liable under state law for any injury caused by the act or omission of another person. 745 ILCS 10/2-204.

4. Plaintiff's claims in the complaint are barred by the applicable statutes of limitations.

5. Plaintiff's claims in the complaint are barred by the doctrines of *res judicata* and collateral estoppel.

6. The City of Chicago is immune from the imposition of punitive damages under both state and federal law. Punitive damages cannot be imposed against a municipality in a §1983 action. *City of Newport v. Fact Concerts, Inc.*, 453 U.S. 247, 271 (1981). Moreover, under Illinois law, the City cannot be required to indemnify an employee for punitive damages, nor may it pay a judgment for punitive damages on behalf of an employee. 745 ILCS 10/2-102.

7. As to plaintiff's state law claims, the City is not liable to pay attorney's fees as "the law in Illinois clearly is that absent a statute or contractual agreement 'attorney fees and the ordinary expenses and burdens of litigation are not allowable to the successful party.'" *See Kerns v. Engelke*, 76 Ill. 2d 154, 166 (1979).

8. To the extent plaintiff's injuries or damages, if any, were proximately caused, in whole or in part, by negligent, willful, wanton and/or other wrongful conduct on the part of plaintiff as reflected in the public record, including but not limited to police reports, court records, and his guilty plea, any verdict or judgment obtained by plaintiff must be reduced by an amount commensurate with the degree of fault attributed to plaintiff by the jury in this case.

9. To the extent plaintiff failed to mitigate any of his claimed injuries or damages, including by his criminal misconduct and voluntary guilty plea, any verdict or judgment obtained by plaintiff must be reduced by application of the principal that a plaintiff has a duty to mitigate those damages.

10. Any recovery of damages by plaintiff against the City is barred by the doctrine of *in pari delicto*.

11. Plaintiff's complaint fails to state claims for relief against the City that are plausible, specifically:

- a. Plaintiff fails to state a fabricated evidence-based due process claim because the allegedly fabricated evidence was not introduced against him at trial and did not cause his conviction;
- b. Even if otherwise actionable, plaintiff's guilty plea defeats his fabrication claim;
- c. To the extent plaintiff asserts a Fourteenth Amendment due process claim based on any pre-trial deprivation of liberty or attempts a federal malicious prosecution claim, those claims are not actionable as a matter of law; and,
- d. Plaintiff's Fourth Amendment claim for detention without probable cause and state law malicious prosecution claim are time-barred.

To the extent plaintiff's constitutional claims in the complaint fail to state actionable claims, his *Monell* claim against the City likewise fails to state an actionable claim. *City of Los Angeles v. Heller*, 475 U.S. 796, 799 (1986); *Durkin v. City of Chicago*, 341 F.3d 606, 615 (7<sup>th</sup> Cir. 2003) (If a plaintiff cannot establish a constitutional violation, he has no claim against the municipality).



**JURY DEMAND**

Defendant City of Chicago respectfully requests a trial by jury.

Dated: June 7, 2021

Respectfully submitted,

CELIA MEZA

Acting Corporation Counsel, City of Chicago

By: s/ Paul A. Michalik  
Special Assistant Corporation Counsel

Terrence M. Burns  
Paul A. Michalik  
Daniel M. Noland  
Katherine C. Morrison  
Daniel J. Burns  
Dhaviella N. Harris  
Reiter Burns LLP  
311 South Wacker Drive, Suite 5200  
Chicago, IL 60606  
(312) 982-0090 (telephone)  
(312) 429-0644 (facsimile)

*Attorneys for Defendant City of Chicago*

**CERTIFICATE OF SERVICE**

I hereby certify that on **June 7, 2021**, I electronically filed **Defendant City of Chicago's Answer to Plaintiff's Complaint** 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

---