

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

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|------------------------------|---|-------------------------------------|
| DARNELL SMITH, et al., |) | |
| |) | |
| <i>Plaintiffs,</i> |) | |
| |) | |
| |) | Case No. 15-cv-03467 |
| |) | |
| v. |) | |
| |) | |
| CITY OF CHICAGO, a municipal |) | Magistrate Judge Heather K. McShain |
| corporation, CHICAGO POLICE |) | |
| SUPERINTENDENT GARRY |) | |
| McCARTHY, et al., |) | |
| |) | |
| <i>Defendants.</i> |) | |

NOTICE OF CLASS ACTION SETTLEMENT

**PLEASE READ THIS NOTICE. IT DESCRIBES RIGHTS WITH RESPECT
TO THE SETTLEMENT OF A CLASS ACTION LAWSUIT.**

This Notice is to inform you that a proposed settlement (“Settlement”) in the above-captioned case (“Lawsuit”) has been reached by the parties and has been granted preliminary approval by the Court supervising this Lawsuit. The purpose of this Notice is to describe the Lawsuit, inform you of the terms of the Settlement, and inform you of your right to object to the Settlement. If the Settlement is finally approved, it will resolve all claims in the Lawsuit. A hearing on the Settlement will be held on September 20, 2023 at 11:00 a.m. to determine whether the Settlement should be granted final approval by the Court.

BASIC INFORMATION

1. Why is there a Notice?

A Court authorized this Notice because you have a right to know about the Settlement of this class action lawsuit and about your right to object before the Court decides whether to give final approval to the Settlement.

2. What is this Lawsuit about?

This case was brought by individuals challenging the Chicago Police Department's ("CPD") policies and practices in conducting investigatory stops. An investigatory stop is the temporary detention of an individual. Under the United States Constitution, a police officer conducting an investigatory stop must have reasonable articulable suspicion that a crime has been committed, is being committed, or is about to be committed. The plaintiffs in this class action lawsuit allege that certain policies and practices used by CPD in conducting investigatory stops caused class members to be detained without an adequate constitutional basis. Defendants denied liability. The Parties have reached a settlement to resolve this Lawsuit that they firmly believe is in their respective best interests.

3. Who is a member of this class?

On August 31, 2021, District Court Judge Andrea Wood of the United States District Court for the Northern District of Illinois certified the following two classes:

Fourth Amendment Class: All persons who, since April 20, 2013, have been, or in the future will be, subjected to an investigatory stop by the Chicago Police Department which resulted in the creation of a Contact Information Card or Investigatory Stop Report.

Fourth Amendment Loitering Subclass: All persons who, since April 20, 2013, have been, or in the future will be, encountered by the Chicago Police Department resulting in the creation of a Contact Information Card or Investigatory Stop Report and where the listed contact type was "GANGLTR," defined by the CPD as "Gang and Narcotics-Related Loitering."

Anyone who is a member of either of the two classes above may be interested in the Settlement and has the right to object to it.

4. Why is there a settlement?

Following the Court’s certification of these two classes a settlement was reached through a mediation process and negotiations between the Parties. By agreeing to settle, both sides avoid the cost and risk of continuing litigation, including the risk that there would be no benefits and no reforms.

THE SETTLEMENT BENEFITS

5. What does the Settlement Provide?

The settlement involves injunctive-like relief, meaning there will be certain reforms to CPD’s policies and practices pertaining to investigatory stops that will be set forth in a consent decree. Those reforms are summarized below and are described in more detail in the Joint Stipulation and Class Action Settlement Agreement. This Settlement does not include monetary relief to class members.

Pursuant to this settlement, the City of Chicago (“City”) has agreed to the following:

- (i) reforms to CPD’s policies and practices for conducting investigatory stops in general, including requirements that CPD members communicate with detained individuals consistent with principles of procedural justice;
- (ii) maintaining amendments to CPD’s General Order 02-04 – *Prohibition Regarding Racial Profiling and Other Bias-Based Policing* – such that race cannot be used to any degree as a basis for investigatory stops (except insofar as it may be consistent with a specific suspect description);
- (iii) modification of CPD’s policies and practices for enforcing Chicago’s Gang- and Narcotics-Related Loitering Ordinances (“Loitering Ordinances”) (*see* Municipal Code of Chicago §§ 8-4-015 and 8-4-017) such that CPD officers will not conduct investigatory stops as part of the dispersal process set forth under the Loitering Ordinances (unless there is an independent constitutional basis to do so);
- (iv) requirements to document all investigatory stops and protective pat downs, as well as requirements to properly identify the facts and circumstances supporting an investigatory stop and/or protective pat down;

- (v) enhanced training on investigatory stops, protective pat downs, and enforcement of the Loitering Ordinances;
- (vi) supervisor review of all reports documenting investigatory stops, protective pat downs, and enforcement of the Loitering Ordinances, and, if appropriate, after-action engagement to address any rejected reports and deviations from CPD policy related to the report or the conduct described in the report;
- (vii) data collection related to investigatory stops, protective pat downs, and enforcement of the Loitering Ordinances, along with data analysis and reporting to be performed by independent subject matter experts;
- (viii) requirements that CPD's 4th Amendment Street Stop Review Unit conduct department-wide reviews of documentation related to investigatory stops, protective pat downs, and enforcement of the Loitering Ordinances, and to issue semi-annual reports concerning the same;
- (ix) requirements that CPD seek input from members of the community and community-based organizations regarding CPD's investigatory stop policies; and
- (x) requirements that CPD conduct a comprehensive review every two years of its investigatory stop policies to assess whether they meet the agreed upon requirements of the Stipulation, incorporate best practices, address observed trends and practices, and reflect developments in applicable law.

In addition, the City has agreed to pay Class Counsel's attorneys' fees and expenses in an amount to be approved by the District Court, not to exceed \$4,875,000, and \$12,500 to each of the following class representatives for their service and participation in this case: Darnell Smith, Araceli Fontanez, as Parent and Next Friend of Hector Fontanez, Jr., Marcell Davis, and Rashawn Lindsey. Finally, the City agrees to pay \$12,500 to each of the following Individual Plaintiffs in connection with their claimed damages resulting from being the subject of one or more allegedly unconstitutional detentions: Darnell Smith, Araceli Fontanez, as Parent and Next Friend of Hector Fontanez, Jr., Marcell Davis, Rashawn Lindsey, and Edgar Marshall, Jr.

6. How will the terms of the Settlement be enforced?

The reforms that come through this Settlement, including those outlined above, will be made a part of the existing Consent Decree between the City and the Office of the Illinois Attorney General on behalf of the State of Illinois. That Consent Decree is being overseen by Judge Rebecca R.

Pallmeyer, who is the Chief Judge of the United States District Court for the Northern District of Illinois. As part of the Consent Decree, there is an Independent Monitoring Team responsible for, among other things, assessing and reporting to the Court and to the public on CPD's compliance with the terms of the Settlement. Because this Settlement will be a part of the Consent Decree it will have the benefit of being subject to binding judicial oversight.

OBJECTING TO THE SETTLEMENT

7. What do I do if I object to the Settlement?

You can object to the Settlement if you do not like some part of it and the Court will consider your views. If you want to object to the Settlement, you must send in a written objection and include your name, address, and the last four digits of your Social Security number. The objection must also state the reasons for your objection. All objections must be emailed or postmarked and mailed no later than August 26, 2023.

All objections must be sent to the following:

To Settlement Class Counsel:
Steven A. Hart
Brian Eldridge
HART MCLAUGHLIN & ELDRIDGE, LLC
One South Dearborn, Suite 1400
Chicago, Illinois 60603
shart@hmelegal.com
beldridge@hmelegal.com

THE FINAL APPROVAL HEARING

8. When and where will the Court decide whether to approve the Settlement?

A telephonic hearing on the fairness of the settlement is scheduled to be held before Magistrate Judge Heather K. McShain on September 20, 2023 at 11:00 a.m. The call-in information for the hearing is:

Tel: 888-684-8852

Access Code: 8623687#

The hearing may be moved to a different date or time without additional notice to you, so it is a good idea to check the Court's docket. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. You may call into the hearing but are not required to do so.

GETTING MORE INFORMATION

9. How do I get more information?

More information concerning this settlement can be found on the following websites:

www.chicagoinvestigatortopsettlement.com

<https://home.chicagopolice.org/transform/>

On those websites, in addition to this Class Notice, you can find the Joint Stipulation and Class Action Settlement Agreement and Preliminary Approval Order.

If you have questions, you may contact one of the attorneys for the Settlement Class (listed above). **DO NOT CONTACT THE JUDGE OR HER STAFF AND DO NOT CONTACT ANY ATTORNEYS FOR THE CITY OF CHICAGO.**