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Courtroom Number: 2510
Location: District 1 Court
Cook County, IL

FILED
3/15/2019 4:09 PM
DOROTHY BROWN
CIRCUIT CLERK
COOK COUNTY, IL
2019CH03450

IN THE CIRCUIT COURT OF COOK COUNTY
CHANCERY DIVISION
STATE OF ILLINOIS

FRATERNAL ORDER OF POLICE)
CHICAGO LODGE NO. 7, KEVIN GRAHAM,)
PATRICK J. MURRAY, MARTIN PREIB,)
JAY R. RYAN, MICHAEL P. GARZA and)
JOHN CAPPARELLI, ROBERT BARTLETT)

Plaintiffs,)

v.)

CITY OF CHICAGO, CHICAGO POLICE)
DEPARTMENT, RAHM EMANUEL, MAYOR)
of the CITY OF CHICAGO, in his official)
capacity, EDDIE T. JOHNSON ,)
SUPERINTENDENT OF THE CHICAGO)
POLICE DEPT., in his official capacity,)
CIVILIAN OFFICE OF POLICE)
ACCOUNTABILITY, and SYDNEY)
ROBERTS, CHIEF ADMINISTRATOR OF)
CIVILIAN OFFICE OF POLICE)
ACCOUNTABILITY, in her official capacity,)

Defendants.)

Case No. 2019CH03450

Judge _____

VERIFIED COMPLAINT FOR DECLARATORY,
INJUNCTIVE RELIEF AND MANDAMUS

Plaintiffs, Fraternal Order of Police Chicago Lodge No. 7, Kevin Graham, Patrick J. Murray, Martin Preib, Jay R. Ryan, Michael P. Garza, John Capparelli, and Robert Bartlett by and through their attorneys, Joel A. D'Alba and Ryan A. Hagerty of Asher, Gittler & D'Alba, Ltd., hereby files this complaint against Defendants, City of Chicago, Chicago Police Department, Rahm Emanuel in his official capacity as the Mayor of the City of Chicago, Eddie T. Johnson in his official capacity as the Superintendent of the Chicago Police Department,

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Civilian Office of Police Accountability, and Sydney Roberts in her official capacity as the Chief Administrator of Civilian Office of Police Accountability (COPA), for their violations of the Police and Community Relations Improvement Act, 50 ILCS 727/1-1. In addition, Plaintiffs file this complaint against Defendants, City of Chicago, Chicago Police Department, Rahm Emanuel in his official capacity as the Mayor of the City of Chicago, and Eddie T. Johnson in his official capacity as the Superintendent of the Chicago Police Department for their violations of the Law Enforcement Officer-Worn Body Camera Act, 50 ILCS 706/10-1. In support hereof, Plaintiffs state and allege as follows:

NATURE OF THE ACTION

1. This suit is filed pursuant to the provisions of the Illinois Code of Civil Procedure, 735 ILCS § 5/2-701 (declaratory relief), 735 ILCS § 5/11-102 (preliminary injunction), and 735 ILCS Section § 14-101 (mandamus).

2. In Count I, Plaintiffs seek an order (a) declaring that all Defendants have violated the requirements of the Illinois Police and Community Relations Improvement Act, 50 ILCS 727/1-1, and (b) enjoining all such Defendants from failing and refusing to comply with that Act.

3. In Count II, Plaintiffs seek an order (a) declaring that Defendants, City of Chicago, Chicago Police Department, Rahm Emanuel in his official capacity as the Mayor of the City of Chicago, and Eddie T. Johnson have violated the terms of the Law Enforcement Officer-Worn Body Camera Act, 50 ILCS 706/10-1.1, and (b) enjoining all such Defendants from failing and refusing to comply with that Act.

4. In Count III, Plaintiffs seek a writ of mandamus to require the Defendants to comply with the Police Community Improvement Relations Act, 50 ILCS 727/1-1 and the Law Enforcement Officer-Worn Body Camera Act, 50 ILCS 706/10-1.

JURISDICTION AND VENUE

5. This court has general and original jurisdiction over all justiciable matters under the Illinois Constitution Article VI section 9 to enforce the laws enacted by the Illinois General Assembly. Ill. Const. art. VI, § 9 (1970).

6. Venue is proper in this judicial circuit pursuant to Sections 5/2-101 and 5/2-103 of the Illinois Code of Civil Procedure, 735 ILCS 5/2-101 and 103, as one or more Defendants reside in or have a principal place of business in Cook County, Illinois. Moreover, all or part of the acts or transactions complained of in this matter occurred in Cook County, Illinois.

PARTIES

7. Plaintiff, Fraternal Order of Police Chicago Lodge No. 7 (hereinafter “the Lodge”) is a labor organization and is the exclusive collective bargaining representative of all sworn personnel below the rank of sergeant employed by the Chicago Police Department (hereinafter “the CPD”). The Lodge has negotiated successive collective bargaining agreements with the City of Chicago for the purpose of establishing wages, hours and other terms and conditions of employment on behalf of its bargaining unit members and has represented Chicago Police Officers in matters involving discipline and their actions in protecting and serving the citizens of the City of Chicago. The Lodge has its principal office in Cook County, Illinois and conducts business throughout the City of Chicago. The Lodge files this complaint as a class action and representative of Chicago Police Officers who are too numerous to be identified by name and who have been injured by all of the Defendants, including the City of Chicago, the CPD and COPA in the investigation of their officer involved death cases and in the refusal of all

the Defendants, including the City of Chicago, the CPD and COPA to destroy unflagged body-worn camera videos that have been stored for more than 90 days.

8. Plaintiff Kevin Graham is the President and principal executive officer of the Lodge and is a member of the Lodge and is also a member of the bargaining unit of employees affected by Defendants' failure to comply with the Illinois statutes at issue in this case. Plaintiff Graham resides in Cook County. Plaintiff Graham is a member of a class of police officers for whose benefit the Police Community Relations Improvement Act, 50 ILCS 727/1-1, *et seq.*, and the Law Enforcement Officer Worn-Body Camera Act, 50 ILCS 706/10-1, were enacted by the Illinois General Assembly and is a representative of the class of police officers affected by the actions and inactions of the Defendants alleged herein and who have an interest in this matter.

9. Plaintiff Patrick J. Murray is the First Vice President of the Lodge and is a member of the Lodge and is also a member of the bargaining unit of employees affected by Defendants' failure to comply with the Illinois statutes at issue in this case. Plaintiff Murray resides in Cook County. Plaintiff Murray is a member of a class of police officers for whose benefit the Police Community Relations Improvement Act, 50 ILCS 727/1-1, *et seq.*, and the Law Enforcement Officer Worn-Body Camera Act, 50 ILCS 706/10-1, were enacted by the Illinois General Assembly and is a representative of the class of police officers affected by the actions and inactions of the Defendants alleged herein and who have an interest in this matter.

10. Plaintiff Martin Preib is the Second Vice President of the Lodge, is a member of the Lodge, and is also a member of the bargaining unit of employees affected by Defendants' failure to comply with the Illinois statutes at issue in this case. Plaintiff Preib resides in the State of Illinois in Cook County. Plaintiff Preib is a member of a class of police officers for whose benefit the Police Community Relations Improvement Act, 50 ILCS 727/1-1, *et seq.*, and the

Law Enforcement Officer Worn-Body Camera Act, 50 ILCS 706/10-1, were enacted by the Illinois General Assembly and is a representative of the class of police officers affected by the actions and inactions of the Defendants alleged herein and who have an interest in this matter.

11. Plaintiff Jay R. Ryan is the Third Vice President of the Lodge, is a member of the Lodge, and is also a member of the bargaining unit of employees affected by Defendants' failure to comply with the Illinois statutes at issue in this case. Plaintiff Ryan resides in Cook County. Plaintiff Ryan is a member of a class of police officers for whose benefit the Police Community Relations Improvement Act, 50 ILCS 727/1-1, *et seq.*, and the Law Enforcement Officer Worn-Body Camera Act, 50 ILCS 706/10-1, were enacted by the Illinois General Assembly and is a representative of the class of police officers affected by the actions and inactions of the Defendants alleged herein and who have an interest in this matter.

12. Plaintiff Michael P. Garza is the Financial Secretary of the Lodge, is a member of the Lodge and is also a member of the bargaining unit of employees affected by Defendants' failure to comply with the Illinois statutes at issue in this case. Plaintiff Garza resides in Cook County. Plaintiff Garza is a member of a class of police officers for whose benefit the Police Community Relations Improvement Act, 50 ILCS 727/1-1, *et seq.*, and the Law Enforcement Officer Worn-Body Camera Act, 50 ILCS 706/10-1, were enacted by the Illinois General Assembly and is a representative of the class of police officers affected by the actions and inactions of the Defendants alleged herein and who have an interest in this matter.

13. Plaintiff John Capparelli is the Treasurer of the Lodge, is a member of the Lodge, and is also a member of the bargaining unit of employees affected by Defendants' failure to comply with the Illinois statutes at issue in this case. Plaintiff Capparelli resides in Cook County. Plaintiff is a member of a class of police officers for whose benefit the Police

Community Relations Improvement Act, 50 ILCS 727/1-1 et seq. and the Law Enforcement Officer Worn-Body Camera Act, 50 ILCS 706/10-1 were enacted by the Illinois General Assembly and is a representative of the class of police officers affected by the actions and inactions of the Defendants alleged herein and who have an interest in this matter.

14. Plaintiff Robert Bartlett is a member of the bargaining unit represented by the Lodge and is a patrol officer responsible for providing protection and for the personal safety of his fellow officers and the citizens of the City of Chicago. Plaintiff Bartlett is a member of a class of police officers for whose benefit the Police Community Relations Improvement Act, 50 ILCS 727/1-1, *et seq.*, and the Law Enforcement Officer Worn-Body Camera Act, 50 ILCS 706/10-1, were enacted by the Illinois General Assembly and is a representative of the class of police officers affected by the actions and inactions of the Defendants alleged herein.

a. Plaintiff Robert Bartlett is responsible for and expected pursuant to the CPD general orders to use deadly force to protect his fellow officers and the citizens of the City of Chicago. In that regard, he is aware that his use of deadly force could lead to a fatality of someone who is immediately likely to cause death or great bodily harm to the officer or to others unless action is taken.

b. Plaintiff Robert Bartlett has an expectation and a right pursuant to law that any investigation of such an officer-involved death will be performed by a State of Illinois certified Lead Homicide Investigator and is aware that the Defendants have not and will continue not to use such experienced and highly trained investigators.

c. Plaintiff Robert Bartlett has a right to the enforcement of the statute requiring the investigation of an officer-involved death to be performed by a State certified Lead Homicide Investigator is important to protect his interests and the interests

of the public in assuring the most comprehensive and best possible investigation of all matters of evidence obtained as a result of or in connection with an officer-involved death, including, without limitation, materials obtained from the scene of such deaths, such as fibers, finger prints, gun cartridges, cigarette butts, and related DNA type material, and witness interviews.

15. The Lodge represents a class of Police Officers who are member of the bargaining unit represented by the Lodge and are responsible for providing protection and for the personal safety of Police Officers and the citizens of the City of Chicago. This class of Police Offices is too numerous to name as individuals and are Police Officers for whose benefit the Police Community Relations Improvement Act, 50 ILCS 727/1-1 et seq. and the Law Enforcement Officer Worn-Body Camera Act, 50 ILCS 706/10-1 were enacted by the Illinois General Assembly and who have been affected by the actions and inactions of the Defendants alleged herein.

a. The Police Officers in this class are responsible for and expected pursuant to the CPD general orders to use deadly force to protect themselves, fellow officers, and the citizens of the City of Chicago. In that regard, the Police Officers in this class are aware that the use of deadly force could lead to a fatality of someone who is immediately likely to cause death or great bodily harm to the Police Officers or others unless action is taken.

b. The Police Officers in this class have an expectation and a right pursuant to law that any investigation of such an officer-involved deaths will be performed by a State of Illinois certified Lead Homicide Investigator, and these Police Officers are aware

that the Defendants have not and will continue not to use such experienced and highly trained investigators.

c. The Police Officers in this class have used deadly force that has resulted in fatalities, and the investigations of such incidents were performed by an investigator of the City of Chicago who is not a law enforcement officer and who has not received a State certification authorizing such an investigation to be undertaken.

d. The Police Officers in this class have been injured by the pattern, practice and procedure of the Defendants, including COPA, in not completing the investigations of the Police Officers in a timely manner as required by City ordinance. As a result of these delays, police officers have been and are being placed in no-pay status, have experienced mental health and related stress, and developed fear for retaliation from individuals involved in criminal activity that led to the officer involved death.

e. The Police Officers in this class have been injured by the pattern, practice and procedure of the Defendants, including, COPA, to publish the names, photos and images of the Police Officers on the COPA website and in other media services in violation of the collective bargaining agreement between the Lodge and the City of Chicago and the Freedom of Information Act, 5 ILCS 740.

f. The Chicago Police Officers in this class believe that the enforcement of the statute requiring the investigation of an officer-involved death to be performed by a State certified Lead Homicide Investigator is important to protect their interests and the interests of the public in assuring the most comprehensive and best possible investigation of all matters of evidence obtained as a result of or in connection with an officer-involved death, including, without limitation, materials obtained from the scene of such deaths,

such as fibers, finger prints, gun cartridges, cigarette butts, and related DNA type material, and witness interviews, and have been injured by the failure of the Defendants to comply with the statute.

16. Defendant City of Chicago is an incorporated municipality under the Illinois Municipal Code, 65 ILCS 5/1-1-2 and 5/1-1-3. It operates and has its principal place of business in Cook County.

17. Defendant Rahm Emanuel is the mayor of the City of Chicago and has obligation and authority to follow and comply with the ordinances of the City of Chicago and statutes of the State of Illinois and any mandamus order that may be issued by this court.

18. Defendant Chicago Police Department is an executive department of the municipal government of the City of Chicago and is known as the Department of Police (hereinafter "CPD") and operates in Cook County.

19. Defendant Eddie T. Johnson is the Superintendent of the Defendant CPD and is the chief executive officer of the CPD. As such, he has responsibility for the general management and control of the CPD, and has full and complete authority to comply with any mandamus order that may be issued by this court and to administer the CPD in a manner consistent with the ordinances of the City of Chicago and the laws of the State of Illinois. Defendant Johnson resides in Cook County.

20. Defendant Civilian Office of Police Accountability (hereinafter "COPA") is established by Chapter 2-78 of the Municipal Code of Chicago as an office of municipal government of the Defendant City of Chicago. The mission of COPA is to provide a just and efficient means to fairly and timely conduct investigations within its jurisdiction, including investigations of alleged police officer misconduct and to determine whether those allegations

are well-founded, applying a preponderance of evidence standard. COPA operates in Cook County.

21. Defendant Sydney Roberts is the Chief Administrator of COPA and is the chief executive officer of COPA.

a. As the Chief Administrator of COPA, Defendant Roberts is responsible for receiving and registering all complaints filed against members of the CPD, and to conducting investigations against members of the CPD alleging domestic violence, excessive force, coercion, or verbal abuse.

b. Defendant Roberts has responsibility for conducting investigations into all incidents, including those in which no allegation of misconduct is made, in which, a CPD member discharges: (a) a firearm in a manner that potentially could strike another individual, (b) a stun gun or taser in a manner that results in death or serious bodily injury, or (c) in the Chief Administrator's discretion, other weapon discharges and other use of Police Department-issued equipment as a weapon that results in death or serious bodily injury.

c. On information and belief, Defendant Roberts is responsible for investigating all shooting incidents, including all incidents of an officer-involved death.

d. On information and belief, Defendant Roberts resides in the State of Illinois and in Cook County.

STATUTORY VIOLATIONS

COUNT I

22. Plaintiff re-alleges and incorporates by reference Paragraphs 1-22 as if fully alleged herein.

23. The provisions of the Illinois Police and Community Relations Improvement Act, 50 ILCS 727/1 et seq. (hereinafter "PCIRA") require that each law enforcement agency in the State of Illinois shall have a written policy regarding the investigation of officer-involved deaths that involve a law enforcement officer employed by that law enforcement agency. 50 ILCS 727/1-5.

24. A law enforcement agency within the meaning of the PCIRA is a unit of government which is vested by law or ordinance with the duty to maintain public order and to enforce criminal laws or ordinances. 50 ILCS 727/1-5. The CPD is a law enforcement agency within the meaning of the PCIRA.

25. COPA is not a law enforcement agency in that it is not vested by law or ordinance with the duty to maintain public order and to enforce criminal laws or ordinances, and each investigation of an officer involved death is a violation of the PCIRA by which police officers are injured.

26. An officer-involved death means any death of an individual that results directly from an action or an intentional omission of a law enforcement officer while the officer is on duty or is otherwise acting within the scope of his or her employment, or while the officer is off duty, but performing activities that are within the scope of his or her law enforcement duties. 50 ILCS 727/1-5.

27. The PCIRA requires that the investigations of an officer-involved death shall be conducted by at least two investigators, one of whom is the lead investigator and who shall be a person certified by the Illinois Law Enforcement Training Standards Board (hereinafter the "Standards Board") as a Lead Homicide Investigator. No investigator involved in the

investigation may be employed by the law enforcement agency that employs the officer involved in the officer-involved death. 50 ILCS 727/1-10.

28. The training needed to obtain the certificate granted by the Standards Board is numbered and is awarded on the basis of completion of a training program approved by the Standards Board. Only law enforcement officers who successfully complete the training program may be assigned as lead investigators in death and homicide investigations. The satisfactory completion of the training program shall be evidenced by a certificate issued to the law enforcement officer by the Standards Board. 50 ILCS 705/10.11. The PCIRA was enacted to protect police officers in officer-involved deaths from being investigated by non-State certified investigators, such as the COPA investigators who have been assigned by the Defendants to investigate Chicago Police Officer involved deaths. Chicago Police Officers have been and will continue to be aggrieved by the assignment of non-State certified to investigate officer-involved deaths.

29. The COPA investigators assigned to investigate death and homicide investigations and officer-involved deaths have not been issued a certificate of satisfactory completion of a training program by the Standards Board.

30. The ordinance under which COPA was created states that the public policy of the City of Chicago is to make certain that complaints concerning police misconduct and abuse are timely.

31. Since its inception, in approximately October 2016, none of the Chicago Police Department officer-involved death cases investigated by COPA, approximately 157, on information and belief, have been closed or completed. Officers involved in such investigations have been injured by not receiving a timely conclusion to their cases from COPA. As a result of

these delays and being placed in no-pay status, Officers have experienced mental health and related stress, and fear for retaliation from individuals involved in criminal activity that lead to the officer-involved death.

32. Shortly after the officer-involved death incident occurs, the involved Chicago Police Officer is required to prepare, pursuant to CPD General Order G03-02-02, a Tactical Response Report. This report is the commencement of the investigation process of Chicago Police Officers. COPA has a pattern and practice of placing these reports on its website in violation of the collective bargaining agreement and the Freedom of Information Act, 5 ILCS 740.

33. COPA, by and through its Chief Administrator, is responsible for promulgating rules and procedures for the conduct of its investigations that are consistent with local, state and federal laws. Municipal Code of Chicago, Ch. 2-78-120 (r). COPA is also responsible for setting minimum qualifications for all persons to be considered for employment by COPA. Municipal Code of Chicago, Ch. 2-78-120 (s).

34. COPA, by and through its Chief Investigator, has willfully hired investigators who do not have the requisite certification issued by the Standards Board to be a Lead Homicide Investigator, and these COPA investigators have been regularly and continually assigned to investigate officer-involved death cases involving members of the CPD represented by the Lodge. Such assignments are intentional violations of the PCIRA.

35. During the course of investigations of officer-involved death cases involving members of the CPD represented by the Lodge, on-scene COPA non State certified investigators direct the work of CPD evidence technicians, oversee the identification and collection of evidence, and determine the priority of the evidence to be collected for laboratory analysis. In

addition, they engage in canvassing by knocking on doors of the area in which the death occurred. They also identify witnesses and arrange witness interviews, including, but not limited to, interviews of the officer or officers responsible for the shooting or the officer-involved death and any officers who may have been witnesses of the incident.

36. COPA's use of investigators, who are not certified by the Standards Board to be Lead Homicide Investigators, to direct the scene and subsequent investigation of officer-involved death cases involving Chicago police officers represented by the Lodge constitutes a willful and intentional violation of the PCIRA.

37. COPA is to provide a complete report of the investigation to the State's Attorney in the county in which the officer-involved death occurred. The submission of such a report by non-State certified Lead Homicide Investigators to be used for criminal purposes places the Plaintiffs in the position of a criminal matter being considered based on a report that is prepared by an investigator who does not have the proper certification and standing from the State Standards Board.

38. The use of such non State certified investigators by the Defendants is an ongoing violation of PCIRA and is an irreparable injury for which there is no adequate remedy at law. This cause of action is necessary to discourage the ongoing and continuing assignment by the Defendants of non-State-certified investigators to investigate officer-involved deaths.

WHEREFORE, Plaintiffs request that this court enter an order:

1. To declare that the Defendants have violated the Police Community Improvement Relations Act by allowing non-State-certified homicide investigators to investigate officer involved deaths.

2. That the Defendants and all persons acting in concert with them cease and desist from assigning non-State-certified lead homicide investigators to investigate officer-involved deaths.
3. To grant all other appropriate relief the court deems to be just and proper.

COUNT II

39. Plaintiffs re-allege and incorporate by reference Paragraphs 1 through 35 as if fully alleged herein.

40. The Illinois Law Enforcement Officer-Worn Body Camera Act, 50 ILCS 706, requires that a video recording of a Police Officer's on duty actions as recorded on the officer's body worn camera must be retained by the law enforcement agency, in this case the CPD, for a period of 90 days. Following the 90-day period, all recordings must be destroyed, unless an encounter has been flagged. 50 ILCS 706/10-20 (a) (7) (B).

41. An "encounter" is defined in the Act as a law enforcement activity that includes a traffic or pedestrian stops, arrests, searches, interrogations, investigations, pursuits, crowd and traffic control, non-community caretaking interactions with an individual while on patrol, or any other instance in which the officer is enforcing the laws of the municipality, county, or State and other instances in which an officer is enforcing the laws of the City of Chicago. 50 ILCS 706/10-10. These activities are to be recorded on the body-worn camcras issued to Chicago Police Officers.

42. An encounter is deemed to be flagged when (a) a formal or informal complaint has been filed, (b) the officer discharged his or her firearm or used force during the encounter, (c) death or great bodily harm has occurred to any person in the recording, (d) the encounter resulted in a detention or arrest (excluding minor traffic offenses), (e) the officer is the subject of

an internal investigation or otherwise being investigated for possible misconduct, (f) the supervisor of the officer, prosecutor, defendant, or court determines that the encounter has evidentiary value in a criminal proceeding, or (g) the recording officer requests that the video be flagged for official purposes related to the office's official duties. 50 ILCS 706/10-20(a) (7) (B).

43. The CPD by and through its managers, supervisors, and agents, has stored and retained for more than 90 days unflagged video recordings from body-worn cameras used by officers represented by the Lodge. The CPD has not destroyed any body-worn camera recordings that have not been flagged and which have been retained for more than 90 days as required by the Illinois Law Enforcement Officer-Worn Body Camera Act, 50 ILCS 706/10-20 (a)(7)(B).

44. Plaintiff Mark Tamlo is a member of the bargaining unit represented by the Lodge and is a patrol officer responsible for providing protection and for the personal safety of his fellow officers and the citizens of the City of Chicago. Plaintiff Tamlo is a member of a class of police officers for whose benefit the Police Community Relations Improvement Act, 50 ILCS 727/1-1, *et seq.*, and the Law Enforcement Officer Worn-Body Camera Act, 50 ILCS 706/10-1, were enacted by the Illinois General Assembly and is a representative of the class of police officers affected by the actions and inactions of the Defendants alleged herein. Plaintiff Tamlo has had unflagged videos from his body-worn camera stored for an excess of 90 days. On information and belief these unflagged videos have been viewed on random audits by supervisors of the officers for discipline purposes. Plaintiffs have had unflagged videos stored for more than 90 days, and, therefore, their rights under the have Act have been adversely affected.

WHEREFORE, Plaintiffs request this Court to enter an order:

1. To require the Defendants and all persons acting in concert with them to destroy all unflagged videos obtained by body-worn camera recordings and which have been stored for more than 90 days.
2. To grant such other relief that the court deems to be just and proper.

COUNT III

45. Plaintiffs re-allege and incorporate by reference herein paragraphs 1-41 of Count III as if fully alleged herein.

46. Plaintiffs seek a writ of mandamus from this Court to order the Defendants to comply with the mandatory requirements of the Police Community Improvement Relations Act (PCIRA) which provides that the each law enforcement agency, herein the CPD, **shall** have a written policy regarding the investigation of officer-involved deaths and that each officer-involved death investigation shall be conducted by at least two investigators, one of whom is the lead investigator. 50 ILCS 727/1-10 (a) and (b). The lead investigator **shall** be a person certified by the Illinois Law Enforcement Training Standards Board as a Lead Homicide Investigator.

47. The CPD has established a written policy for the investigation of officer-involved death cases and the investigative authority has been delegated by the Defendant CPD to Defendant COPA. CPD General Order G03-06. This delegation of authority to Defendant COPA is an intentional and willful violation of the PCIRA.

48. Only law enforcement officers who successfully complete the training program may be assigned as lead investigators in death and homicide investigations, and satisfactory completion of the training program shall be evidenced by a certificate issued to the law enforcement officer by the Illinois Law Enforcement Training and Standards Board. 50 ILCS 705/10.11. The required training and the issuance of a certificate by the Standards Board is a

mandated public policy of the Illinois General Assembly to ensure that officer-involved deaths are investigated by experienced law enforcement officers who have completed a State created training program.

49. The Defendants have a statutory duty to assign only State certified Lead Homicide Investigators to investigate officer-involved deaths and have not done so and continue to violate the statute. This failure of the Defendants endangers the public interest in assuring that the investigation of officer-involved deaths are performed by State certified Lead Homicide Investigators.

50. Plaintiffs have a clear and affirmative right to have officer-involved death cases investigated by State certified Lead Homicide Investigators.

51. Defendants and each and every one of them have the authority to manage their departments and agencies and to issue orders and directives to comply with the PCIRA and have not done so. Defendants also have the authority to comply with a writ of mandamus that may be issued by this Court.

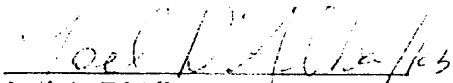
52. The Law Enforcement Officer Worn Body Camera Act provides that the law enforcement agency, here the CPD, **must destroy** the unflagged videos obtained from the body worn cameras issued to police officers within 90 days of the time they were first recorded. The storage period must be no longer than 90 days.

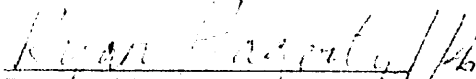
53. The Defendant CPD, by and through a senior exempt officer who has a managerial role over the use and storage of videos obtained from body worn cameras, has advised Plaintiff Kevin Graham that the unflagged videos have not been destroyed and have been stored for more than 90 days,

WHEREFORE, Plaintiffs request this court:

1. Issue a writ of mandamus requiring the Defendants to comply with the Police Community Improvement Relations Act by assigning only State-certified Lead Homicide Investigators to investigate officer-involved deaths.
2. Issue a writ of mandamus requiring the Defendants to comply with the Law Enforcement Body-Worn Camera Act by destroying all unflagged videos obtained by body worn camera after a period of 90 days.
3. Grant such other relief as the court deems to be just and proper.

Respectfully Submitted,


Joel A. D'Alba


Ryan A. Hagerty

Joel A. D'Alba (Atty. No. 50393)
Ryan A. Hagerty (Atty. No. 39403)
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VERIFICATION

Pursuant to Section 2-605 of the Illinois Code of Civil Procedure, 735 ILCS §5/2-605, the undersigned verifies that the factual statements set forth in the foregoing Verified Complaint are true and correct, except as to matters therein stated to be on information and belief and as to such matters, the undersigned certifies as aforesaid that he verily believes the same to be true.


Kevin Graham

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

Hearing Date: 7/16/2019 10:00 AM - 10:00 AM
Courtroom Number: 2510
Location: District 1 Court
Cook County, IL

Fraternal Order of Police Chicago Lodge No. 7, et al

Plaintiff

v.

City of Chicago, Chicago Police Department et al

Defendant

No. 2019CH03450

CHANCERY DIVISION CIVIL COVER SHEET
GENERAL CHANCERY SECTION

A Chancery Division Civil Cover Sheet - General Chancery Section shall be filed with the initial complaint in all actions filed in the General Chancery Section of Chancery Division. The information contained herein is for administrative purposes only. Please check the box in front of the appropriate category which best characterizes your action being filed.

0005 ☐ Administrative Review

0001 ☐ Class Action

0002 ☒ Declaratory Judgment

0004 ☒ Injunction

0007 ☒ General Chancery

0010 ☐ Accounting

0011 ☐ Arbitration

0012 ☐ Certiorari

0013 ☐ Dissolution of Corporation

0014 ☐ Dissolution of Partnership

0015 ☐ Equitable Lien

0016 ☐ Interpleader

0017 ☒ Mandamus

0018 ☐ Ne Exeat

0019 ☐ Partition

0020 ☐ Quiet Title

0021 ☐ Quo Warranto

0022 ☐ Redemption Rights

0023 ☐ Reformation of a Contract

0024 ☐ Rescission of a Contract

0025 ☐ Specific Performance

0026 ☐ Trust Construction

☐ Other (specify) _____

By: Joel D'Alba

☒ Atty. No.: 50393 ☐ Pro se 99500

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Pro Se Only: ☐ I have read and agree to the terms of the **Clerk's Office Electronic Notice Policy** and choose to opt in to electronic notice from the **Clerk's Office** for this case at this Email address: _____