

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re: WATTS COORDINATED)	No. 19 C 1717
PRETRIAL PROCEEDINGS)	
)	Judge Valderrama
)	
)	Magistrate Judge Finnegan

**UNITED STATES' RESPONSE TO CERTAIN DEFENDANTS' MOTION TO
COMPEL PRODUCTION OF TWENTY-FOUR CONSENSUAL RECORDINGS**

The United States of America, by its attorney, Morris Pasqual, Acting United States Attorney for the Northern District of Illinois, opposes the Certain Defendants' Motion to Compel the Production of 24 Discs of Consensual Overhears and states as follows in support:

1. Defendants first served their request to produce 24 consensual recordings on September 25, only about two weeks ago (Defs. Mem. at ¶ 20). Defendants filed their motion to compel (Dkt. 815) on October 4, just nine days later.

2. The court should deny this motion for at least three reasons.

3. First, defendants did not comply with Local Rule 37.2. This rule provides that "this court shall . . . refuse to hear any and all motions for discovery and production of documents under Rules 26 through 37 of the Federal Rules of Civil Procedure unless the motion includes a statement (1) that after consultation in person or by telephone and good faith attempts to resolve differences they are unable to reach an accord."

4. Notably absent from defendants' motion is any such statement, which is perhaps unsurprising given the fact that defendants filed their motion just nine days after they tendered their September 25, 2024 requests.

5. In fact, the only discussion to date regarding defendants' September 25 requests occurred when the special assistant U.S. attorney assigned to this matter told counsel for defendant City of Chicago that FBI's review of the requested disks would take some time, and he asked defendants to provide time stamps in the recordings that defendants contend make the recordings relevant. To date, defendants have not supplied times stamps or anything that would speed FBI's review of the recordings. Nor has the United States denied defendants' requests, which it cannot do without first reviewing the recordings.

6. Second, defendants' requests are late given the procedural background behind them. Defendants should have made their requests months ago and on a "rolling basis to avoid delay" in accordance with this court's January 13, 2024 order. Dkt. 657.

7. Defendants' motion itself amply demonstrates how late their September 25 requests are.

8. After extensive briefing on the United States' assertion of FBI's law enforcement privilege, Judge Valderramma's July 7, 2023 order (Dkt. 531 and 547 in redacted form) required the United States to produce recordings made with the consent of individuals known to the parties. *Id.* at 18, n. 7. The United States complied with this part of the order in August 2023, shortly after the court ruled. Defs. Mem. at ¶ 3.

9. As to recordings made with the consent of others not known to the parties, Judge Valderramma's order required an assessment of the factors set forth in *Wade v. Ramos*, 26 F4d 440, 445 (7th Cir. 2022), and *Kampien v. Individuals of Chicago Police Dep't*, No. 00 C 5867, 2002 WL 238442 at *4 (N.D. Ill. Feb. 15, 2002). See Dkt. 531 and 547 at pp. 18-19.

10. The July 7, 2023 order referred resolution of this issue to Magistrate Judge Finnegan to decide “after an *in camera* review, of whether the informer’s privilege protects withheld FBI and DEA evidence that will reveal the identities of confidential sources not already known to the Parties and of undercover employees.” Order at pp. 30-31.

11. In January 2024, when this court decided that it could not efficiently provide the *in camera* review of *all* of the recordings contemplated by Judge Valderramas’ order, it required the FBI to make the consensual recordings available on an attorneys’-ears/eyes-only basis to all parties to for review. Dkt. 657. The FBI did this beginning in February 2024, about ten months ago. Defs. Mem. at ¶ 5. The parties were to identify the particular recordings that they sought to have released and the reasons for their requests on a rolling basis to avoid delay. Dkt. 657. Plaintiffs complied with this procedure and the FBI agreed to provide approximately 35 recordings. Defs. Mem. at ¶ 14.

12. In contrast, despite the fact that defendants largely completed their review of the recordings at issue by April 2024 (Defs. Mem. at ¶¶ 8-12), about seven months ago, defendants indiscriminately then requested production of *all* the recordings without the analysis of the factors that Judge Valderramma’s order called for.

13. After the United States pushed back on this request (*id.* at ¶ 13 and Exhibit 1 hereto) defendants went silent for more than three months, until they sent their September 25 requests. Exhibit 2 hereto. Particularly given the court’s concern regarding delay, this delay is inexplicable and was inappropriate.

14. Lastly, neither defendants’ September 25 requests, nor their present motion to compel offers any analysis of the factors that Judge Valderramma’s July 2023 order required to be addressed.

15. Against this background, defendants' motion to compel should be denied for failing to comply with Local Rule 37.2, because their requests were untimely, and because their motion ignores the analysis the court's July 2023 order required.

WHEREFORE, the United States requests that the court deny the defendants' motion to compel with prejudice.

Respectfully submitted,

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EXHIBIT 1



U.S. Department of Justice

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June 18, 2024

Via Electronic Mail

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Re: *In re: Watts Coordinated Pretrial Proceedings, et al.*, No. 19 C 1717 (N.D. Ill. 2019)

Dear Ms. Harris and Mr. Rauscher,

I write to update you with respect to the FBI's consensual recordings that you have reviewed pursuant to Magistrate Judge Finnegan's January 13, 2024 order. Dkt. 657.

As you know, the background for that order begins with Judge Valderrama's July 7, 2023, ruling regarding the FBI's assertion of law enforcement privilege. Dkt. 531. Judge Valderrama ordered the Government to produce recordings in its possession that were made with the consent of confidential sources known to the parties, something that we did soon after the court's order. But Judge Valderrama referred the decision regarding production of other consensual recordings to Magistrate Judge Finnegan to be made after she reviewed those recordings *in camera*. It was only after Magistrate Judge Finnegan determined in January 2024 that it was unworkable for the court to review those voluminous recordings on its own that she ordered the FBI to allow counsel for the parties to "preliminarily review the recordings on an Attorneys' Eyes/Ears Only basis." Dkt. 657.

Judge Finnegan held that the purpose of the parties' review would be to identify "*specific* recordings that are sought (i.e., those for which they contend there is a credible need for the recording to prosecute/defend the action and the need outweighs the considerations underlying

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the law enforcement privilege.” *Id.*, emphasis added. Judge Finnegan ordered the parties to identify “*specific* recordings that they seek and their reasons” and “if the parties believe there is a good faith basis for obtaining the recordings over the objection of the United States, they may request in camera review of the recordings by the Court and should provide supporting reasons *specific* to the recordings.” *Id.*, emphasis added.

The plaintiffs complied with Judge Finnegan’s January 13, 2024, order, making specific requests for several recordings supported by specific reasons for their requests. The United States agrees to produce those recordings requested by plaintiffs, with the exception that the parties have agreed to the redaction of two of those recordings. One of those recording (labeled 1D 99) has been redacted to the extent that it reveals the recording technology the FBI used to make the recording, and the second recording (labeled 1D 46) has been redacted to the extent that it reveals the identity of the FBI employee who facilitated that recording. The disclosure of these recordings is made subject to the Privacy Act and protective orders entered by the court in this matter.

Attorneys for the parties may contact FBI Chicago Division Counsel, Tricia Maier (copied here), to make arrangements to obtain copies of the recordings that plaintiffs requested. When you pick up the recordings, you will be asked to sign a receipt acknowledging you received them. We understand that you will share copies of these recordings with the other parties to this case.

In contrast to the plaintiffs, defendants have not requested specific recordings or offered reasons for production which are specific to individual recordings. Rather, defendants have sought production of *all* the consensual recordings, contending that none of the recordings show the defendants framing innocent plaintiffs or planting evidence. The United States objects to this request.

First, it ignores the significant interests the United States has in protecting the confidentiality of FBI confidential sources and undercover personnel, and the considerations that the court outlined in its July 7, 2023, opinion discussing the law enforcement privilege.

Second, it ignores the requirements that Magistrate Judge Finnegan set forth in her January 13 order. Defendants do not request specific recordings for specific reasons relating to those recordings. Moreover, in seeking production of all the consensual recordings, defendants necessarily put the court back into the situation it sought to avoid when it gave the parties the opportunity to review the recordings six months ago, in January 2024. Defendants’ request would require the court to review all those recordings.

More fundamentally, production of all the consensual recordings in possession of the United States would not help defendants to prove the negative they seek to show. Unlike proof affirmatively showing the planting of evidence or a scheme to frame a plaintiff — a scenario that would theoretically require production of a defined, limited number of recordings — producing all the consensual recordings in the possession of the United States would not prove that defendants did not plant evidence or conspire to frame the plaintiffs. Proving that negative assertion would take much more than the production of all existing recordings. It would require

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production of recordings of *all possible* acts the defendants committed and all statements they uttered, something that is both factually and logically impossible.

Defendants' approach would be akin to an accused bank robber trying to introduce evidence concerning all the banks he did *not* rob. The fact that on many days and at many times he did not rob banks would not prove that he did not rob the bank in question. And even if there arguably were some slight evidentiary value to showing that on many occasions the defendant officers did not speak of framing individuals while being recorded, the extensive effort required for both the non-party FBI and for the court to produce *all* of the recordings is clearly not proportional to the needs of the case. *See Saunders v. City of Chicago*, No. 12 C 9158, 2017 WL 36407, at *9 (N.D. Ill. Jan. 4, 2017) (district judge affirming this court's measured approach similar to this case as "proportional to the needs of the case" under Fed. R. Civ. P. 26(b)(1)). Moreover, such arguable slight evidentiary value cannot overcome the government's assertion of the law enforcement privilege.

For these reasons, the United States declines to agree to defendants' request to produce all consensual recordings in its possession.

Lastly, we have some updates regarding recordings that have been problematic for the parties to review. First, despite significant efforts, the FBI has been unable to recover the contents of recordings on the disk labeled 1D 45. Second, regarding the disk labeled 1D 41, the recording at session 1 is corrupt, but the parties may review the recordings of sessions 2 through 16. They can also now review recordings on disk 1D 133. The parties may make arrangements with FBI Chicago Division Counsel Tricia Maier to review these recordings at the time they pick up the recordings the plaintiffs have requested.

Sincerely,

MORRIS PASQUAL
Acting United States Attorney

By: s/Donald R. Lorenzen
DONALD R. LORENZEN
Special Assistant United States Attorney

cc: Tricia Maier (FBI Chicago District Counsel)

EXHIBIT 2

September 25, 2024

Via Email

Donald R. Lorenzen
Senior Litigation Counsel
Special Assistant United States Attorney
United States Attorney's Office
Northern District of Illinois

CONFIDENTIAL

Re: In re Watts Coordinated Pretrial Proceedings, 19 C 1717

Dear Mr. Lorenzen,

We write pursuant to 28 C.F.R. § 16.22 with a statement of relevancy concerning production of certain recordings reviewed at the FBI Chicago Field Office. As provided by § 16.22, this statement includes (1) a summary of the information sought; and (2) an explanation of the information's relevance to the proceeding.

On August 7, 2024, the Defendant Officers informed Judge Finnegan of their intent to file a motion to compel production of the remaining FBI recordings that the Government declined to produce. In accordance with the Defendant Officers e-mail exchange with you on August 7, 2024, the Defendant Officers and the City agreed to provide the Government with a renewed and narrowly tailored request for production of consensual recordings. On August 16, 2024, the Defendant Officers and the City filed an agreed motion to vacate the briefing schedule. Judge Finnegan granted the agreed motion and among other things, set a status hearing. At the status hearing on September 24, 2024, Judge Finnegan ordered the defendants to file their motion to compel production of their requested FBI recordings, if necessary, on or before October 2, 2024.

Below are the Defendant Officers and the City's renewed requests for the production of twenty-four 1D tapes, obtained during the course of the FBI/IAD criminal investigation of Sgt. Watts and his tactical team. The FBI recordings listed below were all generated during the federal investigation and as such are incorporated into the agreed upon topics that will be covered by the parties during the FBI agent depositions. We hope to resolve this matter in lieu of motion practice. We are also available to further confer.

Summary of the Information Sought

1. Recordings related to the CPD search warrant on 10125 S. Van Vlissingen Rd.
2. Recordings related to Charlie Miller's relationship with Defendant Watts.
3. Recordings related to Coordinated Proceedings Plaintiff Terrance Moyer.
4. Recordings related to CPD Officer Anthony Driver.
5. Recordings related to Albert "Westside" Davis and Defendant Watts' Joint Real Estate.
6. Recordings related to Defendant Mohammed interactions with James "Eyes" Beal and confidential informant Albert "Westside" Davis.
7. Recordings related to confidential informant Albert "Westside" Davis and Defendant Watts.
8. Recordings related to Kamane "Obama" Fears.

Relevance to the Proceeding

The proceeding

In re: Watts Coordinated Pretrial Proceedings, Master Docket Case No. 19 C 1717 includes nearly two hundred federal lawsuits against Defendant Watts and others that have been coordinated for pretrial proceedings by the Executive Committee of the United States District Court, Northern District of Illinois.

Summary of Allegations

In the Coordinated Proceedings, Plaintiffs allege that the Defendant Officers were involved in framing innocent people, planting evidence, and fabricating criminal charges against Ida B. Wells residents and visitors. Plaintiffs allege several *Monell* claims: 1.) the City was deliberately indifferent to the alleged misconduct of Sgt. Watts and his team, who were extorting drug dealers and falsely arresting residents at Ida B. Wells for crimes they did not commit when they refused to provide him and his team with a “street tax” or information; 2.) neither Internal Affairs Division (“IAD”) nor the Office of Professional Standards conducted a “real” investigation into the alleged clear pattern and practice of criminal misconduct by Sgt. Watts and his team; 3.) a general code of silence; and 4.) failure to train, supervise, and discipline.

Connection Between Plaintiffs’ Civil Case and the FBI’s Investigation.

As you are aware, the FBI conducted an eight-year joint confidential investigation, Operation Brass Tax, in conjunction with IAD into the alleged criminal activity of Sgt. Ronald Watts and his tactical team at the former Ida B. Wells public housing project. (FBI 331; FBI 1279-81). Federal officials involved in the joint FBI/IAD confidential criminal investigation informed CPD officials that Watts and Mohammed were the only officers against whom evidence of wrongdoing was established, and not the other officers on Watts’ team. The FBI memorialized this finding at the conclusion of its investigation. (FBI 1279-81). Per Agent Craig Henderson’s 2014 closing memorandum, which memorialized the FBI’s findings at the conclusion of its investigation:

[t]his investigation was based on witness information that ... Watts and members of his tactical team had been stealing both drugs and drug proceeds from drug dealers and couriers around the former Ida B. Wells public housing project. Through investigation and CHS information, it was learned that Watts and CPD police officer Kallatt Mohammed were the officers stealing drugs and drug proceeds from drug dealers and drug couriers. ...In summary, sufficient personnel and financial resources were expended on the investigation. All investigative methods/techniques that were initiated during the investigation have been completed. Furthermore, all leads that have been set have been completed. All logical and reasonable investigation was completed, and all evidence obtained during the investigation has been returned or destroyed in accordance with evidence policy. (FBI 1279-81).

In addition, Agent Henderson averred in his declaration that based on his review of electronic information collected by the FBI in its investigation, he did not “perceive anything that indicated the subjects of the investigation were engaged in falsification of criminal charges against any individual.”

Contrary to this evidence obtained during the joint FBI/IAD investigation, Plaintiffs allege that all members of the tactical team were complicit in Defendants Watts and Mohammed’s criminal

scheme and that Watts and Mohammed framed, planted evidence, and put cases on the Plaintiffs. The Plaintiffs also claim that the recordings are relevant to their *Monell* claims to establish that the City “suffered from a code of silence” and its “deficient practices caused Plaintiffs’ wrongful convictions, in that [Defendant] officers were empowered to continue their misconduct by the City’s failure to act.”

However, the recordings refute Plaintiffs’ allegations and corroborate the investigative 302 reports and Agent Henderson’s closing memorandum that only Watts and Mohammed engaged in criminal misconduct. The requested recordings provide essential evidence that cannot be elicited from the heavily redacted 302 reports.

Specifically, the requested recordings provide important evidence to refute Plaintiffs’ allegations that the Defendant Officers, individually or as a team, framed innocent people and planted evidence. These recordings also provide inculpatory evidence that multiple Coordinated Plaintiffs and their witnesses engaged in the very criminal activity for which they were arrested by the Defendant Officers and ultimately convicted. Moreover, these recordings are significant and relevant investigatory material related to the credibility of Plaintiffs and/or 404(b) witnesses.

Furthermore, the requested recordings refute Plaintiffs’ *Monell* claims that the joint investigation was poorly conducted. These tapes demonstrate the active criminal investigation against Watts and Mohammed. Plaintiffs assert that the CPD should have administratively moved to separate Watts and Mohammed from CPD based on the totality of evidence and is now liable to the Plaintiffs because it “failed to act” until 2012. If the City moved administratively against Watts and Mohammed, requiring notice to the subjects of the investigation, it would have undermined the criminal investigation.

Recordings related to the CPD search warrant on 10125 S. Van Vliissingen Rd. 1D-16 (21 mins), 1D- 21 (30 mins), 1D-29 (12 mins), 1D-36 (24 mins), 1D-37 (4 mins), 1D-38 (7 hrs.)

Defendants seek these recordings from April 16, 2008, May 5, 2008, June 19 to June 23, 2008, and July 9 to July 15, 2008, of discussions between FBI’s confidential informant, Albert “Westside” Davis (herein “Westside”) and James “Eyes” Beal (herein “Eyes”), a drug dealer at Ida B. Wells and alleged informant for Watts. Westside wants Eyes to relay information to Watts about the stash house of drug dealer kingpin, Kamane “Obama” Fears, that reportedly contained \$30,000, multiple firearms, and 400 grams of dope (heroin). (1D-16). Kamane “Obama” Fears sold the “Obama” heroin line in the Ida B. Wells housing complex and Harold Ickes housing project. Watts did not like Fears because he did not pay Watts’ street tax to sell drugs.

These recordings corroborate the FBI 302 report from July 25, 2008 that details Watts and members of his team’s execution of a search warrant on Kamane Fears’ house located at 10125 S. Van Vliissingen Road on July 17, 2008, where in excess of \$31,000 had been placed pursuant to an undercover operation. (FBI000139). Items inventoried included 2 gift cards, a scale, 65 phone cards, baggies, rubber bands, a black bag, and \$25,000. The video of the search was interrupted during a search of the area containing covert recording devices, but the audio remained active for several minutes until the recording was deactivated by the officers. *Id.* Later, the agents confirmed with Chase Bank, where CPD makes certain deposits, that the inventoried money was the money from the stash house.

On February 2, 2012, FBI agents Raymond Hart and Craig Henderson interviewed Defendant Alvin Jones about the search warrant at Van Vliissingen Road because Jones wrote the search warrant based on information received from one of Watts’s sources, Charlie Miller. Jones said he found the

money in the basement, and because CPD directives require a supervisor be called when money in excess of \$10,000 was found, Watts was summoned to the basement. Jones also said he found electronic equipment in the attic, but did not recover it. Jones sensed the event might be a set up by federal law enforcement and noted that the layout of the house was different than described by Charlie Miller. Jones wrote the case report for the incident and was given the money recovered by an asset forfeiture officer, who counted the money twice. Jones thought there was about \$30,000 recovered and personally delivered the money to ERPS. Jones denied taking any of the money and was unaware that only \$25,000 was found in the inventory. *Id.*

Defendant Kallatt Mohammed supported Jones' belief that the raid was a set up. (FBI000267-76). On May 3, 2012, in his proffer to AUSA Benjamin Langner and Margaret Schneider, Mohammed revealed he saw someone who worked for IAD drive down the street. Jones then stated he thought the house was a set up. (FBI 275). Mohammed said he didn't know how much money was recovered, but that about one year after the search, Watts told him that he got some money from the search. *Id.*

The requested recordings are also related to 1D-17, which the FBI produced to Plaintiffs in June 2024, that details an April 30, 2008 conversation between Eyes and Westside about Watts' intention to remove Fears' drug line and drug dealers out of the 575 building stating that "Watts wants Obama out of the building." The discussion between Eyes and Westside about giving Watts information on Fears' stash house on Van Vlissingen Road begins in 1D-17 recording. Subsequent conversations regarding the contents inside the house and meetings with Watts to relay the information are contained in the requested recordings.

It is to be noted that that although 1D-38 contains seven hours of recordings over nineteen sessions, approximately three hours are relevant to our requests. The majority of the seven hour recording is contained in sessions 18 and 19, which captures silence and the hum of the television as confidential informant Westside sleeps for the night.

These recordings are necessary to rebut Plaintiffs' allegations against the Defendants for several reasons: 1.) because the participants discuss past or planned interactions with Defendant Watts which is relevant under FRE 404(b); 2.) the exculpatory nature of the recordings is significant to the Defendant Officers' defense as there are no allegations of wrongdoing by Defendant Officers that were made known to the FBI during this recording, contrary to Plaintiffs' argument that the investigation did yield such evidence and provides critical impeachment evidence; 3.) it corroborates the findings of the joint FBI/IAD criminal investigation and Agent Craig Henderson's closing memorandum; and 4.) demonstrates the City was working a complex scenario in an effort to obtain evidence of criminality and was not turning a blind eye to allegations of misconduct.

Recordings related to Charlie Miller's relationship with Defendant Watts.

1D-40 (13 mins), 1D-71 (2 mins), 1D-82 (24 mins)

Defendants seek recordings 1D-40 from July 28, 2008, 1D-71 from October 10, 2008, and 1D-82 from November 10, 2008 regarding conversations between Charlie Miller (herein "Charlie"), Albert "Westside" Davis, and Watts. Defendants learned from the FBI 302 reports that Watts gave Charlie money and drugs in exchange for information on criminal conduct of Ida. B. Wells residents and drug dealers. (FBI000168-171).

On July 25, 2008, a confidential informant revealed that Watts used various drug dealers as sources to identify other drug dealers at Ida B. Wells, including Charlie. (FBI000168-171). On that same day, another confidential informant equipped with electronic equipment, presumably Albert "Westside" Davis, revealed that Charlie is Watts' "right-hand man." (FBI000178-79). The FBI

documented in a March 24, 2010 FBI 302 report that a confidential informant stated Watts used homeless individuals and drug addicts to provide him information on drug dealers at Ida B. Wells. (FBI 755). This information is supported by Charlie's own assertion that he is a drug addict and Watts' acknowledgement that Charlie is an addict in recording 1D-82, produced by the FBI to Plaintiffs in June 2024.

In the 1D-40 recording from July 28, 2008, Charlie revealed to Westside that he works for Watts as an informant and intermediary for the "street tax" payments between Watts and certain Ida B. Wells drug dealers, which allowed these drug dealers to sell their drugs without fear of arrest or raid. Charlie further admitted that Watts protects him from arrest during narcotic enforcement missions, so he never needs to run. Charlie admits again that he is the intermediary between the drug dealer and Watts in the 1D-82 recording. As an informant, Charlie also had knowledge that Kamane "Obama" Fears paid Watts a "street tax." Charlie tells Westside that Watts will "look out for them."

Charlie insists he only deals with Watts claiming they "go back a long time" and have been through "thick and thin," so Watts trusts him. Charlie even admits that "[t]hat man [Watts] is a Sergeant. He could lock me up any time." Charlie continues to tell Westside that "Watts is expensive but they can get some easy money."

Defendants seek these recordings because: 1.) the confidential informant and other participants discuss past or planned interactions with Watts which is relevant under FRE 404(b); 2.) it provides impeachment evidence as to the credibility of Charlie; 3.) is an example that Watts used drug dealers and drug addicts as his informants to gain leverage on the street drug trade of Ida B. Wells drugs dealers; and 4.) Charlie never mentions the involvement of any other officers other than Watts, thus supporting the other Defendant Officers' claims that they did not engage in any misconduct. This last reason is extremely important because Plaintiffs have argued that the entire team was involved in wrongdoing and that such evidence was uncovered during the FBI investigation, but this recording rebuts that argument as only Watts was discussing allegedly wrongful conduct with Charlie and there is no mention of any other Defendant Officers on this recording.

***Recordings related to Coordinated Proceedings Plaintiff Terrance Moye.
1D-43 (90 min), 1D-44 (3 mins), 1D-47 (110 mins), 1D-50 (135 mins)***

Defendants request these recordings from August 3, 2008 to August 13, 2008 of interactions between confidential informant Kimberly Jackson and Charlie Miller as they gave Watts and Mohammed a payment to have the felony charges dismissed against Coordinated Proceedings Plaintiff Terrance Moye (herein "Moye"). Moye was arrested on July 21, 2008 by Defendants Alvin Jones and Elsworth Smith for manufacturing and delivery of heroin at the 575 building. Moye is Kimberly Jackson's boyfriend and a well-known heroin dealer of the "Obama" line at Ida B. Wells.

On July 25, 2008, a confidential informant alleged that on one occasion Watts took drugs from "clean-up" man Donny and planted them on Moye. (FBI000168-171). The confidential informant also stated that Moye had Coordinated Proceedings Plaintiff Anthony Mays watch the building where he sold drugs. *Id.* However, in these recordings, Kimberly never stated or insinuated that the Defendants Officers planted drugs or falsely arrested Moye, as he alleged in his federal complaint.

In these recordings, Charlie acts as Watts' "right-hand man" to facilitate a payment from Kimberly to Watts in exchange for the charges to be dropped against Moye. On August 3, 2008, Charlie informs Kimberly that "Watts is going to be down here in little while," which further establishes his close connection with Watts. Subsequently, Kimberly tells Charlie that "I spoke to Dude. He said he will do it on Tuesday, 12-12:30"... "[W]hatever I gotta do, I gotta do. I want my man to

come home. When dude called me, he made it sound good. You know, come in on Monday.” She tells Charlie, “you been fuckin’ with them. I’m just concerned about my man, that shit can wait”... “I basically just want to get the money [to pay Watts].” Charlie responds that “there is nothing else this motherfucker [Watts] better do.”

After Kimberly and Charlie make the payment, which is not captured on video, Kimberly learns Watts was precluded from fulfilling his end of the agreement due to Moye’s indictment. During a subsequent jail phone call with Moye on August 9, 2008, Kimberly cried because Watts did not return her payment. Throughout this phone call, Moye never suggested that Watts or any of his team falsely arrested or planted drugs on him.

In June 2024, the FBI produced 1D-51 to Plaintiffs that contains additional recordings from August 8, 2008 to August 14, 2008 regarding the same transactions and occurrence of events in the requested recordings related to Kimberly Jackson and Charlie Miller’s interactions with Watts and Mohammed regarding Terrance Moye. Defendants need all related recordings produced to have an accurate and complete account of what transpired between these parties and to rebut Plaintiffs’ allegations against them including Moye’s claims that he was falsely arrested by Defendants Jones and Smith. These recordings will allow Defendants Jones and Smith to defend themselves from Moye’s claims against them and demonstrate that they properly followed police protocol. Furthermore, the confidential informant and other participants discuss past or planned interactions with Watts and Mohammed which is relevant under FRE 404(b). Finally, this is another example of where there is no mention of any other officer on the call, other than Watts, which is central in rebutting Plaintiffs’ claim that the FBI investigation yielded evidence that implicated other Defendant Officers.

Recordings related to CPD Officer Anthony Driver.

1D-123 (6 mins), 1D-124 (6 mins), 1D-125 (20 mins), 1D-203 (5 mins)

In these recordings from January 6, 2009 to January 8, 2009 and May 17, 2010 to May 18, 2010, Watts encouraged Albert “Westside” Davis to become a paid informant for CPD Gangs Officer Anthony Driver since he “has more resources” than him. Watts tells Westside that he trusts him to “handle this with Anthony and get shit done.” (1D-123).

In recordings 1D-124 and 1D-125, there are multiple phone calls and in-person meetings between Westside and Officer Driver. During their first phone call in recording 1D-124, Officer Driver explained that he works long-term gang conspiracy investigations so he has more resources available around the City than Watts, who is limited because he is a sergeant and only works short-term conspiracy limited to the Second District. In recording 1D-125, Westside meets Officer Driver at Border’s Bookstore in the Beverly neighborhood to continue to discuss details to be a paid CPD informant. Although Westside declined to be an informant because he has “kids and doesn’t want to ruin lives,” he agreed to provide information about gangs and guns, as long as he has no real involvement in the missions. Officer Driver states that he will investigate any information Westside gives him and pay him if it is good information. In 2010 recording 1D-203, Westside leaves a voicemail for Officer Driver stating “he has something important to tell him,” making it clear that Westside followed through and became an informant for Officer Driver.

Related to these recordings is 1D-126, produced by the FBI in June 2024 pursuant to Plaintiffs’ request for production, which contains a January 9, 2009 phone call between Watts and Westside discussing Westside’s meeting with Officer Driver on January 8, 2009 (captured in 1D-125). The requested recordings are essential to provide an accurate and complete account of what

transpired between Watts, Westside, and Officer Driver. Moreover, it proves that Officer Driver's recruitment of Westside as a paid informant furthered the legitimate interests of CPD in their gang crime investigations.

***Recordings related to Albert "Westside" Davis and Defendant Watts' Joint Real Estate.
1D-150 (3 mins), 1D-156 (5 mins)***

Defendants request recordings 1D-150 and 1D-156 from February 7, 2010, February 9, 2010, and February 18, 2010 to refute false allegations of misconduct that Plaintiffs may argue as it relates to 1D-163, produced by the FBI to Plaintiffs in June 2024.

In June 2024, the FBI produced 1D-163 to Plaintiffs pursuant to their request for production. In the 1D-163 recording from March 4, 2010, Albert "Westside" Davis and Watts discuss securing financing from Gregory Orange at Alpha Omega Financial for their joint real estate ventures. 1D-163 is related to the dialogue in 1D-150 and 1D-156 regarding Watts and Westside's joint real estate. Recordings 1D-150 and 1D-156 are essential to establish a foundation for the conversation in 1D-163 and provide a complete and accurate account of what occurred.

Also relevant from February 18, 2010, is an in-person meeting between Watts and Westside. Watts and Defendant Alvin Jones meet Westside in a Jewel parking lot on the far south side of Chicago. Defendant Jones remained in the squad car as Watts and Westside met outside. In the Coordinated Proceedings, Plaintiffs allege Defendant Jones was complicit in Watts and Mohammed's misconduct. This recording provides an example of important and credible evidence for Defendant Jones to defend himself against the Plaintiffs' claims in the coordinating proceedings. Plaintiffs argue that Defendant Jones was knowingly involved in Watts' criminal behavior, and the information in this recording shows that Defendant Jones was not involved in this conversation between Watts and Westside whatsoever. This information is critical for Defendant Jones to defend himself in this litigation and provides additional supporting information that Defendant Jones and other Defendant Officers lacked involvement and personal participation in Watts' misconduct.

***Recordings related to confidential informant's interactions with Kallatt Mohammed.
1D-31 (42 mins), 1D-94 (13 mins)***

In recording 1D-31 from July 10, 2008, drug dealer James "Eyes" Beal declared that Mohammed "cannot do anything without Watts" in response to the attempts by Albert "Westside" Davis to speak with Watts or Mohammed about profitable missions/setups of drug dealers at Ida B. Wells.

In a video recording 1D-94 from November 26, 2008, Westside meets Mohammed to provide information about a potential mission on an unnamed drug dealer travelling to Chicago with "\$10,000, dope, and coke." Mohammed informs Westside that he is unable to run the mission (and take the money) by himself because Watts is on injury leave. This recording further corroborates Eyes' statements in 1D-31 that Mohammed "cannot do anything without Watts." In addition, this recording provides supporting information in support of Defendant Officers' lack of involvement and personal participation in Watts' misconduct.

These recordings may also be relevant under FRE 404(b) and provide another example that supports Agent Henderson's conclusion in his 2014 closing memorandum that Watts and Mohammed were the only officers against whom evidence of wrongdoing was established.

Recording related to Coordinated Proceeding Plaintiff Allen "Allen J" Jackson

1D-16 (21 mins)

In this recording from April 16, 2008, James “Eyes” Beal and Albert “Westside” Davis discuss Coordinated Proceedings Plaintiff Allen “Allen J” Jackson who they deemed was “on bullshit with his payments and trying to cut them [Watts] out.” This is evidence that Allen J was a well-known drug dealer in Ida B. Wells who paid the “street tax” to Watts to sell drugs in the Ida B. Wells extensions. This recording is related to 1D-48, which the FBI produced to Plaintiffs in June 2024, that revealed that Watts protected Allen J in exchange for bribes of money or guns.

This recording corroborates evidence developed during the joint FBI/IAD criminal investigation that established drug dealers paid Watts and/or Mohammed a “street tax” for protection in their drug dealing business. The dialogue in 1D-16 is an example that supports Agent Henderson’s conclusion in his 2014 closing memorandum, and provides impeachment evidence as to the credibility of Allen J. And, once again, the recording fails to implicate any other Defendant Officer or otherwise support Plaintiffs’ claims that the FBI investigation revealed criminal activity by any Defendant Officers other than Watts and Mohammed.

Recordings related to Ida B. Wells drug trade.

1D-20 (51 mins)

In this recording, the FBI confidential informant speaks to an unidentified male who admits to selling his bundle of narcotics, profiting \$400-500 between 6 a.m. to 9 a.m., which is prior to Watts starting his morning shift, as a tactic to avoid arrest. Defendants seek this recording from May 5, 2008 because it establishes that the illicit drug trade was well entrenched in the Ida B. Wells housing complex. It supports Defendants’ position that Watts and the tactical team were assigned to the Ida B. Wells complex to interrupt the street drug market and the efforts of drug dealers to circumvent their illicit drug dealing. In addition, it is evidence that those involved in the drug trade made efforts to avoid detection and apprehension by law enforcement officers whose sworn duty was to disrupt illegal narcotics operations at Ida B Wells.

Recordings related to confidential informant Albert “Westside” Davis and Defendant Watts.

1D-63 (3 mins)

This November 11, 2008 recording portrays the development of the working relationship between Albert “Westside” Davis and Watts. In this recording, Westside is at the Second District police station to meet with Mohammed. Westside encounters Watts at the station who directed him to the front where Mohammed awaited him. In a later phone call between Westside and Watts, Watts inquired about Westside’s meeting with Mohammed. Westside responded that they only discussed if Westside knew Shawanna, Mohammed’s girlfriend, and Mohammed told him to “give [Watts] what he wanted.” Watts’ inquiry about this conversation was to ensure anything discussed was not related to Watts’ business with Westside.

Defendants request this recording because it depicts an in-person interaction between the confidential informant and Watts which would be relevant under FRE 404(b). Watts’ desire to keep his business relationship with Westside private provides another example of supporting evidence that the Defendant Officers were not involved or complicit in Watts and Mohammed’s misconduct. This conversation contains critical evidence for Defendant Officers in defending themselves from Plaintiffs’ claims regarding their alleged participation in Watts’ misconduct.

Recording related to Kamane “Obama” Fears.

1D-116 (2 mins)

In this recording, Albert “Westside” Davis and Watts discuss rumors of potential participants in the December 12, 2008 murder of Kamane “Obama” Fears who was shot to death. Some Coordinated Proceedings Plaintiffs allege that Fears was killed in retaliation for failure to pay Watts. Watts and Westside discuss rumored suspects but only by their street/nicknames. Furthermore, Fears is the brother of Coordinated Proceedings Plaintiff Jerome “Monk” Fears, who was also a well-known drug dealer who worked for the notorious Wilbert “Big Shorty” Moore. Jerome Fears assumed leadership of the Obama drug operation upon his brother’s death.

Defendants seek this recording from December 18, 2008 because it depicts a purported in-person interaction with Westside and Watts relevant to these proceedings under FRE 404(b). This recording provides potential inculpatory evidence that certain Coordinated Proceedings Plaintiffs and/or 404(b) witnesses engaged in criminal activity. Additionally, this recording is necessary for the Defendants’ defense against Jerome Fears’ allegations of misconduct alleged in his complaint. As this call is discussing possible links to Fears’ murder, it is important Defendant Officers obtain this recording to be able to show that there was nothing, not even rumor and speculation, suggesting that they were involved in this murder should Plaintiffs attempt to interject this irrelevant claim into the case. Finally, this recording also provides supporting information of Defendant Officers’ lack of involvement and personal participation in Watts’ activities.

Sincerely,

BURNS NOLAND LLP,

s/ Dhaviella Harris

HALE & MONICO LLC,

s/ William E. Bazarek