

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

**DEFENDANT OFFICERS' ANSWER AND AFFIRMATIVE DEFENSES TO  
PLAINTIFF'S COMPLAINT**

NOW COME Defendants Brian Bolton, Darryl Edwards, Robert Gonzalez, Alvin Jones, Manuel Leano, Douglas Nichols Jr., Calvin Ridgell, John Rodriguez, Elsworth Smith Jr., Jerome Summers Jr., and Kenneth Young Jr., (collectively “Defendant Officers”) by and through their undersigned counsel, Hale & Monico, LLC, and hereby submit the following Answer to Plaintiff’s Complaint:

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:** Defendant Officers admit this action includes claims that purport to be based on 42 U.S.C. § 1983 and that this Court has jurisdiction over federal and state law claims. Defendant Officers deny any liability to Plaintiff for any and all claims asserted in this action and remaining allegations in this Paragraph.

## I. Parties

2. Plaintiff Vondell Wilbourn is a resident of the Northern District of Illinois.

**ANSWER:** Defendant Officers lack knowledge or information sufficient to form a belief as to the truth as to the allegations in this Paragraph.

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

**ANSWER:** Defendant Officers admit the allegations in this Paragraph.

4. Defendants Ronald Watts, Brian Bolton, Darryl Edwards, Robert Gonzalez, Alvin Jones, Manuel Leano, Kallatt Mohammed, Douglas Nichols Jr., Calvin Ridgell, John Rodriguez, Elsworth Smith Jr., Gerome Summers Jr., and Kenneth Young 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:** The allegations in this Paragraph are premised on the vague, undefined and overbroad term “at all relevant times” and are therefore incapable of response. To the extent a response is required, Defendant Officers admit the allegations directed at them. With respect to Defendants Watts and Mohammed, Defendant Officers admit that at all times for matters related to Plaintiff’s arrest, Defendants Watts and Mohammed were employed by the City of Chicago as police officers and acting in the course and scope of their employment under the color of law. Defendant Officers lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this Paragraph.

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

**ANSWER:** The allegations in this Paragraph are premised on the vague, undefined and overbroad term “at all relevant times” and are therefore incapable of response. To the extent a response is required, Defendant Officers admit the allegations in this Paragraph.

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 allegations in this Paragraph are premised on the vague, undefined and overbroad term “at all relevant times” and are therefore incapable of response. To the extent a response is required, Defendant Officers admit the allegations in this Paragraph.

## II. Overview

7. Plaintiff Wilbourn 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 allegations in this Paragraph are premised on the conclusory, vague and undefined terms "criminal enterprise" and "tactical team" are therefore incapable of response. To the extent a response is required, Defendant Officers deny they engaged in any criminal activity or other alleged misconduct and therefore deny the remaining allegations in this Paragraph.

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 allegations in this Paragraph are premised on the vague and undefined terms the "Watts Gang," and "framed" and are therefore incapable of response. To the extent a response is required, Defendant Officers admit, on information and belief, that there are a number of individuals that have had their convictions vacated by the Circuit Court of Cook County. Defendant Officers deny they framed anyone as they understand that term and therefore deny the remaining allegations in this Paragraph.

9. Several of these 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 allegations in this Paragraph are premised on the vague and undefined term the "Watts Gang," and are therefore incapable of response. To the extent a response is required, Defendant Officers admit that individuals are currently prosecuting federal lawsuits and that these cases have been coordinated for pretrial proceedings. Defendant

Officer deny they engaged in any criminal activity or other alleged misconduct and therefore deny the remaining allegations in this Paragraph.

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:** Defendant Officers admit the allegations in this Paragraph.

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

**ANSWER:** The allegations in this Paragraph are premised on the conclusory, vague and undefined term the "Watts Gang of officers," and are therefore incapable of response. To the extent a response is required, Defendant Officers deny they engaged in robbery and extortion, used excessive force, planted evidence, fabricated evidence, or manufactured false charges, and therefore deny any remaining allegations in this Paragraph.

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 allegations in this Paragraph are premised on the conclusory, vague and undefined terms the "Watts Gang's" and "criminal enterprise," and are therefore incapable of response. To the extent a response is required, Defendant Officers deny they engaged in any criminal activity or other alleged misconduct and therefore deny the remaining allegations in this Paragraph.

13. The Chicago Police Department's official policies or customs of failing to discipline, supervise, and control its officers, as well as its a "code of silence," were a proximate cause of the Watts Gang's criminal enterprise.

**ANSWER:** The allegations in this Paragraph are conclusory and premised on the vague and undefined terms the "Watts Gang's," "criminal enterprise" and "code of silence"

and are therefore incapable of response. To the extent a response is required, Defendant Officers deny they ever experienced, participated in, or observed a “code of silence” as they understand that term or engaged in any criminal activity, and therefore deny the remaining allegations in this Paragraph.

14. Watts Gang officers twice arrested Wilbourn without probable cause, fabricated evidence against him, and framed him for drug offenses for which he was imprisoned for more than one year.

**ANSWER:** The allegations in this Paragraph are premised on the vague and undefined term the “Watts Gang officers,” and are therefore incapable of response. To the extent a response is required, Defendant Officers deny they arrested Plaintiff without probable cause, fabricated evidence against him, framed him for drug possession, or otherwise engaged in any alleged misconduct, and therefore deny any remaining allegations in this Paragraph.

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 convictions and granted him two Certificates of Innocence.

**ANSWER:** The allegations in this Paragraph are conclusory and premised on the vague and undefined terms “Watts Gang’s” and “criminal enterprise” and are therefore incapable of response. To the extent a response is required, Defendants Officers admit, on information and belief, that the Circuit Court of Cook County vacated plaintiff’s conviction and that Plaintiff was granted a certificate of innocence. Defendant Officers deny they engaged in any criminal activity or other alleged misconduct and that Plaintiff was innocent, and therefore deny any remaining allegations in this Paragraph.

16. Wilbourn 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 allegations in this Paragraph are conclusory and premised on the vague and undefined terms the "Watts Gang officers," "Watts Gang," and "code of silence" and are therefore incapable of response. To the extent a response is required, Defendants Officers deny they engaged in any misconduct, or ever experienced, participated in, or observed a "code of silence" as they understand that term, and therefore deny the remaining allegations in this Paragraph.

### **III. The First False Arrest and Illegal Prosecution of Plaintiff**

17. On July 27, 2004, plaintiff was arrested by defendants Bolton, Edwards, Gonzalez, Jones, Mohammed, Ridgell, Rodriguez, Summers, and Watts (the "July 27, 2004 Arresting Officers") in front of a building at the Ida B. Wells Homes.

**ANSWER:** Defendant Officers admit that Plaintiff was arrested in front of a building at the Ida B. Wells Homes and that Defendant Summers was the first arresting officer and Defendant Ridgell was the second arresting officer, with Defendants Gonzalez, Edwards, Mohammed, Bolton, and Rodriguez assisting. Defendant Officers deny the remaining allegations in this Paragraph.

18. At the time of plaintiff's arrest:

- a. None of the July 27, 2004 Arresting Officers had a warrant authorizing the arrest of plaintiff;
- b. None of the July 27, 2004 Arresting Officers believed that a warrant had been issued authorizing the arrest of plaintiff;
- c. None of the July 27, 2004 Arresting Officers had observed plaintiff commit any offense; and

- d. None of the July 27, 2004 Arresting Officers had received information from any source that plaintiff had committed an offense.

**ANSWER:** Defendant Officers admit they did not have a warrant authorizing the arrest of Plaintiff on July 27, 2004 and did not believe a warrant had been issued authorizing the arrest of Plaintiff on July 27, 2004. Defendants Officers deny the remaining allegations in this Paragraph.

19. After arresting plaintiff, the July 27, 2004 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:** Defendant Officers deny the allegations in this Paragraph.

20. The false story fabricated by the July 27, 2004 Arresting Officers included their false claim that they saw plaintiff running and that he reached into his pocket, pulled out a bag of drugs, and dropped it on the ground.

**ANSWER:** Defendant Officers deny the allegations in this Paragraph.

21. The acts of the July 27, 2004 Arresting Officers in furtherance of their scheme to frame plaintiff included the following:

- a. One or more of the July 27, 2004 Arresting Officers prepared police reports containing the false story, and each of the other July 27, 2004 Arresting Officers failed to intervene to prevent the violation of plaintiff's rights;
- b. One or more of the July 27, 2004 Arresting Officers attested to the false story through the official police reports, and each of the other July 27, 2004 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 27, 2004 Arresting Officers communicated the false story to prosecutors, and each of the other July 27, 2004 Arresting Officers failed to intervene to prevent the violation of plaintiff's rights.

**ANSWER:** Defendant Officers deny the allegations in this Paragraph and all of its subparts.

22. The wrongful acts of the July 27, 2004 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:** Defendant Officers deny they committed any wrongful acts and therefore deny the allegations in this Paragraph.

23. Plaintiff was charged with a drug offense because of the wrongful acts of the July 27, 2004 Arresting Officers.

**ANSWER:** Defendant Officers admit that Plaintiff was charged with a drug offense. Defendant Officers deny they committed any wrongful acts and therefore deny the remaining allegations in this Paragraph.

24. Plaintiff knew that proving that the July 27, 2004 Arresting Officers had concocted the charges against him would not be possible.

**ANSWER:** Plaintiff's allegation regarding what he "knew" is conclusory, speculative and argumentative, and therefore Defendant Officers deny that allegation. Defendant Officers also deny they concocted the charges against Plaintiff or engaged in any of the alleged misconduct, and therefore deny the remaining allegations in this Paragraph.

25. Accordingly, even though he was innocent, plaintiff pleaded guilty to a drug offense on September 9, 2004, and received a sentence of 18 months imprisonment.

**ANSWER:** Defendant Officers, on information and belief, admit that Plaintiff pleaded guilty to a drug offense on September 9, 2004, and received a sentence of eighteen

months in the Illinois Department of Corrections. Defendant Officers deny Plaintiff was innocent and deny the remaining allegations in this Paragraph.

26. Plaintiff was deprived of liberty during his incarceration because of the above-described wrongful acts of the July 27, 2004 Arresting Officers.

**ANSWER:** Defendant Officers deny the allegations in this Paragraph.

27. Plaintiff was continuously in custody from his arrest on July 27, 2004 until he was released on parole (“mandatory supervised release”) from the Illinois Department of Corrections on November 12, 2004.

**ANSWER:** Defendant Officers lack sufficient knowledge or information to form a belief as to the truth of the allegations in this Paragraph.

#### **IV. The Second False Arrest and Illegal Prosecution of Plaintiff**

28. On September 2, 2005, plaintiff was arrested by defendants Jones, Leano, Nichols, Smith, Young, and Watts (the “September 2, 2005 Arresting Officers”) in a common area of a building at the Ida B. Wells Homes.

**ANSWER:** Defendant Officers admit that Plaintiff was arrested in the lobby area of a building at the Ida B. Wells Homes and that Defendant Jones was the first arresting officer and Defendant Young was the second arresting officer, with Defendant Officers Leano, Nichols, Smith, and Watts assisting. Defendant Officers deny the remaining allegations in this Paragraph.

29. At the time of plaintiff’s arrest:

- a. None of the September 2, 2005 Arresting Officers had a warrant authorizing the arrest of plaintiff;
- b. None of the September 2, 2005 Arresting Officers believed that a warrant had been issued authorizing the arrest of plaintiff;

- c. None of the September 2, 2005 Arresting Officers had observed plaintiff commit any offense; and
- d. None of the September 2, 2005 Arresting Officers had received information from any source that plaintiff had committed an offense.

**ANSWER:** Defendant Officers admit they did not have a warrant authorizing the arrest of Plaintiff on September 2, 2005 and did not believe a warrant had been issued authorizing the arrest of Plaintiff on September 2, 2005. Defendants Officers deny the remaining allegations in this Paragraph.

30. After arresting plaintiff, the September 2, 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:** Defendant Officers deny the allegations in this Paragraph.

31. The false story fabricated by the September 2, 2005 Arresting Officers included their false claim that they saw plaintiff hand drugs to another man, Joshua Curtis, in exchange for U.S. currency and found drugs on Curtis's person.

**ANSWER:** Defendant Officers deny the allegations in this Paragraph.

32. The acts of the September 2, 2005 Arresting Officers in furtherance of their scheme to frame plaintiff included the following:

- a. One or more of the September 2, 2005 Arresting Officers prepared police reports containing the false story, and each of the other September 2, 2005 Arresting Officers failed to intervene to prevent the violation of plaintiff's rights;
- b. One or more of the September 2, 2005 Arresting Officers attested to the false story through the official police reports, and each of the other

September 2, 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 September 2, 2005 Arresting Officers communicated the false story to prosecutors, and each of the other September 2, 2005 Arresting Officers failed to intervene to prevent the violation of plaintiff's rights.

**ANSWER:** Defendant Officers deny the allegations in this Paragraph and all of its subparts.

33. The wrongful acts of the September 2, 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:** Defendant Officers deny they committed any wrongful acts and therefore deny the allegations in this Paragraph.

34. Plaintiff was charged with a drug offense because of the wrongful acts of the September 2, 2005 Arresting Officers.

**ANSWER:** Defendant Officers admit that Plaintiff was charged with a drug offense. Defendant Officers deny they committed any wrongful acts and therefore deny the remaining allegations in this Paragraph.

35. Plaintiff knew that proving that the September 2, 2005 Arresting Officers had concocted the charges against him would not be possible.

**ANSWER:** Plaintiff's allegation regarding what he "knew" is conclusory, speculative and argumentative, and therefore Defendant Officers deny that allegation. Defendant Officers also deny they concocted the charges against Plaintiff or engaged in any of the alleged misconduct, and therefore deny the remaining allegations in this Paragraph.

36. Accordingly, even though he was innocent, plaintiff pleaded guilty to a drug offense on November 10, 2005, and received a sentence of four years imprisonment.

**ANSWER:** Defendant Officers, on information and belief, admit that Plaintiff pleaded guilty to a drug offense on November 10, 2005, and received a sentence of four years in the Illinois Department of Corrections with credit for 69 days of time served. Defendant Officers deny Plaintiff was innocent and therefore deny the remaining allegations in this Paragraph.

37. Plaintiff was deprived of liberty during his incarceration because of the above-described wrongful acts of the September 2, 2005 Arresting Officers.

**ANSWER:** Defendant Officers deny the allegations in this Paragraph.

38. Plaintiff was continuously in custody from his arrest on September 2, 2005 until he was released on parole (“mandatory supervised release”) from the Illinois Department of Corrections on September 1, 2006.

**ANSWER:** Defendant Officers lack sufficient knowledge or information to form a belief as to the truth of the allegations in this Paragraph.

## **V. Plaintiff’s Exonerations**

39. 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 allegations in this Paragraph are conclusory and premised on the vague and undefined terms “other wrongfully individuals,” “Watts Gang” and “criminal enterprise,” and are therefore incapable of response. To the extent a response is required, Defendant Officers lack knowledge or information sufficient to form a belief as to when or why Plaintiff decided to challenge his conviction. Defendant Officers deny they engaged in any criminal activity or and therefore deny the remaining allegations.

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

**ANSWER:** Defendant Officers, on information or belief, admit the Circuit Court of Cook County granted the State's motion to set aside Plaintiff's conviction and to *nolle prosequi* the case. Defendant Officers deny they engaged in any misconduct and further deny any remaining allegations in this Paragraph.

41. On November 2, 2018, the Circuit Court of Cook County granted plaintiff two Certificates of Innocence.

**ANSWER:** Defendant Officers, on information and belief, admit the Circuit Court of Cook County granted Plaintiff two Certificates of Innocence. Defendant Officers deny Plaintiff is innocent and further deny any remaining allegations in this Paragraph.

#### **VI. Plaintiff's Arrests and Prosecutions Were Part of a Long-Running Pattern Known to High Ranking Officials within the Chicago Police Department**

42. Before the Watts Gang engineered plaintiff's above-described wrongful arrests, detentions, and prosecutions, 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:** The allegations in this Paragraph are premised on the vague and undefined term the "Watts Gang," and are therefore incapable of response. To the extent a response is required, Defendant Officers admit they have been the subjects of citizen complaints during the course of their careers. Defendant Officers deny Plaintiff was wrongfully arrested, detained, or prosecuted or that they engaged in robbery, extortion, the use of excessive force, planted evidence, fabricated evidence, and manufactured false charges against persons at the Ida B. Wells Homes and therefore deny the remaining allegations in this Paragraph.

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

**ANSWER:** The allegations in this Paragraph are premised on the vague and undefined term “criminal investigators,” and are therefore incapable of response. To the extent a response is required, Defendant Officers deny they engaged in any misconduct, including robbery, extortion, the use of excessive force, planted evidence, fabricated evidence, and manufactured false charges against persons at the Ida B. Wells Homes and therefore deny the remaining allegations in this Paragraph.

44. 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 allegations in this Paragraph are conclusory and premised on the vague and undefined terms the “Watts Gang” and “criminal investigators” and are therefore incapable of response. To the extent a response is required, Defendant Officers deny they wrongfully arrested, detained, or prosecuted Plaintiff or otherwise engaged in any misconduct and therefore deny the remaining allegations in this Paragraph.

45. 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 allegations in this Paragraph are conclusory and premised on the vague and undefined terms the “Watts Gang,” and “his gang” are therefore incapable of response. To the extent a response is required, Defendant Officers deny Plaintiff was

wrongfully arrested, detained, or prosecuted or that they engaged in any alleged misconduct, including robbery, extortion, the use of excessive force, planting evidence, fabricating evidence, and manufacturing false charges and therefore deny the remaining allegations in this Paragraph.

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

**ANSWER:** The allegations in this Paragraph are conclusory and premised on the vague and undefined terms “Watts and his gang” and “lawlessness” and are therefore incapable of response. To the extent a response is required, Defendant Officers deny they engaged in any criminal activity or other misconduct and therefore deny the allegations in this Paragraph.

47. 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 allegations in this Paragraph are conclusory and premised on the vague and undefined term “Watts and his gang,” and are therefore incapable of response. To the extent the allegations of this Paragraph are directed at Defendant Officers, they deny they engaged in any misconduct, including a pattern of wrongdoing, and therefore deny the allegations in this Paragraph.

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

**ANSWER:** The allegations in this Paragraph are conclusory and premised on the vague and undefined term “Watts and his gang,” and are therefore incapable of response. To the extent the allegations of this Paragraph are directed at Defendant Officers, they deny they engaged in any misconduct, including a pattern of wrongdoing, and therefore deny the allegations in this Paragraph.

49. 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 allegations in this Paragraph are conclusory and premised on the vague and undefined term “Watts and his gang,” and are therefore incapable of response. To the extent a response is required, Defendant Officers deny they engaged in robbery, extortion, the use of excessive force, planting evidence, fabricating evidence, and manufacturing false charges against Plaintiff or other persons at the Ida B. Wells Homes or that Plaintiff was wrongfully arrested, detained, or prosecuted or that they engaged in any of the alleged misconduct and therefore deny the remaining allegations in this Paragraph.

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

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

**ANSWER:** Defendant Officers deny they engaged in any alleged misconduct and therefore deny the allegations in this Paragraph.

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

51. 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:** Defendant Officers deny they engaged in any misconduct and therefore deny the allegations in this Paragraph.

52. 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:** Defendant Officers deny they engaged in any misconduct and therefore deny the allegations in this Paragraph.

53. 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:** Defendant Officers deny they engaged in any misconduct and therefore deny the allegations in this Paragraph.

54. 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 allegations in this Paragraph are premised on the vague and undefined terms, "Watts gang," "formal complaints" and "official misconduct" and therefore incapable of response. To the extent that a response is required, Defendant Officers admit they were the subjects of citizen complaints during the course of their careers. Defendant Officers deny they wrongfully arrested, detained, or prosecuted Plaintiff or engaged in any misconduct and therefore deny the remaining allegations in this Paragraph.

55. 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 allegations in this Paragraph are conclusory and premised on the vague and undefined term “Watts and his gang” and therefore incapable of response. To the extent a response is required, Defendant Officers deny they engaged in any misconduct, including robbery and extortion, used excessive force, planted evidence, fabricated evidence, or manufactured false charges against persons at the Ida B. Wells Homes, or wrongfully arrested, detained or prosecuted Plaintiff, and therefore deny the remaining allegations in this Paragraph.

#### **B. Code of Silence**

56. 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 allegations in this Paragraph are conclusory and premised on the vague and undefined term “code of silence” and are therefore incapable of response. To the extent a response is required, Defendant Officers deny that they ever experienced, participated in, or observed a “code of silence” as they understand that term and therefore deny the allegations in this Paragraph.

57. 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 allegations in this Paragraph are conclusory and premised on the vague and undefined term “code of silence” and are therefore incapable of response. To the extent a response is required, Defendant Officers deny they were ever instructed or trained as

alleged, or experienced, participated in, or observed a “code of silence” as they understand that term and therefore deny the allegations in this Paragraph.

58. 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 allegations in this Paragraph are conclusory and premised on the vague and undefined term “code of silence” and are therefore incapable of response. To the extent a response is required, Defendant Officers deny they engaged in any misconduct or ever experienced, participated in, or observed a “code of silence” as they understand that term and therefore deny the allegations in this Paragraph.

59. 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 allegations in this Paragraph are conclusory and premised on the vague and undefined terms “code of silence,” “Watts and his gang,” and “Watts Gang” and are therefore incapable of response. To the extent a response is required, Defendant Officers deny they engaged in any misconduct or ever experienced, participated in, or observed a “code of silence” as they understand that term and therefore deny the allegations in this Paragraph.

60. 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 allegations in this Paragraph are conclusory and premised on the vague and undefined term “Watts and his gang” and are therefore incapable of response. To the extent a response is required, Defendant Officers deny they abused citizens or otherwise engaged in any misconduct and therefore deny the allegations in this Paragraph.

61. 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:** Defendant Officers lack knowledge or information sufficient to form a belief as to whether Chicago police officer Jerome Finnigan was convicted and sentenced on federal criminal charges in 2011, including a charge of attempting to hire a hitman to kill a police officer whom Finnigan believed would be a witness against him. Defendant Officers deny they engaged in any misconduct and therefore deny any remaining allegations in this Paragraph.

62. 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 allegations in this Paragraph are conclusory and premised on the vague and undefined term "group of officers," and are therefore incapable of response. To the extent a response is required, Defendant Officers deny they engaged in any criminal activity, including robberies, home invasions, unlawful searches and seizures, and other crimes, or other misconduct. Defendant Officers lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this Paragraph.

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

**ANSWER:** The allegations in this Paragraph are conclusory and premised on the vague and undefined terms "his crew" and "their misconduct," and are therefore incapable of response. To the extent a response is required, Defendant Officers lack sufficient knowledge or information to form a belief as to whether or when "Finnigan and his crew" engaged in any

misconduct. Defendant Officers deny they engaged in any misconduct, including subjecting Plaintiff to any of the alleged abuses described above, and deny any remaining allegations in this Paragraph.

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

**ANSWER:** Defendant Officers lack sufficient knowledge or information to form a belief as to whether Finnigan was the subject of formal complaints as they understand that vague and undefined term. Defendant Officers admit they were the subjects of citizen complaints during the course of their careers. Defendant Officers deny they engaged in any misconduct and therefore deny any remaining allegations in this Paragraph.

65. 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:** Defendant Officers lack knowledge or information sufficient to form a belief as to what Finnigan said at any sentencing hearing. Defendant Officers deny they engaged in any misconduct and therefore deny any remaining allegations in this Paragraph.

66. 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:** Defendant Officers, on information and belief, admit that in February 2012, more than 6 years after Plaintiff’s arrest, Defendants Watts and Mohammed were charged with theft of government funds arising from a November 2011 incident in which they were involved while they were off-duty. Defendant Officers deny the remaining allegations in Paragraph.

67. Defendant Mohammed pleaded guilty in 2012.

**ANSWER:** Defendant Officers, on information and belief, admit that Mohammed pled guilty to a single count of theft of government funds in connection with conduct that occurred in November 2011 while he was off-duty.

68. Defendant Watts pleaded guilty in 2013.

**ANSWER:** Defendant Officers, on information and belief, admit that Watts pled guilty to a single count of theft of government funds in connection with conduct that occurred in November 2011 while he was off-duty.

69. 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:** Defendant Officers deny they engaged in any misconduct or experienced, participated in, or observed a “code of silence” as they understand that term. Defendant Officers lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this Paragraph.

70. 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:** Defendant Officers lack knowledge or information sufficient to form a belief as to whether Mayor Rahm Emanuel acknowledged the continued existence of the code of silence within the Chicago Police Department in December 2015; or whether Mayor Emanuel spoke in his capacity as Mayor or admitted that the code of silence leads to a culture where extreme acts of abuse are tolerated. Defendant Officers deny they engaged in any acts of abuse or experienced, participated in, or observed a “code of silence” as they understand that term, and therefore deny any remaining allegations in this Paragraph.

71. 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:** Defendant Officer lack knowledge or information sufficient to form a belief as to whether 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." Defendant Officers deny they engaged in any misconduct or experienced, participated in, or observed a "code of silence" as they understand that term, and therefore deny any remaining allegations in this Paragraph.

72. 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:** Defendant Officer lack knowledge or information sufficient to form a belief as to whether, 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." Defendant Officers deny they engaged in any misconduct or experienced, participated in, or observed a "code of silence" as they understand that term, and therefore deny any remaining allegations in this Paragraph.

73. 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 allegations in this Paragraph are premised on the vague and undefined term "code of silence" and are therefore incapable of response. To the extent a

response is required, Defendant Officers deny they experienced, participated in, or observed a “code of silence” as they understand that term, engaged in any misconduct, and that Plaintiff was wrongfully arrested, detained, or prosecuted, and therefore deny the remaining allegations in this Paragraph.

74. 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 allegations in this paragraph are conclusory and premised on the vague and undefined terms “code of silence” and “Watts and his gang,” and are therefore incapable of response. To the extent a response is required, Defendant Officers deny they experienced, participated in, or observed a “code of silence” as they understand that term, engaged in any misconduct, including using excessive force, planting evidence, fabricating evidence, manufacturing false charges against persons at the Ida B. Wells Homes, or wrongfully arrested, detained, or prosecuted Plaintiff, and therefore deny the remaining allegations in this Paragraph.

### **VIII. Claims**

75. 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:** Defendant Officers deny the allegations in this Paragraph.

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

**ANSWER:** This allegation is not directed at Defendant Officers so Defendant Officers make no answer. To the extent an answer is required, Defendants deny they

maliciously prosecuted Plaintiff or otherwise engaged in any of the alleged misconduct and therefore deny the allegations in this Paragraph.

### **AFFIRMATIVE DEFENSES**

Defendant Officers, without prejudice to their denials and all other statements in their answer and elsewhere, and without assuming the burden of proof as to matters that may not be affirmative defenses, state:

1. Defendant Officers are entitled to qualified immunity because it was not clearly established that the alleged conduct violated plaintiff's constitutional rights.
2. Defendant Officers are absolutely immune for any testimony they may have given in plaintiff's underlying criminal case. *See Briscoe v. LaHue*, 460 U.S. 325 (1983).
3. Defendant Officers are 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.
4. Under the Illinois Tort Immunity Act, Defendant Officers are not liable under state law for any injury caused by the act or omission of another person. 745 ILCS 10/2-204.
5. Plaintiff's claims are barred by the applicable statutes of limitations.
6. Plaintiff's claims are barred by the doctrines of *res judicata* and collateral estoppel.
7. To the extent any injuries or damages claimed by plaintiff were proximately caused, in whole or in part, by negligent, willful, wanton and/or other wrongful conduct on the part of plaintiff (including criminal drug dealing by, and the guilty plea of, plaintiff), 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.
8. To the extent plaintiff failed to mitigate any of his claimed injuries or damages,

including by his voluntary guilty plea, any verdict or judgment obtained by plaintiff must be reduced by application of the principle a plaintiff has a duty to mitigate his or her damages.

9. Plaintiff's Complaint fails to state cognizable claims for relief that are plausible on its face.

- 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 fabricated evidence based-due process claim;
- c. To the extent Plaintiff asserts 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;
- d. Any derivative failure to intervene or conspiracy claims are not actionable;
- e. Plaintiff's Fourth Amendment claim for detention without probable cause is time-barred.

#### **JURY DEMAND**

Defendant Officers respectfully request a trial by jury.

Dated: July 1, 2021.

Respectfully Submitted,

*/s/ Kelly M. Olivier*

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One of the attorneys for Defendant Officers

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**CERTIFICATE OF SERVICE**

I, Kelly M. Olivier, an attorney, hereby certify that, on July 1, 2021, I electronically filed the foregoing, DEFENDANT OFFICERS' ANSWER AND AFFIRMATIVE DEFENSES TO PLAINTIFF'S COMPLAINT, with the Court's CM/ECF system, which sent electronic notification of the filing on the same day to all counsel of record.

*/s/ Kelly M. Olivier*