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

TYRONE HOOD	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 16-cv-1970
	)	
CITY OF CHICAGO, *et al.*,	)	
	)	
Defendants.	)	

THE CITY OF CHICAGO'S RESPONSE TO
FORMER GOVERNOR QUINN'S MOTION TO QUASH

Defendant CITY OF CHICAGO, through its undersigned attorneys and for its Response to Third Party Patrick J. Quinn's Motion to Quash, states the following:

INTRODUCTION

On Mr. Quinn's last day in office as Governor, January 12, 2015, he commuted Plaintiff Hood's 75-year sentence to time served. Mr. Quinn's decision set in motion a chain of events that led directly to the reversal of Plaintiffs' convictions and these lawsuits, but the decision was not based on the discovery of any new evidence exonerating Hood or Washington, such as DNA or eyewitness testimony excluding them from the crime – that evidence does not exist. Rather, it was the product of an intense media campaign by Hood's attorneys involving local and international celebrities, NBC Chicago, Peacock Productions, the Chicago Tribune and The New Yorker Magazine. (*See* "Trying a Case Outside the Courts," University of Chicago Law School, January 7, 2016, attached as Exhibit A; *see also* Transcript of Panel Discussion for "Trying a Case Outside the Courts," held at the University of Chicago Law School, January 6, 2016, attached as Exhibit B). This campaign was formed and directed by the Exoneration Project

("EP")[1] as a "more dynamic" alternative to the courts. (Ex A, p. 2). Its purpose was to try Hood's case, unopposed, in the court of public opinion in order to get Mr. Quinn's attention and convince him to release Hood, and it relied on the same misleading arguments that courts had consistently rejected over the previous 25 years. Those same rejected arguments now form the backbone of these lawsuits, and Mr. Quinn's final act of clemency is one of the cornerstones of Hood's Complaint, which Hood frames as an official recognition of his "innocence" by the State of Illinois:

> Never giving up on proving his innocence, Plaintiff worked tirelessly inside and outside the courts to show that he had absolutely nothing to do with this crime. On January 12, 2015, ***after being presented with overwhelming evidence of Plaintiff's innocence, Governor Pat Quinn commuted Plaintiff's sentence*** and he was released from prison days later. . . A spokesperson for Governor Quinn explained that "[w]hile it has been rare for Governor Quinn to commute a sentence, ***the governor was compelled to act after learning details of this case***."

(*See* Hood Complaint, Doc #1, ¶¶4, 56) (emphasis added). And because the so-called "overwhelming evidence" was nothing new, Mr. Quinn's decision serves as the ostensibly ultimate proof of Plaintiffs' innocence. That "evidence," which Defendants strongly dispute, appears to have come directly from Hood's attorneys or surrogates advocating on Hood's behalf, chief among them The New Yorker, which published a lengthy story that Hood's attorneys had a direct hand in developing. (*See* Emails with N. Schmidle, attached as Group Exhibit C; *see also* Nick Schmidle, *Crime Fiction: Did the Chicago police coerce witnesses into pinpointing the wrong man for murder?*, The New Yorker, Aug. 4, 2014, attached to Exhibit D as ILPRB000015-29). In striking contrast, the Illinois Prisoner Review Board ("IPRB") apparently did not investigate the clemency petition, make a recommendation or even prepare a report for

[1] Hood was represented by the Exoneration Project at the time, which is effectively an extension of Loevy & Loevy, the law firm currently representing Hood in this lawsuit. It is located in the same office as Loevy & Loevy and two of Hood's EP attorneys, Gayle Horn and Jon Loevy, have appearances on file in this case as members of Loevy & Loevy.

Mr. Quinn. (*See* IPRB's subpoena response, labeled ILPRB000001-ILPRB00032, which includes The New Yorker article, attached as Exhibit D).

Since granting Hood clemency and leaving office, Mr. Quinn has not shied away from the publicity his decision received. To the contrary, he has willingly given interviews, spoken on panels, and made public appearances with and about Hood. And in doing so, he has also been more than willing to share his belief – based primarily on The New Yorker story about Hood – that Marshall Morgan Jr.'s father, Marshall Morgan Sr., is the real killer. (*See* Ex. B). Just this past year, Mr. Quinn went a step further in an interview with the Chicago Tribune, not only reaffirming his belief in Hood's innocence but also criticizing the judge who denied Hood's request for a Certificate of Innocence ("COI") and criticizing the State for taking a neutral position on the COI. (*See* Patrick M. O'Connell, *25 Years Later, Commutation and Imprisoned Father Muddy Case of Slain IIT Basketball Player*, Chicago Tribune, July 30, 2018, attached as Exhibit E). Thus, even out of office, Mr. Quinn has had no reservations about using his status as the former Governor of Illinois to advocate on behalf of Hood and for his innocence.[2]

Now that he has been subpoenaed, however, Mr. Quinn no longer wishes to discuss his decision to grant Hood's clemency request, at least not with Defendants' counsel. In his motion to quash, Mr. Quinn argues his testimony would be irrelevant and is otherwise protected under the deliberative process privilege. None of his arguments have merit. Mr. Quinn has not identified any documents he seeks to protect and, in fact, it appears no documents were even generated by him or his staff in the course of investigating and deciding Hood's petition. (*See* Letter from Assistant Attorney General E. Steimel, attached as Exhibit G). That leaves only Mr. Quinn's deposition, but on that score, he likewise fails to identify specifically what he wants

[2] Mr. Quinn's website, which is devoted to cultivating his legacy as a social justice reformer, also touts Hood's clemency as one of Mr. Quinn's criminal justice reform achievements. (*See* http://governorquinnportrait.org/criminal-justice.html, a copy of which is attached as Exhibit F).

protected other than generic "mental deliberations" and generic communications with unidentified staff members. (*See* Doc. #205, #205-1). The privilege only covers pre-decisional communications and deliberations, not Mr. Quinn's ultimate decision or the reasons he made it. And in this particular case, Mr. Quinn's pre-decisional mental deliberations and communications with his staff are not protected because: (a) Defendants have a particularized need for the information in order to rebut Plaintiffs' claims of innocence and their damages; and (b) Mr. Quinn waived the privilege by openly and freely discussing the same information with reporters and on panels. Accordingly, and as explained more below, the motion should be denied.

BACKGROUND

In 1996, Plaintiffs were both convicted of the 1993 armed robbery and murder of Marshall Morgan, Jr. Hood was convicted after a bench trial, and Washington pleaded guilty after his first trial ended in a hung jury. In both cases, the trial judge considered and barred evidence that Morgan Jr.'s father was the real killer, because there was no evidence connecting Morgan Sr. to the crime. (Hood Criminal Transcript, at Hood 1201-1206, attached as Exhibit H; Washington Criminal Transcript, at CCSAO 13226-13228, attached as Exhibit I). Hood was sentenced to a combined term of 75 years and Washington was sentenced to 25 years in exchange for his plea.

Plaintiffs now claim they are innocent of Morgan Jr.'s homicide, even though there is no new exculpatory evidence exonerating them and they have never been able to undermine key pieces of evidence connecting them to the crime, namely: Hood's fingerprints, which were found on items in the same car as Morgan Jr.'s body; an eyewitness (Emanuel Bob) who observed Hood and Washington with the victim's car after the victim's disappearance; Washington's own confession, which also implicates Hood; and Washington's guilty plea. Instead, they allege

Hood's conviction and Washington's plea were the result of police misconduct, and argue that Morgan Jr.'s father is the "real killer." With nothing to undermine the evidence linking them to the crime, however, Plaintiffs are attempting to use the "real killer" theory as a way to prove indirectly that they are innocent and would not have been convicted but for police misconduct. (*See e.g.*, Hood Complaint, Doc #1).

For the last 25 years, Plaintiffs have been peddling the same "real killer" theory without success; no court has yet accepted these arguments, found the evidence used to convict Plaintiffs insufficient, or found Plaintiffs innocent of the crime. (See Orders denying COIs, attached as Exhibit J). And until Mr. Quinn granted Hood's clemency request on his last day in office on January 12, 2015, the Cook County State's Attorney's Office ("SAO") had been aggressively fighting Plaintiff Hood's successive post-conviction attempts to vacate his conviction. (*See* the State's Brief in Opposition to Hood's Successive Post Conviction, attached as Exhibit K). The Circuit Court of Cook County denied every claim in that petition except for an alleged *Brady* violation stemming from the State's purported failure to disclose it had paid a periphery witness $1,000 in travel expenses. (*See* Order denying in part and granting in part Hood's successive PC Petition, attached as Exhibit L). That claim was advanced to a third-stage evidentiary hearing, but the hearing never took place thanks to Mr. Quinn's last-minute act of clemency.

Hood's Media Strategy

In November 2014, Hood's attorneys sent Mr. Quinn a letter requesting executive clemency for Hood. (*See* Ex. D, ILPRB000011-29). The clemency petition was the culmination of a carefully crafted and intense media campaign by Hood's attorneys, which EP members described at a panel discussion with Quinn and Hood. According to the EP's Executive Director, the campaign on Hood's behalf was their "biggest foray into really trying a more dynamic way

of trying a case outside the courts." (Ex. B, p. 26: 1 – 27: 1). In fact, EP attorneys credit the media with "playing a huge role in multiple stages with Hood," including the ability to either pressure Mr. Quinn or get his attention over 4,000 other petitions. (*Id.*, p. 15:5 – 16:9). One of the "big advantages" the EP had to offer was its media contacts and "friendly reporters who will report on these stories when we ask them to." (Ex. B, p. 32:1-6). Consistent with that "advantage," included in the package to Mr. Quinn was a copy of a feature-length story about Hood's case from The New Yorker, on which he seems to have relied the most. (Ex. D, ILPRBT000015-29). According to Mr. Quinn, the "New Yorker magazine deserved a lot of credit" for delving into the story and finding "troublesome issues with respect to the prosecution of Tyrone Hood." (Ex. B, p. 8: 16-21). Around the same time Mr. Quinn received the clemency petition with the lengthy New Yorker story, he also began receiving calls from Renee Ferguson, a former local reporter for NBC in Chicago, requesting that Mr. Quinn "please look at [Hood's] case." (Ex. B, p. 8:22 – 9:8). Ferguson had also been working with EP attorneys to get Mr. Quinn's attention. (*See* Emails with R. Ferguson, attached as Exhibit M). Mr. Quinn then received a letter from a foundation organized in part by international celebrity musician Alecia Keyes, whose representatives had also been working with the EP. (Ex. B, p. 15:18 – 16:9; *see also*, Ex. D, ILPRB000030-32; Emails with Bryan Stevenson of the Equal Justice Initiative and Susan Lewis film production for Alecia Keyes, attached as Exhibit N).

The clemency petition and New Yorker article make a number of unsupported and easily debunked assertions about the sufficiency of the evidence and Morgan Sr.'s alleged *modus operandi* connection to his son's death. For example, each relies in part on a half-truth to suggest Morgan Sr. had a financial motive to kill his son: that Morgan Sr. purchased a life insurance policy for his son only six months before his son's murder, the timing of which, they

argue, is evidence of Morgan Sr.'s intent to kill his son for the insurance money. This contention omits an important and easily discoverable fact that undermines the insurance fraud theory: Morgan Sr. had actually purchased life insurance for Morgan Jr. as far back as 1985, almost ***eight years*** before the murder, through a rider to his own life insurance policy.[3] (Burklin, Dep. at 195-198 and June 21, 1985 Application (Exhibit 10 to Burklin Dep.), attached as Exhibit O). Morgan Sr. only purchased the second life insurance policy for Morgan Jr. in 1992, at the urging of his insurance broker, after Morgan Jr. had aged out of the rider. (Assure Research interview of Agent, at CCSAO 1373-1374, attached as Exhibit P). Not surprisingly, none of this is mentioned in Hood's clemency petition or The New Yorker article.

After he left office, Mr. Quinn accepted an invitation to speak with Hood on a panel entitled "Justice Delayed" at the "New Yorker Fest" in New York City on October 3, 2015, where Mr. Quinn credited The New Yorker and the EP in reaching his decision to release Hood, and went on to criticize the judge who convicted Hood and the then-State's Attorney as questionably "more committed to convictions than justice."[4] In. January 2016, Mr. Quinn made another appearance with Hood at the University of Chicago Law School's panel on "Trying A Case Outside the Courts," where, as indicated above, he again credited The New Yorker and discussed his belief in Hood's innocence and Hood's "real killer" theory. In 2018, Mr. Quinn was interviewed for a story by the Chicago Tribune in which he said Hood's case "screamed to heaven for justice" and "[w]hen you do it wrong, the person who actually committed the crime goes free." (*See* Ex. E, p. 2). Quinn also criticized the judge who denied Hood's petition for a COI and the Cook County State's Attorney's Office for not taking a position on it. (*Id.*).

[3] At the same time, he purchased a rider policy for his then-minor daughter too.

[4] The video clip is available at https://vimeo.com/141822397. The clip appears to have been edited to provide a glimpse of the conference and therefore does not contain all of Governor Quinn's comments.

ARGUMENT

I. The Deliberative Process Privilege Does Not Apply to Quinn's Decision, the Reasons He Settled on for It or Facts Discovered During Any Investigation.

The deliberative process privilege protects communications that are part of the decision-making process of a governmental agency. *United States v. Farley,* 11 F.3d 1385, 1389 (7th Cir.1993) *citing NLRB v. Sears, Roebuck & Co.,* 421 U.S. 132, 150–52, 95 S.Ct. 1504, 44 L.Ed.2d 29 (1975). The privilege covers "documents reflecting advisory opinions, recommendations and deliberations comprising part of the process by which governmental decisions and policies are formulated." *Dept. of Interior v. Klamath Water Users Protective Assoc.,* 532 U.S. 1, 9, 121 S.Ct. 1060, 149 L.Ed.2d 87 (2001). For the privilege to apply, the document or communication must be "pre-decisional" and "deliberative." *Evans v. City of Chicago*, 231 F.R.D. 302, 316 (N.D.Ill. 2005). The theory behind the privilege is that "[s]ince frank discussion of legal and policy matters is essential to the decision-making process of a governmental agency, communications made prior to and as a part of an agency determination are protected from disclosure." *Id.* (citation omitted). But communications made subsequent to an agency decision are not protected. *Id.* (citation omitted).

As an initial matter, the Court should reject Mr. Quinn's attempt to assert a blanket privilege over everything he has said, done or reviewed in connection with granting Hood's clemency petition. Mr. Quinn has not bothered to identify anything specific he wants protected, apart from generic "mental deliberations" and generic communications, nor has he identified anything he wants protected in a privilege log. *See e.g., Evans*, 231 F.R.D. at 316 (the official must specifically identify and describe the documents subject to the privilege). Similarly, his

declaration fails to set forth precise and certain reasons for preserving confidentiality and fails to specifically identify and describe the information over which he claims privilege. Instead he takes the untenable position that all of his knowledge, actions, and comments should be protected.

Under Fed.R.Civ.P. 26(b)(5)(A), a party claiming that otherwise discoverable information is privileged or subject to protection must expressly make that claim and describe the nature of un-produced materials in a manner that, without revealing the privileged or protected information itself, will enable others to assess the claim. *Guzman v. City of Chicago*, 2011 WL 55979, at *2 (N.D. Ill. Jan. 7, 2011). Moreover, "the burden rests upon the objecting party to show why a particular discovery request is improper." *Id. citing Kodish v. Oakbrook Terrace Fire Prot. Dist.*, 235 F.R.D. 447, 450 (N.D.Ill.2006).

Here, Mr. Quinn's decision is not protected, nor are the reasons he settled on for the decision or the facts he or his staff discovered in the course of investigating and considering the petition, because that information is either post-decisional or non-deliberative. *See Saunders v. City of Chicago*, 2015 WL 4765424, at *10 (N.D. Ill. Aug. 12, 2015) (Discussion of objective facts, as opposed to opinions and recommendations, generally is not protected by the deliberative process privilege). Likewise, the fact that Mr. Quinn did not utilize his own resources, such as the IPRB, or consider certain evidence, or conduct an inquiry deeper than reading a magazine article and a letter is not protected because his failure to do something cannot be considered "deliberative," even if it does reveal something about his thought process. *Saunders*, 2015 WL 4765424, at *10 ("To be sure, disclosing which witnesses and evidence the SAO considered necessarily reveals the office's thought process to some extent" but "'this is true of any investigation by which an agency seeks facts—knowing what questions are asked or which

witnesses are interviewed reveals aspects of what the investigator deemed important or worthy of consideration. In a larger sense everything could be considered deliberative.'") *citing Reilly v. U.S. E.P.A.,* 429 F.Supp.2d 335, 352 (D.Mass.2006).

In addition, even assuming the actual pre-decision mental deliberations and communications were protected, the privilege does not apply to many other details about Mr. Quinn's analysis, such as the amount of time he or his staff devoted to investigating or reviewing Hood's petition, the number of staff members who worked on it and their names and titles, the number of other clemency petitions Mr. Quinn considered at the same time as Hood's and a description of each document that was reviewed. All of this foundation information is important in evaluating the full scope and breadth of Mr. Quinn's analysis and the extent to which he or his office conducted any independent analysis as opposed to reviewing a magazine article and a letter from the EP.

II. Defendants Have A Particularized Need For Quinn's Pre-Decision Communications and Mental Deliberations.

If the threshold showing of privilege is satisfied, then the party seeking the information has the burden of showing a "particularized need" for it. *Evans*, 231 F.R.D. at 316 *citing Farley*, 11 F.3d at 1388 (7th Cir. 1993); *Ferrell v. U.S. Dep't of Hous. & Urban Dev.*, 177 F.R.D. 425, 429 (N.D. Ill. 1998). In undertaking such an analysis, the court balances the requesting party's need for disclosure against the government's need for secrecy, considering such factors as: (1) the relevance of the documents to the litigation; (2) the availability of other evidence that would serve the same purpose as the documents sought; (3) the government's role in the litigation; (4) the seriousness of the litigation and the issues involved in it; and (5) the degree to which disclosure of the documents sought would tend to chill future deliberations within government

agencies, that is would hinder frank and independent discussion about governmental policies and decisions. *Id. citing Ferrell,* 177 F.R.D. at 429 *quoting Farley,* 11 F.3d at 1389.

Here, the information Defendants seek from Mr. Quinn is undeniably relevant to this case and not available from another source, because the "best evidence of the weight that should be accorded to the pardon, as proof of … actual innocence, is the information and analysis on which it was based." *See Evans*, 231 F.R.D. at 316 (court finding Governor Ryan's basis for granting pardons relevant because the "best evidence of innocence" is the information and analysis on which the pardon was based"). The same holds true in this case. Plaintiffs have framed the act of clemency as proof of innocence, even though it was granted without the discovery of any new exonerating evidence. Although Mr. Quinn tries to distinguish this case from *Evans* on the basis that *Evans* involved an actual pardon whereas Mr. Quinn only commuted Hood's sentence, it is a distinction without a difference. Mr. Quinn has made it publicly known that he commuted Hood's sentence because he believes Hood is innocent of the crime, and Plaintiffs and the media have followed suit, framing Mr. Quinn's act as an official recognition of Hood's innocence by the State of Illinois. Before that, no court had accepted Hood's arguments, found the evidence against him insufficient, or found him innocent. Indeed, despite his stated beliefs about their innocence, Mr. Quinn did not commute or pardon Hood on the basis of innocence even though he had the power to do so. *See Walden v. City of Chicago*, 391 F.Supp.2d 660, 671 (N.D. Ill. 2005) ("Since at least 1977, Illinois has adhered to the view that two forms of pardon are presently used by the Governor of this state, one based upon innocence of the defendant and the other merely pardoning the defendant without reference to his innocence.").

Even if Plaintiffs had no intention of mentioning the clemency at trial, it would still be highly relevant to the defense of this case because it alone set in motion the events leading

directly to the reversal of the convictions (approximately one month later) and these lawsuits. Therefore, Mr. Quinn's act of clemency is necessarily relevant to Defendants' ability to demonstrate Plaintiffs are not innocent and their convictions were not reversed in a manner indicative of innocence. *Swick v. Liautaud,* 169 Ill.2d 504, 662 N.E.2d 1238, 1242 (1996) (a plaintiff cannot predicate his malicious prosecution action on underlying criminal proceedings which were terminated in a manner not indicative of the innocence of the accused). At best, Mr. Quinn's decision to commute Hood's sentence instead of pardoning him (much less pardoning him on the basis of innocence) is the basis for a question to be answered at Mr. Quinn's deposition, not a reason to bar it. *See Evans*, 231 F.R.D. at 316 ("both the relevance of the documents and the unavailability of the precise information in question from other sources weighs in favor of a finding of particularized need").

The seriousness of this litigation and issues involved are obvious. "A claim that police officers violated their sworn duty by knowingly seeking the prosecution and conviction of a person whom they knew to be innocent (and did so through multiple constitutional violations) strikes at the heart of the integrity of our criminal justice system. It is among the most serious charges that can be leveled against law enforcement." *See Evans*, 231 F.R.D. at 317.

Finally, Mr. Quinn argues that requiring him to sit for a deposition could have a chilling effect on future clemency decisions. That argument fails here for the same reasons it failed in *Evans*:

> Due to the unique context in which discovery concerning this particular pardon decision arises, we do not believe the disclosure sought here would hinder future pardon decisions. The Governor's office argues that because the decision of whether to grant clemency is a "controversial" and "serious" matter, the discovery sought here would be "an intrusion" into the pardon deliberations (Joint Mem. at 10). While we agree that every pardon or clemency decision is a serious matter, we do not believe that every pardon or clemency decision is a controversial one. Most pardon decisions are never the subject of, or relevant to, any litigation:

> a governor's decision to issue a pardon (or to decline one) is not judicially reviewable.

Evans, 231 F.R.D. at 317(citations omitted). And as was the case with George Ryan in *Hobley v. Chicago Police Commander Burge*, 445 F. Supp. 2d 990, 998–99 (N.D. Ill. 2006), Mr. Quinn "is not an incumbent seeking re-election or higher office who is being interrogated about an unpopular decision. The risk that future pardon decisions will be chilled by requiring [Quinn] to be deposed in the unusual circumstances of these cases is small." *Id.*

III. The Deliberative Process Privilege Has Been Waived.

Privileges relating to governmental decision-making may be waived. *See Hobley*, 445 F. Supp. 2d at 998–99 *citing Shell Oil Co. v. IRS*, 772 F. Supp. 202, 209 (D.Del.1991) (holding that "[w]here an authorized disclosure is voluntarily made to a non-federal party, whether or not that disclosure is denominated 'confidential,' the government waives any claim that the information is exempt from disclosure under the deliberative process privilege"). However, such a waiver "should not be lightly inferred." *In re Sealed Case*, 121 F.3d at 741. "[W]ith regard to executive privileges generally, or to the deliberative process privilege in particular ... courts have said that release of documents only waives these privileges for the document or information specifically released, and not for related material." *Id.* (collecting cases).

Here, Mr. Quinn's eager willingness to speak publicly about his decision to grant Hood's clemency request stands in stark and hypocritical contrast to the privilege he is now trying to assert, and constitutes a waiver. *See Hobley*, 445 F. Supp. 2d at 998–99 (holding that George Ryan waived the deliberative process privilege by appearing on a talk show to discuss his decision to pardon the plaintiffs). Mr. Quinn has not only discussed the reasoning for his decision in public forums, but he has gone a step further by praising The New Yorker article (which anyone with an internet connection can find and read to better understand Mr. Quinn's

decision[5]), advocating for Hood to get a COI, and criticizing the judges and States Attorney's Office involved in Hood's case. Having voluntarily agreed to publicly discuss the basis for his clemency decision and the evidence he considered in making that decision, in addition to his willingness to criticize other State actors, Mr. Quinn cannot now claim a privilege or refuse to give testimony in a civil case on the same topics. *Hobley*, 445 F. Supp. at 999 (same).

IV. Quinn Has Not Met His Burden Of Showing The Need For Any Limitations On His Deposition.

Finally, Mr. Quinn asks the Court for a protective order to limit the scope of his deposition. However, he failed to comply with Rule 26(c)'s "certification that the movant has in good faith conferred or attempted to confer with other affected parties in an effort to resolve the dispute without court action." Fed. R. Civ. P. 26. Nor has he bothered to provide the Court or Defendants with any specifics about how he wants the deposition limited. (Doc. #205, p. 6-7). Instead, he apparently wants the Court to determine on its own what limitations should be imposed. But as the moving party, Mr. Quinn has the burden of establishing why and how the deposition should be limited. He has not carried that burden, and his request should be rejected.

Moreover, to the extent Mr. Quinn wants to limit questions about other acts of clemency or processes he or his office used in making the clemency decisions, he has not demonstrated any need for a limitation, let alone the good cause required. To be clear, Defendants have no intention of questioning Mr. Quinn about other specific cases. However, Defendants do plan to ask Mr. Quinn foundational questions as to what he or his staff could have or actually did review on a regular basis in making clemency decisions in other cases, none of which would be privileged. There is no need at this point for the Court to set limitations in addition to what is provided for in the Federal Rules of Civil Procedure.

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[5] *See* https://www.newyorker.com/magazine/2014/08/04/crime-fiction

CONCLUSION

For the reasons set forth above, Defendant CITY OF CHICAGO respectfully requests that the Court enter an order denying Third Party Patrick J. Quinn's Motion to Quash with prejudice, and grant any further and additional relief the Court deems just and appropriate.

Dated: February 12, 2019

RESPECTFULLY SUBMITTED,

/s/ David A. Brueggen
DAVID A BRUEGGEN, Attorney No. 6289138
One of the Attorneys for the City of Chicago

James G.Sotos
Jeffrey N. Given
Joseph M. Polick
David A. Brueggen
George J. Yamin, Jr.
THE SOTOS LAW FIRM, P.C.
550 East Devon Avenue, Suite 150
Itasca, Illinois 60143
Tel: (630) 735-3300
dbrueggen@jsotoslaw.com

CERTIFICATE OF SERVICE

I certify under penalty of perjury pursuant to 28 U.S.C.A § 1746 that the foregoing is true and correct, that on February 12, 2019, I electronically filed the foregoing **The City of Chicago's Response to Former Governor Quinn's Motion to Quash** with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the attorneys of record on the below Service List.

Attorneys for Plaintiff Tyrone Hood
Jonathan Loevy
Gayle Horn
Roshna B. Keen
Heather Donnell
Loevy& Loevy
311 N. Aberdeen Street, 3rd Floor
Chicago, IL 60607
312)243-5900
jon@loevy.com
elizabethm@loevy.com
gayle@loevy.com
roshna@loevy.com
heather@loevy.com

Attorneys for Individual Defendants
Eileen E. Rosen
Catherine M. Barber
James B. Novy
Stacy A. Benjamin
Theresa B. Carney
Patrick Moran
Rock Fusco & Connelly
321 N. Clark Street, Suite 2200
Chicago, IL 60654
(312)474-1000
erosen@rfclaw.com
cbarber@rfclaw.com
jnovy@rfclaw.com
sbenjamin@rfclaw.com
tcarney@rfclaw.com
pmoran@rfclaw.com

Attorneys for Plaintiff Wayne Washington
Steven H. Fine
Law Office of Steven H. Fine
53 West Jackson Boulevard, Suite 1260
Chicago, IL 60604
312-922-0855
sfinelaw@hotmail.com

Steven Allen Greenberg
Steven A. Greenberg, LRD
53 W. Jackson, Suite 1260
Chicago, IL 60604
312-879-9500
greenberglaw@me.com

/s/ David A. Brueggen
DAVID A. BRUEGGEN, Attorney No. 6289138
One of the Attorneys for City of Chicago