

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

RICKEY HENDERSON,)	
)	
Plaintiff,)	
)	Case No. 19 C 00129
v.)	
)	Judge Thomas M. Durkin
CITY OF CHICAGO, RONALD WATTS,)	
PHILIP CLINE, DEBRA KIRBY, BRIAN)	Magistrate Judge Sheila M. Finnegan
BOLTON, MIGUEL CABRALES, DARRYL)	
EDWARDS, ROBERT GONZALEZ, AL)	
JONES, MANUEL LEANO, KALLATT)	
MOHAMMED, DOUGLAS NICHOLS JR.,)	
CALVIN RIDGELL, ELSWORTH SMITH)	(This case is part of <i>In re: Watts</i>
JR., MICHAEL SPAARGAREN, and)	<i>Coordinated Pretrial Proceedings</i> , Master
GEROME SUMMERS,)	Docket Case No. 19 C 1717)
)	
Defendants.)	

DEFENDANT CITY OF CHICAGO'S ANSWER TO PLAINTIFF'S COMPLAINT

Defendant, City of Chicago, 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 1337.

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 Rickey Henderson 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, Brian Bolton, Miguel Cabrales, Darryl Edwards, Robert Gonzalez, Alvin Jones, Manuel Leano, Kallatt Mohammed, Douglas Nichols Jr., Calvin Ridgell, Elsworth Smith Jr., Michael Spaargaren, and Gerome Summers 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, Brian Bolton, Miguel Cabrales, Darryl Edwards, Robert Gonzalez, Alvin Jones, Manuel Leano, Kallatt Mohammed, Douglas Nichols Jr., Calvin Ridgell, Elsworth Smith Jr., Michael Spaargaren, and Gerome Summers Jr. (collectively, the "Defendant Officers") were police officers employed by the Chicago Police Department ("CPD") at certain times alleged in the complaint. The City denies all of the Defendant Officers were employed by CPD or acted as CPD employees during "all relevant times" contemplated 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 Henderson 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 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 Stated 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 is without 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 the 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 its 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 that policies or customs of the CPD were a proximate cause of Defendant Watts' or Defendant Mohammed's criminal activities.

14. On four separate occasions, Watts Gang officers arrested Henderson without probable cause, fabricated evidence against him, and framed him for a drug offense for which he was imprisoned for a total of more than four years.

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, the City admits plaintiff was arrested, among other times, on June 25, 2002, August 27, 2003, March 12, 2005, and July 22, 2006 and charged with drug-related offenses. The City lacks knowledge or information sufficient to form a belief as to the truth of the allegations as to how long plaintiff was imprisoned following his convictions for those drug offenses. Based on police department reports, court documents, and plaintiff’s guilty pleas, the City denies the remaining allegations contained 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 all four of plaintiff’s convictions and granted him four certificates 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 the Circuit Court of Cook County vacated plaintiff’s convictions in Case Nos. 02 CR 19048, 03 CR 21058, 05 CR 7985, and 06 CR 18229, and granted plaintiff a Certificate of Innocence in each of those cases, but it denies the Certificates have 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 in paragraph 15.

16. Henderson 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. The First False Arrest and Illegal Prosecution of Plaintiff¹

17. On June 25, 2002, plaintiff was arrested by defendants Bolton, Gonzalez, and Watts (the “June 25, 2002 Arresting Officers”) in front of a building at the Ida B. Wells Homes.

ANSWER: Based on police department reports, the City admits plaintiff was arrested on June 25, 2002 by Defendant Officers Gonzalez and Bolton at or near the building at 609 E. 38th Place in the Ida B. Wells housing complex. The City denies on information and belief the remaining allegations in paragraph 17.

18. At the time of plaintiff’s arrest:

- a. None of the June 25, 2002 Arresting Officers had a warrant authorizing the arrest of plaintiff;
- b. None of the June 25, 2002 Arresting Officers believed that a warrant had been issued authorizing the arrest of plaintiff;
- c. None of the June 25, 2002 Arresting Officers defendants had observed plaintiff commit any offense; and
- d. None of the June 25, 2002 Arresting Officers 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).

¹ 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.

19. After arresting plaintiff, the June 25, 2002 Arresting Officers 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 as alleged against the Defendant Officers pertaining to the June 25, 2002 arrest. Based on police department reports, court records, and plaintiff's guilty plea, the City denies the remaining allegations contained in paragraph 19.

20. The false story fabricated by the June 25, 2002 Arresting Officers included their false claim that they saw plaintiff selling drugs from a bag and that when they approached him, he attempted to place the bag in his mouth.

ANSWER: The City is without knowledge or information of the misconduct as alleged against the Defendant Officers pertaining to the June 25, 2002 arrest. 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 June 25, 2002 Arresting Officers in furtherance of their scheme to frame plaintiff included the following:

- a. One or more of the June 25, 2002 Arresting Officers prepared police reports containing the false story, and each of the other June 25, 2002 Arresting Officers failed to intervene to prevent the violation of plaintiff's rights;
- b. One or more of the June 25, 2002 Arresting Officers attested to the false story through the official police reports, and each of the other June 25, 2002 Arresting Officers 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 the story set out therein was false; and
- d. One or more of the June 25, 2002 Arresting Officers communicated the false story to prosecutors, and each of the other June 25, 2002 Arresting Officers failed to intervene to prevent the violation of plaintiff's rights.

ANSWER: The City is without knowledge or information of the misconduct as alleged against the Defendant Officers pertaining to the June 25, 2002 arrest. Based on police department

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

22. The wrongful acts of the June 25, 2002 Arresting Officers 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 as alleged against the Defendant Officers pertaining to the June 25, 2002 arrest. Based on police department reports, court records, and plaintiff's guilty plea, the City denies the remaining allegations in paragraph 22.

23. Plaintiff was charged with a drug offense because of the wrongful acts of the June 25, 2002 Arresting Officers.

ANSWER: Based on police department reports, the City admits plaintiff was charged with a drug offense following his arrest on June 25, 2002. The City is without knowledge or information of the misconduct as alleged against the Defendant Officers pertaining to the June 25, 2002 arrest. 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 June 25, 2002 Arresting Officers had concocted the charges against him would not be possible.

ANSWER: The City is without knowledge or information of the misconduct as alleged against the Defendant Officers pertaining to the June 25, 2002 arrest. 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 a drug offense on September 11, 2002, and received a sentence of three years imprisonment.

ANSWER: Based on court documents, the City admits that on September 11, 2002, plaintiff pleaded guilty to a drug offense, was convicted, and was sentenced to three years in custody of IDOC in Case No. 02 CR 19048. The City denies on information and belief the remaining allegations contained in paragraph 25.

26. Plaintiff was deprived of liberty during his incarceration because of the above-described wrongful acts of the June 25, 2002 Arresting Officers.

ANSWER: The City is without knowledge or information of the misconduct as alleged against the Defendant Officers pertaining to the June 25, 2002 arrest. 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 June 25, 2002 until he was released on parole ("mandatory supervised release") from the Illinois Department of Corrections on June 23, 2003.

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

IV. The Second False Arrest and Illegal Prosecution of Plaintiff

28. On August 27, 2003, plaintiff was arrested by defendants Bolton, Edwards, Jones, Mohammed, Ridgell, Spaargaren, Summers Jr., and Watts (the "August 27, 2003 Arresting Officers") behind a building at the Ida B. Wells Homes.

ANSWER: Based on police department reports, the City admits plaintiff was arrested on August 27, 2003 by Defendant Officers Jones and Edwards at or near the building at 574 E. 36th Street in the Ida B. Wells housing complex. The City admits police department reports list Defendants Mohammed, Summers, Ridgell, Bolton, and Spaargaren as officers who assisted in the arrest and/or processing of plaintiff. The City denies on information and belief the remaining allegations in paragraph 28.

29. At the time of plaintiff's arrest:

- a. None of the August 27, 2003 Arresting Officers had a warrant authorizing the arrest of plaintiff;
- b. None of the August 27, 2003 Arresting Officers believed that a warrant had been issued authorizing the arrest of plaintiff;
- c. None of the August 27, 2003 Arresting Officers defendants had observed plaintiff commit any offense; and
- d. None of the August 27, 2003 Arresting Officers 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 29(a) and denies the allegations in paragraphs 29(c) and 29(d). The City is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 29(b).

30. After arresting plaintiff, the August 27, 2003 Arresting Officers 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 as alleged against the Defendant Officers pertaining to the August 27, 2003 arrest. Based on police department reports, court records, and plaintiff's guilty plea, the City denies the remaining allegations contained in paragraph 30.

31. The false story fabricated by the August 27, 2003 Arresting Officers included their false claim that they saw plaintiff drop a bag containing drugs and run away.

ANSWER: The City is without knowledge or information of the misconduct as alleged against the Defendant Officers pertaining to the August 27, 2003 arrest. Based on police department reports, court records, and plaintiff's guilty plea, the City denies the remaining allegations contained in paragraph 31.

32. The acts of the August 27, 2003 Arresting Officers in furtherance of their scheme to frame plaintiff included the following:

- a. One or more of the August 27, 2003 Arresting Officers prepared police reports containing the false story, and each of the other August 27, 2003 Arresting Officers failed to intervene to prevent the violation of plaintiff's rights;
- b. One or more of the August 27, 2003 Arresting Officers attested to the false story through the official police reports, and each of the other August 27, 2003 Arresting Officers 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 the story set out therein was false; and
- d. One or more of the August 27, 2003 Arresting Officers communicated the false story to prosecutors, and each of the other August 27, 2003 Arresting Officers failed to intervene to prevent the violation of plaintiff's rights.

ANSWER: The City is without knowledge or information of the misconduct as alleged against the Defendant Officers pertaining to the August 27, 2003 arrest. Based on police department reports, court records, and plaintiff's guilty plea, the City denies the remaining allegations contained in paragraph 32.

33. The wrongful acts of the August 27, 2003 Arresting Officers 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 as alleged against the Defendant Officers pertaining to the August 27, 2003 arrest. Based on police department reports, court records, and plaintiff's guilty plea, the City denies the remaining allegations contained in paragraph 33.

34. Plaintiff was charged with a drug offense because of the wrongful acts of the August 27, 2003 Arresting Officers.

ANSWER: Based on police department reports, the City admits plaintiff was charged with a drug offense following his arrest on August 27, 2003. The City is without knowledge or information of the misconduct as alleged against the Defendant Officers pertaining to the August

27, 2003 arrest. Based on police department reports, court records, and plaintiff's guilty plea, the City denies the remaining allegations contained in paragraph 34.

35. Plaintiff knew that proving that the August 27, 2003 Arresting Officers had concocted the charges against him would not be possible.

ANSWER: The City is without knowledge or information of the misconduct as alleged against the Defendant Officers pertaining to the August 27, 2003 arrest. Based on police department reports, court records, and plaintiff's guilty plea, the City denies the allegations contained in paragraph 35 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 35.

36. Accordingly, even though he was innocent, plaintiff, pleaded guilty to a drug offense on December 8, 2003, and received a sentence of 18 months imprisonment.

ANSWER: Based on court documents, the City admits that on December 8, 2003, plaintiff pleaded guilty to a drug offense, was convicted, and was sentenced to 18 months in custody of IDOC in Case No. 03 CR 21058. The City denies on information and belief the remaining allegations contained in paragraph 36.

37. Plaintiff was deprived of liberty during his incarceration because of the above-described wrongful acts of the August 27, 2003 Arresting Officers.

ANSWER: The City is without knowledge or information of the misconduct as alleged against the Defendant Officers pertaining to the August 27, 2003 arrest. Based on police department reports, court records, and plaintiff's guilty plea, the City denies the remaining allegations contained in paragraph 37.

38. Plaintiff was continuously in custody from his arrest on August 27, 2003 until he was released on parole ("mandatory supervised release") from the Illinois Department of Corrections on May 6, 2004.

ANSWER: The City is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 38.

V. The Third False Arrest and Illegal Prosecution of Plaintiff

39. On March 12, 2005, plaintiff was arrested by defendants Bolton, Cabrales, Gonzalez, Leano, Nichols, and Watts (the “March 12, 2005 Arresting Officers”) in a common area of a building at the Ida B. Wells Homes.

ANSWER: Based on police department reports, the City admits plaintiff was arrested on March 12, 2005 by Defendant Officers Gonzalez and Bolton in a hallway of the building at 540 E. 36th Street in the Ida B. Wells housing complex. The City admits police department reports list Defendants Nichols, Cabrales, and Leano as officers who assisted in the arrest and/or processing of plaintiff. The City denies on information and belief the remaining allegations in paragraph 39.

40. At the time of plaintiff’s arrest:

- a. None of the March 12, 2005 Arresting Officers had a warrant authorizing the arrest of plaintiff;
- b. None of the March 12, 2005 Arresting Officers believed that a warrant had been issued authorizing the arrest of plaintiff;
- c. None of the March 12, 2005 Arresting Officers defendants had observed plaintiff commit any offense; and
- d. None of the March 12, 2005 Arresting Officers 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 40(a) and denies the allegations in paragraphs 40(c) and 40(d). The City is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 40(b).

41. After arresting plaintiff, the March 12, 2005 Arresting Officers 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 as alleged against the Defendant Officers pertaining to the March 12, 2005 arrest. Based on police department reports, court records, and plaintiff's guilty plea, the City denies the remaining allegations contained in paragraph 41.

42. The false story fabricated by the March 12, 2005 Arresting Officers included their false claim that they saw plaintiff trying to hide drugs in vent in the hallway of a building at the Ida B. Wells Homes.

ANSWER: The City is without knowledge or information of the misconduct as alleged against the Defendant Officers pertaining to the March 12, 2005 arrest. Based on police department reports, court records, and plaintiff's guilty plea, the City denies the remaining allegations contained in paragraph 42.

43. The acts of the March 12, 2005 Arresting Officers in furtherance of their scheme to frame plaintiff included the following:

- a. One or more of the March 12, 2005 Arresting Officers prepared police reports containing the false story, and each of the other March 12, 2005 Arresting Officers failed to intervene to prevent the violation of plaintiff's rights;
- b. One or more of the March 12, 2005 Arresting Officers attested to the false story through the official police reports, and each of the other March 12, 2005 Arresting Officers 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 the story set out therein was false; and
- d. One or more of the March 12, 2005 Arresting Officers communicated the false story to prosecutors, and each of the other March 12, 2005 Arresting Officers failed to intervene to prevent the violation of plaintiff's rights.

ANSWER: The City is without knowledge or information of the misconduct as alleged against the Defendant Officers pertaining to the March 12, 2005 arrest. Based on police department reports, court records, and plaintiff's guilty plea, the City denies the remaining allegations contained in paragraph 43.

44. The wrongful acts of the March 12, 2005 Arresting Officers 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 as alleged against the Defendant Officers pertaining to the March 12, 2005 arrest. Based on police department reports, court records, and plaintiff's guilty plea, the City denies the remaining allegations contained in paragraph 44.

45. Plaintiff was charged with a drug offense because of the wrongful acts of the March 12, 2005 Arresting Officers.

ANSWER: Based on police department reports, the City admits plaintiff was charged with a drug offense following his arrest on March 12, 2005. The City is without knowledge or information of the misconduct as alleged against the Defendant Officers pertaining to the March 12, 2005 arrest. Based on police department reports, court records, and plaintiff's guilty plea, the City denies the remaining allegations contained in paragraph 45.

46. Plaintiff knew that proving that the March 12, 2005 Arresting Officers had concocted the charges against him would not be possible.

ANSWER: The City is without knowledge or information of the misconduct as alleged against the Defendant Officers pertaining to the March 12, 2005 arrest. Based on police department reports, court records, and plaintiff's guilty plea, the City denies the allegations contained in paragraph 46 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 46.

47. Accordingly, even though he was innocent, plaintiff, pleaded guilty to a drug offense on July 28, 2005, and received a sentence of 42 months imprisonment.

ANSWER: Based on court documents, the City admits that on July 28, 2005, plaintiff pleaded guilty to a drug offense, was convicted, and was sentenced to 3½ years in custody of IDOC

in Case No. 05 CR 7985. The City denies on information and belief the remaining allegations in paragraph 47.

48. Plaintiff was deprived of liberty during his incarceration because of the above-described wrongful acts of the March 12, 2005 Arresting Officers.

ANSWER: The City is without knowledge or information of the misconduct as alleged against the Defendant Officers pertaining to the March 12, 2005 arrest. Based on police department reports, court records, and plaintiff's guilty plea, the City denies the remaining allegations contained in paragraph 48.

49. Plaintiff was continuously in custody from his arrest on March 12, 2005 until he was released on parole ("mandatory supervised release") from the Illinois Department of Corrections on June 9, 2006.

ANSWER: The City is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 49.

VI. The Fourth False Arrest and Illegal Prosecution of Plaintiff

50. On July 22, 2006, plaintiff was arrested by defendants Gonzalez, Jones, Mohammed, Nichols, Smith and Watts (the "July 22, 2006 Arresting Officers") in a common area of a building at the Ida B. Wells Homes.

ANSWER: Based on police department reports, the City admits plaintiff was arrested on July 22, 2006 by Defendant Officers Jones and Mohammed in a hallway of the building at 574 E. 36th Street in the Ida B. Wells housing complex. The City admits police department reports list Defendants Smith, Gonzalez, and Nichols as officers who assisted in the arrest and/or processing of plaintiff. The City denies on information and belief the remaining allegations in paragraph 50.

51. At the time of plaintiff's arrest:

- a. None of the July 22, 2006 Arresting Officers had a warrant authorizing the arrest of plaintiff;
- b. None of the July 22, 2006 Arresting Officers believed that a warrant had been issued authorizing the arrest of plaintiff;

- c. None of the July 22, 2006 Arresting Officers defendants had observed plaintiff commit any offense; and
- d. None of the July 22, 2006 Arresting Officers 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 51(a) and denies the allegations in paragraphs 51(c) and 51(d). The City is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 51(b).

52. After arresting plaintiff, the July 22, 2006 Arresting Officers 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 as alleged against the Defendant Officers pertaining to the July 22, 2006 arrest. Based on police department reports, court records, and plaintiff's guilty plea, the City denies the remaining allegations contained in paragraph 52.

53. The false story fabricated by the July 22, 2006 Arresting Officers included their false claim that they saw plaintiff trying to hide drugs in a closet in the hallway of a building at the Ida B. Wells Homes.

ANSWER: The City is without knowledge or information of the misconduct as alleged against the Defendant Officers pertaining to the July 22, 2006 arrest. Based on police department reports, court records, and plaintiff's guilty plea, the City denies the remaining allegations contained in paragraph 53.

54. The acts of the July 22, 2006 Arresting Officers in furtherance of their scheme to frame plaintiff included the following:

- a. One or more of the July 22, 2006 Arresting Officers prepared police reports containing the false story, and each of the other July 22, 2006 Arresting Officers failed to intervene to prevent the violation of plaintiff's rights;
- b. One or more of the July 22, 2006 Arresting Officers attested to the false story through the official police reports, and each of the other July 22, 2006

Arresting Officers 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 the story set out therein was false; and
- d. One or more of the July 22, 2006 Arresting Officers communicated the false story to prosecutors, and each of the other July 22, 2006 Arresting Officers failed to intervene to prevent the violation of plaintiff's rights.

ANSWER: The City is without knowledge or information of the misconduct as alleged against the Defendant Officers pertaining to the July 22, 2006 arrest. Based on police department reports, court records, and plaintiff's guilty plea, the City denies the remaining allegations contained in paragraph 54.

55. The wrongful acts of the July 22, 2006 Arresting Officers 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 as alleged against the Defendant Officers pertaining to the July 22, 2006 arrest. Based on police department reports, court records, and plaintiff's guilty plea, the City denies the remaining allegations contained in paragraph 55.

56. Plaintiff was charged with a drug offense because of the wrongful acts of the July 22, 2006 Arresting Officers.

ANSWER: Based on police department reports, the City admits plaintiff was charged with a drug offense following his arrest on July 22, 2006. The City is without knowledge or information of the misconduct as alleged against the Defendant Officers pertaining to the July 22, 2006 arrest. Based on police department reports, court records, and plaintiff's guilty plea, the City denies the remaining allegations contained in paragraph 56.

57. Plaintiff knew that proving that the July 22, 2006 Arresting Officers had concocted the charges against him would not be possible.

ANSWER: The City is without knowledge or information of the misconduct as alleged against the Defendant Officers pertaining to the July 22, 2006 arrest. Based on police department reports, court records, and plaintiff's guilty plea, the City denies the allegations contained in paragraph 57 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 57.

58. Accordingly, even though he was innocent, plaintiff, pleaded guilty to a drug offense on August 25, 2006, and received a sentence of four years imprisonment.

ANSWER: Based on court documents, the City admits that on August 25, 2006, plaintiff pleaded guilty to a drug offense, was convicted, and was sentenced to 4 years in custody of IDOC in Case No. 06 CR 18229. The City denies on information and belief the remaining allegations in paragraph 58.

59. Plaintiff was deprived of liberty during his incarceration because of the above-described wrongful acts of the July 22, 2006 Arresting Officers.

ANSWER: The City is without knowledge or information of the misconduct as alleged against the Defendant Officers pertaining to the July 22, 2006 arrest. Based on police department reports, court records, and plaintiff's guilty plea, the City denies the remaining allegations contained in paragraph 59.

60. Plaintiff was continuously in custody from his arrest on July 22, 2006 until he was released on parole ("mandatory supervised release") from the Illinois Department of Corrections on January 18, 2008.

ANSWER: The City is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 60.

VII. Plaintiff's Exonerations

61. Plaintiff challenged his convictions 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 61 concerning plaintiff’s reasons for challenging his conviction. The City denies any remaining allegations contained in paragraph 61.

62. 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 the Circuit Court of Cook County vacated plaintiff’s convictions in Case Nos. 02 CR 19048, 03 CR 21058, 05 CR 7985, and 06 CR 18229.

63. On November 2, 2018, the Circuit Court of Cook County granted plaintiff four certificates of innocence.

ANSWER: The City admits on information and belief the Circuit Court of Cook County granted plaintiff a Certificate of Innocence in Case Nos. 02 CR 19048, 03 CR 21058, 05 CR 7985, and 06 CR 18229, but it denies the Certificates have any relevant legal bearing on this case.

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

64. 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 pleas, the City denies the allegation that plaintiff’s arrests, detentions, and prosecutions were “wrongful.” The City denies any remaining allegations in paragraph 64 inconsistent with the foregoing.

65. 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 65.

66. Before the Watts Gang engineered plaintiff’s above-described wrongful arrests, detentions, and prosecutions, 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 pleas, the City denies the allegation that plaintiff’s arrests, detentions, and prosecutions were “wrongful.” The City denies any remaining allegations in paragraph 66 inconsistent with the foregoing.

67. Defendants Cline and Kirby also knew, before the Watts Gang engineered plaintiff’s above-described wrongful arrests, detentions, and prosecutions, 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 pleas, the City denies the allegation that plaintiff's arrests, detentions, and prosecutions 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 67 inconsistent with the foregoing.

68. 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 68 inconsistent with the foregoing.

69. 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 69.

70. 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 70.

71. 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 arrests, detentions, and prosecutions 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 71.

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

72. 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 72.

A. Failure to Discipline

73. 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 73.

74. 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 74.

75. 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 75.

76. Before the Watts Gang engineered plaintiff's above-described wrongful arrests, detentions, and prosecutions, 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 76 inconsistent with the foregoing.

77. 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 arrests, detentions, and prosecutions 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 77.

B. Code of Silence

78. 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 78, and it further states that the "code of silence" as described above is directly contrary to the rules, policies, and training of the CPD.

79. 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 79, and further states that any "code of silence" is directly contrary to the rules, policies, and training of the CPD.

80. 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 80.

81. 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 81.

82. 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 82.

83. 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 83.

84. 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 84 inconsistent with the foregoing.

85. 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 85.

86. 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 86 that are inconsistent with the foregoing.

87. 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.

88. 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.

89. Defendant Mohammed pleaded guilty in 2012.

ANSWER: The City admits on information and belief the allegations contained in paragraph 89.

90. Defendant Watts pleaded guilty in 2013.

ANSWER: The City admits on information and belief the allegations contained in paragraph 90.

91. 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.

92. 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 a "code of silence" is directly contrary to the rules, policies, and training of the CPD.

93. 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.

94. 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.

95. 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 arrests, detentions, and prosecutions described above.

ANSWER: The City denies the allegations as phrased in paragraph 95.

96. 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 arrests, detentions, and prosecutions of plaintiff, as described above.

ANSWER: The City denies the allegations contained in paragraph 96.

X. Claims²

97. 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 97 to the extent directed against other defendants. As directed against it, the City denies the allegations contained in this paragraph.

98. 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 98.

99. Plaintiff hereby demands trial by jury.

² 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.

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.

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 (7th 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

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CERTIFICATE OF SERVICE

I hereby certify that on **June 7, 2021**, I electronically filed the foregoing **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 all counsel of record via the Court's CM/ECF system.

s/ Paul A. Michalik
