

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

DARNELL SMITH, et al.,

Plaintiffs,

vs.

CITY OF CHICAGO, a municipal corporation,  
et al.,

Defendant.

Case No.: 15 cv 03467

Judge Andrea R. Wood

Magistrate Judge Heather K. McShain

**JOINT STIPULATION AND CLASS ACTION SETTLEMENT AGREEMENT**

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IT IS HEREBY STIPULATED AND AGREED, by and between plaintiffs and settlement class representatives Darnell Smith, Araceli Fontanez, as Parent and Next friend of Hector Fontanez, Jr., Marcell Davis, and Rashawn Lindsey, individually and on behalf of all others similarly situated, and plaintiff Edgar Marshall, Jr., individually, and defendants the City of Chicago (the “City”), former Superintendent Garry McCarthy, and individual CPD Officers Anthony Gemignani, Michael Callahan, Roy Mazzanti, Adolfo Garcia, Kris Stipanov, Mario Cruz, Nicholas Cordova, Thomas Laurin, Patrick Kelly, Daniel Schmit, Anthony Rosen, and Gerardo Vega, as follows:

### **RECITALS**

WHEREAS, capitalized terms not otherwise defined shall have the meaning set forth in Article III of the Settlement Agreement.

WHEREAS, the Individual Plaintiffs in this class action have filed and prosecuted a Complaint alleging that they, as well as a class of similarly situated individuals, were stopped and frisked during investigatory stops and/or enforcement of the Loitering Ordinances by CPD officers without legal justification in violation of their rights under the Fourth Amendment and the Fourteenth Amendment to the United States Constitution and under Illinois state laws;

WHEREAS, the Individual Plaintiffs have sued the City, former Superintendent Garry McCarthy, in his individual capacity, and numerous individual CPD Officers, in their individual capacities, under 42 U.S.C. § 1983 for these alleged constitutional violations;

WHEREAS, the Individual Plaintiffs have claimed, and continue to claim, that each and all of the contentions asserted by them are meritorious;

WHEREAS, after considering the potential benefits of settlement and delay in litigating the Individual Plaintiffs’ claim; the length of time which may be necessary to continue the Action through trial and the appeals that might follow; the uncertainty inherent in any complex litigation;

and the substantial benefits of the Settlement for the Settlement Class Members, including the fact that even if the Plaintiffs ultimately prevailed in their claims, there is no guarantee that they would receive any greater relief than they will receive from the Settlement, the Individual Plaintiffs and Settlement Class Counsel have concluded that the proposed Settlement on the terms and conditions of this Settlement Agreement is fair, reasonable, and adequate and is in the best interests of the Individual Plaintiffs and the Settlement Class Members;

WHEREAS, the City and Individual Defendants deny the allegations in the Complaint, and deny any fault, wrongdoing, or liability in this Action related in any way to the Individual Plaintiffs' claims of violations of Plaintiffs' rights under the Fourth Amendment and the Fourteenth Amendment to the United States Constitution and under Illinois state laws;

WHEREAS, the City and Individual Defendants are electing to enter into this Settlement Agreement because, after consideration of: (a) the risks of potential liability the City and Individual Defendants could face should this matter proceed through trial and should Plaintiffs successfully prosecute their claims; and (b) the benefits to the CPD's Fourth Amendment training, supervision, practices, and discipline brought about by the terms of the Settlement, the Settlement would eliminate the burden, inconvenience and expense of further litigation and disputes concerning the alleged conduct, and achieve a release of claims and resolution of the Action;

WHEREAS, the Settlement contemplated by this Settlement Agreement is the product of extensive, good faith, and arm's-length negotiation between Settlement Class Counsel and Defendants' Counsel;

WHEREAS, the Individual Plaintiffs agree that they will be required to execute this Settlement Agreement prior to the City's presentation of the Settlement to the Chicago City Council and presentation of this Settlement Agreement to the Court together with a Motion for

Preliminary Approval of Settlement, and that Plaintiffs' offer to settle on these terms shall not be revoked or otherwise repudiated unless the conditions to Settlement set forth in Article VII are not met.

NOW, THEREFORE, in consideration of the foregoing Recitals and the agreements, covenants, representations and warranties set forth herein, IT IS HEREBY STIPULATED AND AGREED by and among the Parties, by and through their counsel, that, subject to the approval of the Court pursuant to Rule 23(e) of the Federal Rules of Civil Procedure and the occurrence of the conditions to Settlement set forth in Article VII, the Released Claims shall be finally and fully compromised, settled, released and forever discharged as to the Released Parties, and this Action shall be dismissed with prejudice upon and subject to the following terms and conditions:

**ARTICLE I.  
INTENTION OF THE PARTIES**

1. The Settlement Agreement, including all associated exhibits and attachments which are expressly incorporated herein, is made and entered into by and between the Parties, each with the assistance of their respective counsel, is intended to fully, finally, and forever settle, compromise and discharge the Released Claims as to the Released Parties arising from or related to the Action, subject to the terms and conditions set forth herein. The Settlement Agreement supersedes any and all prior agreements of the Parties concerning settlement of the Action and any memoranda of understanding or term sheets containing such agreements.

2. Because this Action was pled as a class action, the Settlement must receive preliminary and final approval by the Court. Accordingly, the Parties enter into this Settlement Agreement on a conditional basis.

3. If any event constituting a Pre-Condition to Settlement as set forth in Article VII is not met, this Settlement Agreement is not approved by the Court or fails to become effective,

or approval is reversed, withdrawn or modified by the Court or any other court with jurisdiction over the Action, the Settlement Agreement shall become null and void *ab initio* and shall have no bearing on, and shall not be admissible in connection with, further proceedings in this Action, including proceedings to determine whether class certification would be appropriate, or in any other judicial, administrative or arbitral proceeding for any purpose or with respect to any issue, substantive or procedural, and none of the Parties will be deemed to have waived any claims, objections, defenses, privileges, or arguments including but not limited to issues of class certification, the merits of Plaintiffs' claims, or the merits of the City and Individual Defendants' defenses.

4. This Settlement Agreement reflects offers of compromise and, pursuant to Federal Rule of Evidence 408 and any similar federal, state or local statute or rule, neither its acceptance by the Parties nor its filing with the Court shall, in themselves, render this Settlement Agreement admissible in evidence in any other proceeding, subject to the limited exception that it shall be admissible in an action or proceeding to approve, interpret, or enforce this Settlement Agreement. The Parties agree that this paragraph is not intended to limit in any way any protections afforded by Federal Rule of Evidence 408 or any similar, applicable federal, state or local statute or rule regarding admissibility of the Settlement Agreement.

## **ARTICLE II. LITIGATION BACKGROUND**

1. On April 20, 2015, plaintiff Darnell Smith and others, filed the Action in the United States District Court for the Northern District of Illinois on behalf of themselves and a putative class of similarly situated class members whose Fourth and Fourteenth Amendment rights were allegedly violated by the City and its CPD officers. The complaint filed in the Action has been amended from time to time.



2. The Action originally was assigned to the Honorable Amy J. St. Eve and subsequently was transferred to the Honorable Andrea R. Wood. The Action is currently pending before the Honorable Andrea R. Wood and Magistrate Judge Heather K. McShain.

3. The Complaint alleges class claims that Defendants have maintained a policy or custom of unconstitutional stops of individuals by CPD officers, without reasonable articulable suspicion in violation of the Fourth Amendment and the principles set forth in *Terry v. Ohio*, 392 U.S. 1 (1968). The Complaint further alleges additional class claims that many of these alleged stops violated the equal protection clause of the Fourteenth Amendment. In addition to the class claims, the Individual Plaintiffs bring individual federal and state law claims stemming from their individual encounters with CPD officers. Plaintiffs contend that some of these alleged unconstitutional encounters included investigatory stops conducted during the enforcement of the Loitering Ordinances.

4. On June 27, 2017, the Defendants filed their respective answers to the Complaint, denying any and all liability and the material allegations of Plaintiffs' claims.

5. On December 10, 2015, the Court entered a discovery schedule for the Action. The Parties then commenced class, merits, and damages discovery both as to the Individual Plaintiffs and class issues.

6. The Parties have exchanged documents both informally and formally, and have conducted extensive written and oral discovery. During the course of the Action, the City produced to Plaintiffs tens of thousands of pages of documents, including the Contact Card and Investigatory Stop Report databases and other data. The City took the depositions of the four (4) Settlement Class Representatives and plaintiff Edgar Marshall, Jr. Additionally, the Parties

took over forty-five (45) additional depositions of various parties, third-parties and expert witnesses.

7. On November 20, 2017, the Settlement Class Representatives filed Plaintiffs' Motion For Rule 23(b)(3) Class Certification. The City filed its opposition to the Rule 23(b)(3) motion for class certification on May 9, 2018. The Court denied the motion as to all proposed classes on May 29, 2019.

8. On January 31, 2020, the Settlement Class Representatives filed Plaintiffs' Motion for Rule 23(b)(2) Class Certification and Renewed Motion for Rule 23(b)(3) Class Certification. The City filed its opposition to the motion for class certification on June 25, 2020.

9. On August 31, 2021, the Court granted certification of Plaintiffs' proposed Rule 23(b)(2) Fourth Amendment Class and Fourth Amendment Loitering Subclass. The Court denied certification of Plaintiffs' proposed Rule 23(b)(2) Fourteenth Amendment Subclass and proposed Rule 23(b)(3) and Rule 23(c)(4) classes.

10. On October 4, 2021, the Court granted the Parties joint request to stay discovery to allow the Parties to explore settlement.

11. Shortly thereafter, the Parties exchanged position statements and participated in a series of settlement conferences over the course of several months. In March 2022, the Parties further engaged Hon. Wayne Andersen (Ret.) to mediate the settlement discussions. The parties participated in a day-long mediation before Judge Andersen on March 24, 2022, and multiple post-mediation conferences both with and without the assistance of the mediator over the course of next several months. On May 19, 2022, the Parties agreed in principle to settle the Action on the terms which are more fully set forth in this Settlement Agreement.

12. It is the desire of the Parties to fully, finally, and forever settle, compromise, and discharge all disputes and claims amongst the Parties arising from or related to the Action and that this Settlement Agreement shall constitute a full and complete settlement and release of the Released Parties from all of the Released Claims alleged or that could have been alleged in the Action.

### **ARTICLE III. DEFINITIONS**

1. The “Action” means the lawsuit titled *Darnell Smith, et al. v. City of Chicago, et al.*, No. 15 cv 03467, pending in United States District Court for the Northern District of Illinois.

2. “Administrative Expenses” means all expenses arising out of the administration of the Settlement, including but not limited to, the cost of preparing and posting Class Notice, the cost of publication of Summary Class Notice, the cost of creating and maintaining a website to post relevant information regarding the Class Administration Process, and any other costs attendant to the administration of the Settlement as may be agreed to by the Parties and approved by the Court as necessary to effectuate the Settlement.

3. “CPD” means the Chicago Police Department, including all of its officers, employees, agents, attorneys, representatives, assigns, successors or predecessors.

4. “City” means the City of Chicago, an Illinois municipal corporation, including all of its officers, employees, agents, attorneys, representatives, assigns, successors or predecessors.

5. “CPD Website” means the website maintained by the CPD at the URL address <https://home.chicagopolice.org/>.

6. “Class” or “Settlement Class” shall mean the class defined in Article IV.

7. “Class Administration Process” means the process detailed in Article IX.
8. “Class Notice Publication Deadline” means a date to be set by the Court through the Preliminary Approval Order no later than thirty (30) days following the later of the entry of the Preliminary Approval Order and approval of the Settlement by the City Council of Chicago.
9. “Class Notice Response Deadline” means a date to be set by the Court through the Preliminary Approval Order no earlier than thirty (30) days following Class Notice Publication Deadline.
10. “Class Notice” means a notice to be submitted for approval by the Court substantially in the form attached hereto as Exhibit A, and which will advise Settlement Class Members of the terms of the Settlement and their right to object to the proposed settlement terms.
11. “Complaint” means the filing titled *Sixth Amended Complaint at Law* and identified as ECF No. 177 on the Court’s docket in the Action.
12. “Confidential Information” shall have the same meaning as the term is defined in the *Agreed Confidentiality Order* entered in the Action and identified as ECF No. 91 on the Court’s docket in the Action.
13. “Consent Decree Suit” means the lawsuit captioned *State of Illinois v. City of Chicago*, Case No. 17 cv 06260 (N.D. Ill.).
14. “Court” means the United States District Court for the Northern District of Illinois.
15. “Defendant Kelly’s Counsel” means O’Connor & Battle, LLP, 111 W. Jackson Blvd., Suite 1700, Chicago, IL 60604, who represent and filed appearances on behalf of defendant Patrick Kelly.

16. “Defendants” means the City of Chicago, former Superintendent Garry McCarthy, and individual CPD Officers Anthony Gemignani, Michael Callahan, Roy Mazzanti, Adolfo Garcia, Kris Stipanov, Mario Cruz, Nicholas Cordova, Thomas Laurin, Patrick Kelly, Daniel Schmit, Anthony Rosen, and Gerardo Vega.

17. “Defendants’ Counsel” means the law firm of Taft, Stettinius & Hollister LLP, 111 East Wacker Drive, Suite 2600, Chicago, IL 60601, who represent and filed appearances on behalf of defendants City of Chicago, former Superintendent Garry McCarthy, and individual CPD Officers Anthony Gemignani, Michael Callahan, Roy Mazzanti, Adolfo Garcia, Kris Stipanov, Mario Cruz, Nicholas Cordova, Thomas Laurin, Daniel Schmit, Anthony Rosen, and Gerardo Vega. Defendants’ Counsel does not represent defendant Patrick Kelly.

18. “Final Approval Hearing” means a hearing set by the Court to take place after the Class Notice Response Deadline for the purpose of: (i) determining the fairness, adequacy and reasonableness of the Settlement Agreement; (ii) determining the good faith of the Settlement Agreement; (iii) considering the Parties’ request for entry of the Final Approval and Judgment Order; (iv) granting or denying final Court approval to the Settlement; and (v) addressing Objections as set forth in Article X and other such matters necessary or required for review and approval of the Settlement by the Court.

19. “Final Approval and Judgment Order” means the final approval of the Settlement and the judgment to be entered by the Court pursuant to this Settlement Agreement, substantially in the form of the order attached hereto as Exhibit B.

20. “Individual Plaintiff” means Edgar Marshall, Jr.

21. “Individual Plaintiffs” means Darnell Smith, Araceli Fontanez, as Parent and Next friend of Hector Fontanez, Jr., Marcell Davis, Rashawn Lindsey, and Edgar Marshall, Jr.

22. “Individual Defendants” means former Superintendent Garry McCarthy, and individual CPD Officers Anthony Gemignani, Michael Callahan, Roy Mazzanti, Adolfo Garcia, Kris Stipanov, Mario Cruz, Nicholas Cordova, Thomas Laurin, Patrick Kelly, Daniel Schmit, Anthony Rosen, and Gerardo Vega.

23. “Joint Statement” means the joint public statement of the Parties announcing the execution of the Settlement Agreement resolving the Action, attached hereto as Exhibit C.

24. “Loitering Ordinances” means Municipal Code of Chicago (“MCC”) Gang Loitering, § 8-4-015 and MCC Narcotics-related Loitering, § 8-4-017.

25. “Negotiated Fee Award” means the payment of four million-eight hundred and seventy-five thousand dollars (\$4,875,000.00) to Settlement Class Counsel for their attorneys’ fees, costs, and expenses incurred in the prosecution of the Action as agreed to by the Parties.

26. “Objections” means the written notice containing the information set forth in Article X, Section A, which a Settlement Class Member is required to submit to the Settlement Class Counsel no later than the Class Notice Response Deadline to object to the Settlement.

27. “Parties” means the Settlement Class Representatives, the Individual Plaintiff, the Settlement Class Members, the City, former Superintendent Garry McCarthy, and individual CPD Officers Anthony Gemignani, Michael Callahan, Roy Mazzanti, Adolfo Garcia, Kris Stipanov, Mario Cruz, Nicholas Cordova, Thomas Laurin, Patrick Kelly, Daniel Schmit, Anthony Rosen, and Gerardo Vega and individually are referred to as “Party” herein.

28. “Person” means an individual, corporation, partnership, limited partnership, limited liability company, association, estate, legal representative, trust, unincorporated organization and any other type of legal entity, and their heirs, predecessors, successors, representatives, and assigns.

29. “Plaintiffs” means the Settlement Class Representatives, the Individual Plaintiff, and the Settlement Class Members.

30. “Preliminary Approval Date” means the date on which the Court enters the Preliminary Approval Order.

31. “Preliminary Approval Order” or “Order Granting Preliminary Approval of Settlement” means an order to be agreed by the Parties for entry and filing by the Court substantially in the form attached hereto as Exhibit D or other order entered by the Court granting preliminary approval to the Settlement.

32. “Released Claims” means:

- (a) collectively, all class injunctive and class declaratory claims, demands, rights, liabilities and causes of action of every nature and description whatsoever, in law or equity, known or unknown, asserted or that might have been asserted, in any forum, either directly or indirectly, in a representative or in any other capacity, by any of the Releasing Parties against any of the Released Parties for any matter, arising out of, relating to, or in connection with investigatory stops and frisks and enforcement of the Loitering Ordinances by CPD officers from April 20, 2013 through the date of execution of the Settlement Agreement; and
- (b) collectively, all claims, demands, rights, liabilities and causes of action of every nature and description whatsoever, in law or equity, known or unknown, asserted or that might have been asserted, either directly or indirectly, in a representative or in any other capacity, by any of the Individual Plaintiffs, including their current and former agents, attorneys, predecessors, successors, custodians, agents, assigns, representatives, heirs, executors, trustees, administrators, and any other Person or entity having any legal or beneficial interest in their claims, against any of the Released Parties for any matter, arising out of, relating to, or in connection with the Action, the Complaint, the Settlement Agreement, or any of the subjects resolved through the execution of the Settlement Agreement.
- (c) With the exception of the Class Representatives and the Individual Plaintiffs, the Released Claims do not include claims for individual compensatory relief that have been or could be brought by Settlement Class Members for any matter, arising out of, relating to, or in connection with investigatory stops and enforcement of the Loitering Ordinances by CPD officers.

33. “Released Party” or “Released Parties” means the City, and all of its employees, agents, attorneys, insurers, representatives, administrators, predecessors, successors and assigns, former Superintendent Garry McCarthy, and individual CPD Officers Anthony Gemignani, Michael Callahan, Roy Mazzanti, Adolfo Garcia, Kris Stipanov, Mario Cruz, Nicholas Cordova, Thomas Laurin, Patrick Kelly, Daniel Schmit, Anthony Rosen, Gerardo Vega, and any and all unnamed and/or unserved defendants.

34. “Releasing Party” means each of the Plaintiffs, including all Settlement Class Members, and their current and former agents, attorneys, predecessors, successors, custodians, agents, assigns, representatives, heirs, executors, trustees, administrators, and any other Person or entity having any legal or beneficial interest in the Released Claims.

35. “Service Award” means the payment in the amount of twelve thousand five hundred dollars (\$12,500.00) to be made to each of the Settlement Class Representatives.

36. “Settlement” means the full and final compromise, settlement, and dismissal of all claims made, or that could have been made, in the Complaint arising out of or relating to, or in connection with the Released Claims.

37. “Settlement Agreement” means this Joint Stipulation and Class Action Settlement Agreement, and all of its attachments and exhibits, which the Parties understand and agree sets forth all material terms and conditions of the settlement between them and which is subject to Court approval. It is understood and agreed that the City's obligations for payment under this Settlement Agreement are conditioned on, among other things, the occurrence of a court-entered order dismissing the Action with prejudice.

38. “Settlement Award” means the payment in the amount of twelve thousand five hundred dollars (\$12,500.00) to be made to each of the Individual Plaintiffs.



39. “Settlement Class,” “Settlement Class Member” or “Member of the Settlement Class” means those individuals who meet the requirements of the Class certified on August 31, 2021, as described in Article IV.

40. “Settlement Class Representatives” means Darnell Smith, Araceli Fontanez, as Parent and Next friend of Hector Fontanez, Jr., Marcell Davis, and Rashawn Lindsey.

41. “Settlement Class Counsel” means the law firms of Romanucci & Blandin, LLC, Hart McLaughlin & Eldridge, LLC, and The Gregory Law Firm.

42. “Settlement Effective Date” means the later date of: (i) the Court's order granting final approval of the Settlement, if there are no Objections to the settlement; (ii) if there are Objections, then upon the expiration of time for appeal of the Final Judgment; or (iii) if there is an appeal by an objector from the Final Judgment, then upon the final resolution of any appeal from the Final Judgment.

43. “Stipulation” means the stipulation of the State of Illinois and the City that shall be filed in the Consent Decree Suit in substantially the same form as attached hereto as Exhibit E, or as otherwise amended by the agreement of the Parties and the State of Illinois.

44. “Summary Class Notice” means the notice submitted by the Parties for approval substantially in the form attached hereto as Exhibit E.

45. “Website” means the website, as described in Article IX, Section A.1, to be maintained by the Parties. The Website shall include, at a minimum, copies of the Settlement Agreement, the Joint Statement, the Class Notice, and the Preliminary Approval Order, and may be amended from time to time as agreed to by Settlement Class Counsel and Defendants’ Counsel or as otherwise ordered by the Court.

**ARTICLE IV.  
SETTLEMENT CLASS**

1. The Settlement Class, as certified by the Court pursuant to Federal Rule of Civil Procedure 23(b)(2), is defined as:

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; and

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."

*See* ECF No. 525.

2. Settlement Class Members shall include all individuals who are deemed to meet the definition set forth in Section IV.1.

**ARTICLE V.  
PAYMENTS**

**A. Settlement Award to Individual Plaintiffs.**

The City agrees to pay the Settlement Award to each of the Individual Plaintiffs. The City does not oppose or object to the approval of payment of these amounts. The City agrees to pay the Settlement Award to each of the Individual Plaintiffs within sixty (60) days of: (a)(1) receipt by the Defendants' Counsel of all Confidential Information tendered to Plaintiffs and/or their counsel by Defendants under any and all protective orders entered in this matter, or (2) receipt by the Defendants' Counsel of a statement certifying to the destruction of the Confidential Information tendered to Plaintiffs and/or their counsel by Defendants in accordance with the terms and conditions of the *Agreed Confidentiality Order* entered in the Action and identified as ECF

No. 91 on the Court's docket in the Action; (b) a court-entered order dismissing this Action with prejudice; (c) a court-entered stipulation of dismissal; (d) a fully executed Settlement Agreement; (e) an ordinance of the City Council authorizing the Settlement; (f) and any other court-entered order necessary for the disposition of funds, whichever is received latest. This sum shall be payable solely by the City, and the Individual Plaintiffs and/or their attorneys agree that they will not seek payment from any source other than the City. The Settlement Award check(s) will be made payable to the Individual Plaintiff, their attorneys, and lien claimants, if any, of which the City has notice. Neither a modification by this Court nor reversal on appeal of any Settlement Award by the Court shall be deemed a substantive modification of a material term of the Final Judgment, Settlement, or this Settlement Agreement.

**B. Service Award to Settlement Class Representatives.**

The City agrees to pay the Service Award to each Settlement Class Representative. The City does not oppose or object to the approval of payment of these amounts. The City agrees to pay the Service Award to each of Settlement Class Representative within sixty (60) days of: (a)(1) receipt by the Defendants' Counsel of all Confidential Information tendered to Plaintiffs and/or their counsel by Defendants under any and all protective orders entered in this matter, or (2) receipt by the Defendants' Counsel of a statement certifying to the destruction of the Confidential Information tendered to Plaintiffs and/or their counsel by Defendants in accordance with the terms and conditions of the *Agreed Confidentiality Order* entered in the Action and identified as ECF No. 91 on the Court's docket in the Action; (b) a court-entered order dismissing this Action with prejudice; (c) a court-entered stipulation of dismissal; (d) a fully executed Settlement Agreement; (e) an ordinance of the City Council authorizing the Settlement; (f) and any other court-entered order necessary for the disposition of funds, whichever is received latest. This sum shall be payable solely by the City, and the Settlement Class Representatives and/or their attorneys agree

that they will not seek payment from any source other than the City. The Service Award check(s) will be made payable to each of the Settlement Class Representatives, their attorneys, and lien claimants, if any, of which the City has notice. The Service Award will be reported as miscellaneous income on a Form 1099 and will be subject to state and federal taxation. Neither a modification by this Court nor reversal on appeal of any Service Award by the Court shall be deemed a substantive modification of a material term of the Final Judgment, Settlement, or this Settlement Agreement.

**C. No Further Payment Obligation.**

The payments of the Settlement Award and the Service Award represent all the monetary components of the Settlement to or for the benefit of the Settlement Class Representatives, Individual Plaintiffs, and Settlement Class Members. The City shall have no further payment obligations, other than funding the Class Administration Process pursuant to Article IX and Settlement Class Counsel's attorneys' fees and expenses pursuant to Article XV.

**D. No Tax Advice.**

The Individual Plaintiffs and Settlement Class Representatives acknowledge that they have not relied upon any advice, representations, warranties, guaranties, promises, statements or estimates, by Settlement Class Counsel, Defendants' Counsel, or any of the Released Parties, or anyone representing or purporting to represent the Released Parties, regarding the tax treatment or effect of any payments made under this Settlement Agreement. The Individual Plaintiffs and Settlement Class Representatives agree that in the event it should be subsequently determined that payment of taxes on any amounts received under this Settlement Agreement, or any part thereof, should have been made, that each of the Individual Plaintiffs and Settlement Class Representatives shall be personally and solely responsible for all such taxes, as well as for any related penalties or interest which may be due and, in addition, do hereby agree to indemnify and hold harmless

Settlement Class Counsel, Defendants' Counsel, and the Released Parties from any payment, interest, penalty and reasonable attorney's fees and costs incurred by in connection with any claim, including any claim made under the federal or state tax laws.

## **ARTICLE VI. REFORMS**

Subject to the approval of the Court and the terms and conditions of this Settlement Agreement, the Parties agree to the following terms:

### **A. Amendment to the Policies, Training, and Procedures Concerning Gang- and Narcotics-Related Loitering Enforcement**

1. As part of the settlement negotiations in the Action, the Parties agreed that CPD's directives and forms relating to the Enforcement of the Loitering Ordinances should be amended consistent and in accordance with the terms set forth in Exhibit I, which are incorporated as if fully set forth herein.

2. Within 60 days of the entry of the Stipulation in the Consent Decree Suit, CPD will submit draft versions of the CPD policies and reports related to the enforcement of the Loitering Ordinances, in accordance with the terms set forth in Exhibit I, to the Independent Monitor Team and OAG for the review, comment, and, if necessary, objection process as provided for in ¶¶ 627-30 of the Consent Decree in the Consent Decree Suit.

3. After the review, comment, and, if necessary, objection process provided for in ¶¶ 627-30 of the Consent Decree in the Consent Decree Suit, CPD will adopt and utilize a Loitering Dispersal Report in accordance with the terms set forth in Exhibit I.

4. The Parties further agree that CPD will not amend Special Order S10-02-03 to modify the procedural process set forth in Exhibit I, except as provided for in the review of CPD Policies and Procedures provisions in ¶¶ 626 – 637 of the Consent Decree in the Consent Decree Suit.

**B. Amendment to General Order 02-04: Prohibition Regarding Racial Profiling and Other Bias-Based Policing**

1. Effective June 20, 2022, CPD revised the language of the CPD General Order G02-04, titled Prohibition Regarding Racial Profiling and Other Bias-Based Policing, to ensure, among other modifications to General Order G02-04, that when making routine or spontaneous law enforcement decisions, CPD officers will not use: (1) race, ethnicity, age, color, national origin, ancestry, religion, disability, gender, gender identity, sexual orientation, immigration status, homeless status, marital status, parental status, military discharge status, financial status, lawful source of income, except that CPD officers may rely on age as a factor only when the individual's age is an element of the specific crime or ordinance that the individual is suspected of violating including but not limited to curfew, school absenteeism, and underage consumption of alcohol; and (2) substitutes or stereotypes for the demographic categories listed above, such as manner of dress, mode of transportation, or language ability, except CPD officers may rely on the above-listed demographic categories only when such information is part of a specific description of a wanted person.

2. The Parties further agree that CPD will not amend General Order G02-04, or like CPD directives, except as provided for in the review of CPD Policies and Procedures provisions in ¶¶ 626 – 637 of the Consent Decree.

**C. Consent Decree**

1. The Parties agree that certain relief achieved as a result of this Settlement Agreement shall be implemented through the Consent Decree in the matter of *State of Illinois v. City of Chicago*, No. 17-cv-6260 (N.D.Ill.), pending before the Honorable Judge Rebecca R. Pallmeyer, pursuant to the Stipulation, attached here as Exhibit E. The entry of the Stipulation

is contingent upon agreement of the City and the Illinois Office of Attorney General (“OAG”) on behalf of the State of Illinois, and the approval of the Court in the Consent Decree Suit.

2. The Stipulation sets forth the terms of settlement relief agreed upon by the Parties regarding monitoring, reporting, review, community engagement, training, and accountability measures relating to investigatory stops and enforcement of the Loitering Ordinances and is incorporated as if fully stated herein.

3. The Stipulation shall be filed in the Consent Decree Suit for approval by Court no later than twenty-one (21) days of entry of the Final Approval and Judgment Order.

4. Upon the approval of the Stipulation by the Court in the Consent Decree Suit, the City shall terminate the August 6, 2015 Investigatory Stop and Protective Pat Down Settlement Agreement.

**D. Joint Statement**

1. Upon the entry of the Preliminary Approval Order, the Parties agree to make the Joint Statement attached here as Exhibit C.

**ARTICLE VII.  
PRE-CONDITIONS TO SETTLEMENT**

This Settlement Agreement shall be of no force or effect and shall be void *ab initio* without prejudice to the rights of any Party unless each of the following conditions is fully satisfied:

- (a) The Chicago City Council enacts an ordinance authorizing the Settlement and payment of funds agreed upon in this Settlement Agreement;
- (b) Preliminary approval by the Court of the Settlement Agreement pursuant to the terms outlined herein and the Court’s entry of a Preliminary Approval Order;
- (c) Entry of the Final Approval and Judgment Order by the Court;
- (d) Occurrence of the Settlement Effective Date; and

- (e) The City receives a Final Agreed Order of Dismissal from the Court dismissing with prejudice all of Plaintiffs' claims against Defendants without leave to reinstate in substantially the same form as the Order attached as Exhibit G.

**ARTICLE VIII.  
PRELIMINARY APPROVAL PROCESS AND COURT APPROVAL  
OF NOTICE TO THE SETTLEMENT CLASS**

1. Plaintiffs shall promptly submit this Settlement Agreement to the Court together with a Motion for Preliminary Approval of Settlement, which will seek an order:

- (a) Preliminarily approving the Settlement;
- (b) Approving the Class Administration Process to be administered by the Parties;
- (c) Approving the form and content of the Class Notice and Summary Class Notice consistent with the provisions hereof for posting and publication, respectively, to notify Settlement Class Members of the hearing on final approval of the Settlement Agreement;
- (d) Finding that the posting on websites of the Class Notice and publication of the Summary Class Notice constitute the best and most practicable notice to Settlement Class Members under the circumstances, and are due and sufficient notice of the Final Approval Hearing, proposed Settlement Agreement and other matters set forth in the Class Notice and Summary Class Notice to all Settlement Class Members and that the Class Notice and Summary Class Notice fully satisfy the requirements of due process, the Federal Rules of Civil Procedure and any other applicable law;
- (e) Preliminarily affirming the certified Settlement Class for purposes of settlement, the appointment of Darnell Smith, Araceli Fontanez, as Parent and Next friend of Hector Fontanez, Jr., Marcell Davis, and Rashawn Lindsey as Settlement Class Representatives, and the appointment of Settlement Class Counsel as counsel of the Settlement Class;
- (f) Preliminarily approving the proposed Service Award to Settlement Class Representatives;
- (g) Preliminarily approving the proposed Settlement Award to the Individual Plaintiffs;
- (h) Preliminarily approving the Negotiated Fee Award to Settlement Class Counsel;



- (i) Scheduling the Final Approval Hearing on the question of whether the proposed Settlement should be finally approved as fair, reasonable, and adequate as to the members of the Settlement Class.

2. If the Court enters the Preliminary Approval Order, then at the resulting Final Approval Hearing, Plaintiffs and the City each through their counsel of record, shall address any written objections from Settlement Class Members or any concerns from Settlement Class Members who attend the hearing as well as any concerns of the Court, if any, and shall and hereby do, unless provided otherwise in this Settlement Agreement, stipulate to final approval of this Settlement Agreement and entry of the Final Judgment by the Court.

3. Settlement Class Counsel may also provide separate notice to Settlement Class Members through use of their law firm websites, social media or other means of communication. Such separate notice will not require Court approval.

## **ARTICLE IX. CLASS ADMINISTRATION PROCESS**

### **A. The Parties' Role.**

1. The Parties shall create and maintain a Website that shall include, at a minimum, copies of the Settlement Agreement, the Joint Statement, the Class Notice, and the Preliminary Approval Order, and such other documents or materials agreed to by Settlement Class Counsel and Defendants' Counsel or as otherwise ordered by the Court.

2. Unless the Parties agree otherwise in writing or the Court so orders, the Class Notice shall be posted on the Website no later than the Class Notice Publication Deadline. Included within the Website to address any questions or comments shall be the contact information for the Settlement Class Counsel:

**HART McLAUGHLIN & ELDRIDGE, LLC**  
1 South Dearborn, Suite 1400  
Chicago, Illinois 60603

[shart@hmelegal.com](mailto:shart@hmelegal.com)  
[beldridge@hmelegal.com](mailto:beldridge@hmelegal.com)

Settlement Class Counsel shall meet and confer with Defendants' Counsel to address any questions or comments that do not invoke or violate the attorney-client privilege.

3. The Parties shall maintain the Website for this Settlement for at least until entry of the Final Approval and Judgment Order.

4. At least five (5) days prior to the Final Approval Hearing, the Parties shall prepare, and the Parties shall provide the Court a declaration of due diligence and proof of publication of the Summary Class Notice as described in Section B.4 of this Article IX.

**B. The City's Role.**

1. The City shall create and maintain a link on the CPD Website that shall include, at a minimum, copies of the Settlement Agreement, the Joint Statement, the Class Notice, and the Preliminary Approval Order, and such other documents or materials agreed to by Settlement Class Counsel and Defendants' Counsel or as otherwise ordered by the Court.

2. Unless the Parties agree otherwise in writing or the Court so orders, the Class Notice shall be posted on the CPD Website no later than the Class Notice Publication Deadline.

3. The City shall maintain the CPD Website for this Settlement for at least until entry of the Final Approval and Judgment Order.

4. The City shall publish the Summary Class Notice, consistent with the provisions hereof, on three (3) occasions in the legal notice section of *The Chicago Tribune* in three (3) consecutive weeks, beginning no later than Class Notice Publication Deadline.

**C. Costs.**

Costs of the Website, CPD Website, Class Notice, the Summary Class Notice, and publication of the Summary Class Notice constitute an Administrative Expense as defined in

Article III, and thus payable by the City. Further, all other reasonable costs incurred by the City arising out of the administration of the Settlement shall be considered Administrative Expenses to be paid by the City.

**D. Adequacy of Notice.**

The Parties believe that compliance with the procedures described in this Article constitutes due and sufficient notice to Settlement Class Members of this Settlement and the Final Approval Hearing and satisfies the requirements of due process. Nothing else shall be required of the Parties, Settlement Class Counsel or Defendants' Counsel to provide Class Notice of the Settlement and the Final Approval Hearing.

**ARTICLE X.  
PROCEDURE FOR OBJECTING TO THE SETTLEMENT**

**A. Objections.**

Settlement Class Members who wish to object to this Settlement must do so in writing or in any other manner ordered by the Court. Written objections must include the Settlement Class Member's name, address, and last four digits of his or her Social Security number, and state the basis of the objection. Individual Plaintiffs may not object to the Settlement. The written objections must be emailed or postmarked and mailed no later than the Class Notice Response Deadline, or as otherwise ordered by the Court, to be considered timely. All written objections must be sent to Settlement Class Counsel:

To Settlement Class Counsel:

Steven A. Hart  
Brian Eldridge  
**HART McLAUGHLIN & ELDRIDGE, LLC**  
1 South Dearborn, Suite 1400  
Chicago, Illinois 60603

[shart@hmelegal.com](mailto:shart@hmelegal.com)  
[beldridge@hmelegal.com](mailto:beldridge@hmelegal.com)

The Settlement Class Members shall be permitted to withdraw their Objections prior to the Final Approval Hearing, or as otherwise ordered by the Court.

**B. Processing of Objections.**

1. Settlement Class Counsel shall (a) record all Objections to the settlement that they receive and (b) serve on Defendants' Counsel copies of the Objections no later than five (5) business days after receipt, or immediately if received within five (5) business days of the Final Approval Hearing. The Parties shall file true and accurate copies of Objections with the Clerk of the Court no later than five (5) business days prior to Final Approval Hearing or immediately if received less than five (5) business days prior to the Final Approval Hearing.

2. **Withdrawal of Objections.** Settlement Class Counsel shall also (a) record all withdrawal of objection statements they receive; and (b) serve on Defendants' Counsel copies of the withdrawal of objection statements no later than five (5) business days after receipt, or immediately if received within five (5) business days of the Final Approval Hearing. The Parties shall file true and accurate copies with the Clerk of the Court no later than five (5) business days prior to Final Approval Hearing or immediately if received less than five (5) business days prior to the Final Approval Hearing.

**ARTICLE XI.**  
**MOTION FOR FINAL APPROVAL AND FINAL APPROVAL HEARING**

**A. Motion for Final Approval.**

Prior to the Final Approval Hearing and consistent with the rules imposed by the Court, Plaintiffs shall move the Court for entry of final approval of the Settlement Agreement and entry of the Final Judgment. Plaintiffs and Settlement Class Counsel shall be responsible for justifying the agreed upon payments set forth in Articles V and XV of this Settlement

Agreement. The City agrees not to oppose such payments. To the extent possible, the motion seeking entry of the Final Judgment shall be noticed for the same day as the Final Approval Hearing. The Parties shall take all reasonable efforts to secure entry of the Final Judgment. If the Court rejects the Settlement Agreement, or fails to enter the Final Judgment, this Settlement Agreement shall be void *ab initio*, and the City shall have no obligation to make any payments under the Settlement Agreement, except for payments related to the Administrative Expenses.

**B. Final Judgment.**

Settlement Class Counsel will submit a proposed Final Approval and Judgment Order substantially in the form attached as Exhibit B, which shall include findings and orders:

1. Approving the Settlement Agreement, incorporating by reference the terms and conditions of the Settlement Agreement in the Final Judgment, making the Settlement Agreement an exhibit to the Final Judgment, adjudging the terms thereof to be fair, reasonable, and adequate, and directing that its terms and provisions be carried out;
2. Approving the payment of Service Award to the Settlement Class Representatives pursuant to the procedure in Article V;
3. Approving the payment of Settlement Award to the Individual Plaintiffs pursuant to the procedure in Article V;
4. Approving the payment of Negotiated Fee Award to Settlement Class Counsel pursuant to the procedure in Article XV;
5. Approving the form and substance of the Stipulation set forth in Article VI, Section C;
6. Approving the Class Administration Process set forth in Article IX;
7. Providing that the Court terminates its jurisdiction over Released Claims, except to the extent necessary to administer, implement, interpret or enforce the Final Judgment;

8. Directing the Parties to take all actions necessary to effectuate the terms or conditions of the Final Judgment and Settlement Agreement;

9. Dismissing the Action without prejudice and with leave to reinstate pursuant to the Stipulation to Dismiss attached as Exhibit H, which shall become a dismissal with prejudice upon (a) the later date of: (i) the entry of the Stipulation in the Consent Decree Suit and (ii) the expiration of the right to withdraw set forth in Article XII, Section A based on the failure to obtain approval and entry of the Stipulation and (b) the entry of the Final Agreed Order of Dismissal in substantially the same form as the order attached as Exhibit G; and

10. Determining there is no just reason for delay and directing that the Final Judgment and Order be final and appealable.

**C. Fulfillment and Completion of Final Judgment.**

1. Following entry of the Final Judgment, the Parties will act to assure the timely execution and the fulfillment of all its provisions, including, but not limited to, should an appeal be taken from the final approval of the Settlement Agreement, all Parties will support the approval order on appeal.

2. Upon the later date of: (i) the Court's order granting final approval of the Settlement, if there are no Objections to the settlement; (ii) if there are Objections, then upon the expiration of time for appeal of the Final Judgment; or (iii) if there is an appeal by an objector from the Final Judgment, then upon the final resolution of any appeal from the Final Judgment, the Parties shall take all necessary action to facilitate the entry of the Stipulation in the Consent Decree Suit.

3. The City shall transmit payment of the Settlement Award to the Individual Plaintiffs care of Steven Hart of the law firm of Hart McLaughlin & Eldridge, LLC in accordance with the terms set forth in Article V, Section A.

4. The City shall transmit payment of the Service Award to the Settlement Class Representatives care of Steven Hart of the law firm of Hart McLaughlin & Eldridge, LLC in accordance with the terms set forth in Article V, Section B.

5. The City shall make payment of the Settlement Award and Service Award under this Agreement by issuing one or two checks payable to each Settlement Class Representative and/or Individual Plaintiffs.

6. Following the transmittal of the Settlement Award and Service Award to each Settlement Class Representative and Individual Plaintiffs, the City shall provide a declaration of payment of the Settlement Award and Service Award, which Defendants' Counsel will file with the Court within fourteen (14) days of transmittal of the distributions.

7. The City shall transmit payment of the Negotiated Fee Award to the Settlement Class Counsel care of Steven Hart of the law firm of Hart McLaughlin & Eldridge, LLC in accordance with the terms set forth in Article XV.

**ARTICLE XII.  
TERMINATION OF SETTLEMENT**

**A. Right to Withdraw.**

In the event (a) the Court declines to enter the Preliminary Approval Order, Final Judgment or multiple orders, which together provide the same relief, or (b) the Court enters the Preliminary Approval Order, Final Judgment or multiple orders that together provide relief which is substantively different than provided herein, or (c) the court in the Consent Decree Suit denies the approval and entry of the Stipulation in the Consent Decree Suit, each of the Parties shall have the right, within fourteen (14) days thereafter, to withdraw from and terminate this Settlement Agreement by written notice to the other Parties. In the event that any Settlement Class Member appeals the entry of the Final Judgment, and on appeal any appellate

court reverses or substantially modifies the Final Judgment, or orders relief which is substantively different than provided therein, each of the Parties shall have the right, within fourteen (14) days thereafter, to withdraw from this Settlement by written notice to the other Party. The determination of whether any difference between the forms of Preliminary Approval and Final Approval Order, or any modification on appeal, is substantive, shall be made by each Party in its sole discretion.

**B. Payment of Administrative Expenses.**

In the event that any of the Parties elects to withdraw from this Settlement Agreement in accordance with this Article, then the cost of any Administrative Expenses incurred prior to the date of termination shall be borne by the City.

**C. Payment of Attorneys' Fees and Costs.**

In the event that either of the Parties elects to withdraw from this Settlement Agreement in accordance with this Article, then each Party shall pay their own attorneys' fees and costs, and Defendant shall have no obligation whatsoever to fund the payment of the Negotiated Fee Award.

**D. Reversion to Status Prior to Settlement.**

If this Settlement Agreement is not approved, or is otherwise terminated or canceled pursuant to its terms, the Parties to this Settlement Agreement shall be deemed to have reverted to their respective status as it existed prior to the execution of this Settlement Agreement, and they shall proceed in all respects as if this Settlement Agreement had not been executed and the related orders and judgments had not been entered, preserving all of their respective claims and defenses in the Action.



**ARTICLE XIII.  
RELEASES AND INDEMNITIES**

**A. Release by Operation of Final Judgment.**

Upon the Settlement Effective Date, the Releasing Parties shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever released, dismissed, relinquished and discharged all Released Claims against all Released Parties that have been or could have been asserted in the Action.

**B. Assertion of Claims Barred.**

The releases provided in this Article shall bar the assertion of any and all Released Claims against the Released Parties, and such claims shall be enjoined.

**C. Indemnities and Hold Harmless.**

In consideration of this Settlement entered pursuant to this Settlement Agreement, and upon advice of counsel, the Individual Plaintiffs agree to indemnify and hold harmless the City and Individual Defendants from any claims, losses, damages or expenses, including attorney's fees and costs, incurred, or which may be incurred, by reason of any lien or any other claim or interest held by any person, entity or corporation against any moneys received or to be received by the Individual Plaintiffs and/or Settlement Class Representatives under this Settlement entered pursuant to this Settlement Agreement.

**ARTICLE XIV.  
PRELIMINARY TIMELINE FOR COMPLETION OF SETTLEMENT**

The preliminary schedule for Class Notice, approval, and payment procedures carrying out the Settlement is below. The schedule may be modified depending on whether and when the Court grants necessary approvals and orders notice to the class, and sets further hearings. In the event of such modification, the Parties shall cooperate in order to complete the settlement procedures as expeditiously as reasonably practicable.

1. Preliminary Approval Hearing before the Court at the earliest possible date permitted by the Court;
2. The Class Notice shall be posted on the Website no later than Class Notice Publication Deadline;
3. The Summary Class Notice shall be published no later than Class Notice Publication Deadline; and
4. Objections to the Settlement must be emailed or postmarked and mailed to the Settlement Class Counsel no later than the Class Notice Response Deadline;
5. Final Approval Hearing before the Court will occur as soon as the Court will hear the Motion for Final Approval after the Class Notice Response Deadline.

**ARTICLE XV.  
ATTORNEYS' FEES**

**A. Fee Award.**

The Parties have agreed to the Negotiated Fee Award as the amount of attorneys' fees, costs, and expenses that can be sought or awarded to Settlement Class Counsel. The Negotiated Fee Award will be disclosed to Settlement Class Members in the Class Notice. The Parties agree that the Negotiated Fee Award includes an award for all hours and fees, costs and expenses incurred to date and any and all fees, costs, and expenses necessary to effectuate and implement the Settlement. The City agrees to pay the court-awarded attorneys' fees and costs within sixty (60) days of: (a)(1) receipt by the Defendants' Counsel of all Confidential Information tendered to Plaintiffs and/or their counsel by Defendants under any and all protective orders entered in this matter, or (2) receipt by the Defendants' Counsel of a statement certifying to the destruction of the Confidential Information tendered to Plaintiffs and/or their counsel by Defendants in accordance with the terms and conditions of the *Agreed Confidentiality Order* entered in the Action and

identified as ECF No. 91 on the Court's docket in the Action; (b) a court-entered order dismissing this Action with prejudice; (c) a court-entered stipulation of dismissal; (d) a fully executed Settlement Agreement; (e) an ordinance of the City Council authorizing the Settlement; (f) and any other court-entered order necessary for the disposition of funds, whichever is received latest. This sum shall be payable solely by the City of Chicago, and the Individual Plaintiffs and/or their attorneys agree that they will not seek payment from any source other than the City. The check will be made payable to Settlement Class Counsel. Settlement Class Counsel may not file a supplemental fee and cost petition in the Action, the Consent Decree Suit or any other action or forum.

**B. Effect of Attorneys' Fees.**

Neither a modification nor reversal on appeal of any amount of attorneys' fees, costs, and expenses awarded by the Court shall be deemed a substantive modification or reversal of a part of the substantive terms of the Final Judgment.

**ARTICLE XVI.  
NO ADMISSION OF LIABILITY OR WRONGDOING;  
INADMISSIBILITY OF SETTLEMENT**

Nothing contained herein, nor the consummation of this Settlement Agreement, is to be construed or deemed an admission of liability, culpability, negligence or wrongdoing on the part of the Defendants. Each of the Parties hereto has entered into this Settlement Agreement with the intention to avoid further disputes and litigation with the attendant inconvenience and expenses, and by entering into this Agreement does not intend to render it, or consent to its becoming, admissible in evidence in any other proceeding. Notwithstanding the preceding sentence, this Settlement Agreement shall be admissible in any action or proceeding to approve, interpret or enforce this Settlement Agreement. The Parties agree that this Article is not intended to limit in

any way any protections afforded by Federal Rule of Evidence 408 or any similar, applicable federal, state or local statute or rule regarding admissibility of this Settlement Agreement.

**ARTICLE XVII.  
CONSENT TO MAGISTRATE JUDGE JURISDICTION**

Upon execution of this Settlement Agreement, the Parties shall consent to transfer of the Action from the docket of Judge Wood to the docket of Magistrate Judge McShain.

**ARTICLE XVIII.  
MISCELLANEOUS PROVISIONS**

**A. Recitals and Definitions.**

The Recitals and Definitions set forth above are essential elements of this Settlement Agreement.

**B. Voiding or Modifying the Settlement Agreement.**

This Settlement Agreement may not be changed, altered or modified, except in writing and signed by the Parties hereto, and approved by the Court. This Settlement Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties hereto. Any modification of the Settlement Agreement does not require additional notice to the Settlement Class.

**C. Parties' Authority.**

The signatories hereby represent that they are fully authorized to enter into this Settlement Agreement and bind the Parties hereto to the terms and conditions hereof. In entering into this Settlement Agreement, the Settlement Class Representatives and Individual Plaintiffs represent that they have relied upon the advice of their attorneys who are the attorneys of their own choice, and that the terms of this Settlement Agreement have been interpreted, completely read and explained to them by their attorneys, and that those terms are fully understood and voluntarily accepted by the Settlement Class Representatives and Individual Plaintiffs. Settlement Class

Representatives and Individual Plaintiffs also represent and warrant that no other person or entity has or has had any interest in the claims or causes of action referred to herein, that they and their attorneys have the sole right and exclusive authority to execute this Settlement Agreement and receive the sums specified herein, and that they have not sold, assigned, transferred, conveyed, or otherwise disposed of any of the claims or causes of action referred to herein.

**D. Mutual Full Cooperation.**

The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement Agreement, including but not limited to, executing such documents and taking such other action as may reasonably be necessary to implement the terms of this Settlement Agreement. The Parties to this Settlement Agreement shall use their best efforts, including all efforts contemplated by this Settlement Agreement and any other efforts that may become necessary by order of the Court or otherwise to effectuate this Settlement Agreement and the terms set forth herein. As soon as practicable after execution of this Settlement Agreement, Settlement Class Counsel shall, with the assistance and cooperation of Defendants' Counsel, take all necessary steps to secure the Court's preliminary and final approval of this Settlement Agreement.

**E. Notices.**

Unless otherwise specifically provided herein, all Notices (other than the Class Notice), demands or other communications given hereunder shall be in writing and shall be deemed to have been duly given as of the third business day after mailing by United States registered or certified mail, return receipt requested, addressed as follows:

To Settlement Class Counsel:

Steven A. Hart  
Brian Eldridge  
**HART McLAUGHLIN & ELDRIDGE, LLC**

1 South Dearborn, Suite 1400  
Chicago, Illinois 60603  
[shart@hmelegal.com](mailto:shart@hmelegal.com)  
[beldridge@hmelegal.com](mailto:beldridge@hmelegal.com)

Antonio M. Romanucci  
Martin D. Gould  
**ROMANUCCI & BLANDIN, LLC**  
321 North Clark Street, Suite 900  
Chicago, Illinois 60654  
[aromanucci@rblaw.net](mailto:aromanucci@rblaw.net)  
[mgould@rblaw.net](mailto:mgould@rblaw.net)

To Defendants' Counsel:

Michael P. Sheehan  
Allan T. Slagel  
**TAFT STETTINIUS AND HOLLISTER LLP**  
111 East Wacker Drive, Suite 2600  
Chicago, Illinois 60601  
[msheehan@taftlaw.com](mailto:msheehan@taftlaw.com)  
[aslagel@taftlaw.com](mailto:aslagel@taftlaw.com)

To Defendant Kelly's Counsel:

Kenneth M. Battle  
**O'CONNOR & BATTLE LLP**  
111 W. Jackson Blvd., Suite 1700  
Chicago, Illinois 60602  
[kbattle@mokblaw.com](mailto:kbattle@mokblaw.com)

If the identity of the person(s) to be notified for any party change or their address changes, that Party shall notify all other Parties of said change in writing.

**F. Successors and Assigns.**

This Settlement Agreement shall be binding upon and insure to the benefit of the Parties and their successors and assigns. No Party may assign its rights or obligations under this Settlement Agreement without the prior written consent of all the other Parties.

**G. Third Parties.**

Nothing in this Settlement Agreement, whether express or implied, is intended to confer any rights or remedies under or by reason of this Settlement Agreement on any Person other than the Parties and their respective successors and assigns, nor is anything in this Settlement Agreement intended to relieve or discharge the obligations or liabilities of any third parties to any Party or shall any provision give any third parties any right of subrogation or action over or against any Party.

**H. Captions and Interpretations.**

Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend or describe the scope of this Settlement Agreement or any provision hereof. Each term of this Settlement Agreement is contractual and not merely a recital. The Parties hereto agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive arm's-length negotiations between the Parties and that this Settlement Agreement shall not be construed in favor of or against any Party by reason of the extent to which any Party or his, her or its counsel participated in the drafting of this Settlement Agreement.

**I. Integration Clause.**

This Settlement Agreement contains the entire agreement between the Parties relating to the settlement and transactions contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a Party or such Party's legal counsel, are merged herein, including any memoranda of understanding or term sheets. No rights hereunder may be waived except in writing.

**J. No Prior Assignments.**

This Settlement Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators, and successors. The Parties hereto represent, covenant, and warrant that they have not directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged except as set forth herein.

**K. Settlement Class Member Signatories.**

It is agreed that because the Members of the Settlement Class are so numerous, it is impossible or impractical to have each Settlement Class Member execute this Settlement Agreement. Accordingly, the Settlement Class Representatives and Settlement Class Counsel shall sign this Settlement Agreement on behalf of the Settlement Class. The Settlement Class Notice will advise all Settlement Class Members of the binding nature of the release and the Court's Final Judgment, upon its entry, shall have the same force and effect as if this Settlement Agreement were executed by each Settlement Class Member.

**L. Counterparts.**

This Settlement Agreement may be executed in counterparts with signatures transmitted by U.S. Mail or as an electronic image of the original signature. When each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one Settlement Agreement, which shall be binding upon and effective as to all Parties. An electronic image of an original signature shall have the same force and effect as the original signature, if and only if it is transmitted from counsel for one Party to the other. Such transmissions shall be interpreted as verification by the



transmitting counsel that the signature is genuine and that the Party signing has authorized and reviewed the agreement.

**M. Governing Law.**

This Release and Settlement Agreement is entered into in the State of Illinois and shall be construed and interpreted in accordance with its laws.

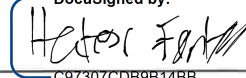
**N. Jurisdiction and Venue.**

The United States District Court for the Northern District of Illinois has jurisdiction over the Parties and the subject matter of this action, and shall have the full power and authority to enforce the Final Judgment.

[SIGNATURES ON THE FOLLOWING PAGES]

ON BEHALF OF PLAINTIFFS AND THE SETTLEMENT CLASS:

DocuSigned by:



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\_\_\_\_\_  
Darnell Smith, individually and on  
behalf of the Settlement Class

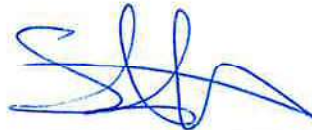
\_\_\_\_\_  
Araceli Fontanez as parent and Next Friend of Hector  
Fontanez, Jr., individually and on behalf of the  
Settlement Class

\_\_\_\_\_  
Marcell Davis, individually and on  
behalf of the Settlement Class

\_\_\_\_\_  
Rashawn Lindsey, individually and on behalf of the  
Settlement Class

\_\_\_\_\_  
Edgar Marshall, Jr, individually

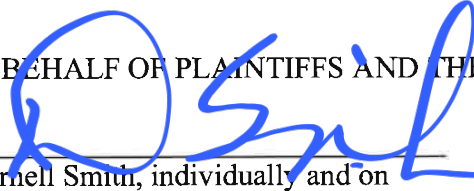




\_\_\_\_\_  
Antonio M. Romanucci  
Martin D. Gould  
**ROMANUCCI & BLANDIN, LLC**  
321 North Clark Street, Suite 900  
Chicago, Illinois 60654

\_\_\_\_\_  
Steven A. Hart  
Brian Eldridge  
**HART McLAUGHLIN &  
ELDRIDGE, LLC**  
1 South Dearborn, Suite 1400  
Chicago, Illinois 60603

ON BEHALF OF PLAINTIFFS AND THE SETTLEMENT CLASS:

  
Darnell Smith, individually and on behalf of the Settlement Class

Araceli Fontanez as parent and Next Friend of Hector Fontanez, Jr., individually and on behalf of the Settlement Class

DocuSigned by:



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Marcell Davis, individually and on behalf of the Settlement Class

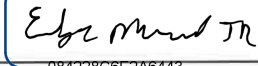
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Rashawn Lindsey, individually and on behalf of the Settlement Class

DocuSigned by:

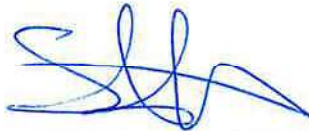


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Edgar Marshall, Jr, individually

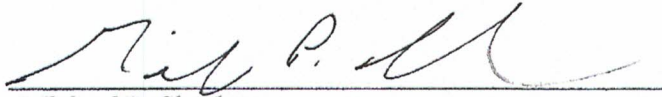


Antonio M. Romanucci  
Martin D. Gould  
**ROMANUCCI & BLANDIN, LLC**  
321 North Clark Street, Suite 900  
Chicago, Illinois 60654



Steven A. Hart  
Brian Eldridge  
**HART McLAUGHLIN & ELDRIDGE, LLC**  
1 South Dearborn, Suite 1400  
Chicago, Illinois 60603

ON BEHALF OF CITY OF CHICAGO, former Superintendent Garry McCarthy, and Individual Defendants, except Patrick Kelly



Michael P. Sheehan

Allan T. Slagel

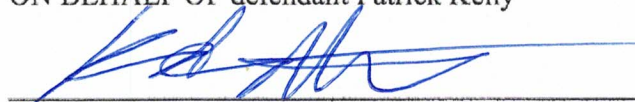
Elizabeth A. Winkowski

**TAFT STETTINIUS AND HOLLISTER LLP**

111 East Wacker Drive, Suite 2600

Chicago, Illinois 60601

ON BEHALF OF defendant Patrick Kelly



Kenneth M. Battle

**O'CONNOR & BATTLE LLP**

111 W. Jackson Blvd., Suite 1700

Chicago, Illinois 60602

DATED: \_\_\_\_\_, 2023

## **LIST OF EXHIBITS**

Exhibit A	Class Notice
Exhibit B	Final Approval and Judgment Order
Exhibit C	Joint Statement
Exhibit D	Preliminary Approval Order
Exhibit E	Stipulation
Exhibit F	Summary Class Notice
Exhibit G	Final Agreed Order of Dismissal
Exhibit H	Stipulation to Dismiss
Exhibit I	Agreement on Amendment to Gang- and Narcotics-Related Loitering Enforcement

**EXHIBIT A**

**Class Notice**

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

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>	)	

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**NOTICE OF CLASS ACTION SETTLEMENT**

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

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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](mailto:shart@hmelegal.com)  
[beldridge@hmelegal.com](mailto: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](http://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.**

**EXHIBIT B**

**Final Approval and Judgment Order**

[TO BE SUPPLEMENTED BY THE PARTIES]

**EXHIBIT C**  
**Joint Statement**

## **Joint Statement From City of Chicago, Chicago Police Department, and Plaintiffs On Settlement Agreement Reached In Investigatory Stop Class Action Lawsuit**

**CHICAGO (JULY 27, 2023)** — The parties in the case *Darnell Smith, et.al., vs City of Chicago* have settled a class action lawsuit which challenged investigatory stop practices by CPD officers. The agreement includes enhanced training, supervision and accountability systems, more community involvement, policy changes, and binding judicial oversight - all designed to help officers do their job more effectively, build community confidence in the police department, and more effectively use police resources. This Agreement is the product of more than six years of litigation between the parties and builds on the reforms underway at CPD by expanding the scope of the Consent Decree being overseen by U.S. District Court Judge Rebecca R. Pallmeyer to include oversight and reform of CPD's policies and training related to investigatory stops as well as data collection and analysis by CPD.

The City of Chicago, CPD, and Plaintiffs enter into this settlement with the shared recognition that the ability of a police department to protect the community it serves is only as strong as the relationship it has with that community. The agreed upon reforms to investigatory stop practices aim to build and strengthen relationships between CPD, its officers, and all members of the community. The purpose of this Agreement is to ensure that the City of Chicago and CPD protect the statutory and Constitutional rights of all members of the community, treat individuals with dignity and respect, enhance both officer and public safety, and improve the City's ability to effectively address crime by increasing public confidence in the CPD. At the same time, the parties recognize that police officers work in difficult conditions. In this Agreement, the City commits to ensure that its officers have the necessary resources to perform their duties successfully and within Constitutional boundaries to promote officer and public safety. This Agreement is a positive step towards significant, lasting change for CPD, and the communities it serves.

**EXHIBIT D**

**Preliminary Approval Order**



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

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

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**ORDER GRANTING CERTIFICATION OF THE PROPOSED SETTLEMENT  
CLASSES AND PRELIMINARY APPROVAL OF THE SETTLEMENT**

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Plaintiffs, individually and on behalf of a class of all others similarly situated, have entered into a Joint Stipulation And Class Action Settlement Agreement (“Settlement Agreement”) with Defendants City of Chicago (“City”), former Chicago Police Superintendent Garry McCarthy, and the individual officers named in this case. On July 13, 2023, this Court held a hearing on Plaintiffs’ Unopposed Motion for Preliminary Approval and for Certification of the Proposed Settlement Classes (“Motion”). The Court, having reviewed the Motion, the Settlement Agreement, and the relevant file materials, hereby **ORDERS AND ADJUDGES** as follows:

**Certification of the Settlement Classes**

1. On August 31, 2021, District Court Judge Andrea R. Wood entered an order granting in part Plaintiffs’ Motion for Class Certification under Rule 23(b)(2). (Dkt. No. 525.) Judge Wood 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.”

2. As part of the present motion, the Plaintiffs, without objection or opposition from Defendants, have requested this Court to certify these same two classes as Settlement Classes. The Court has independently reviewed these two classes under Federal Rule of Civil Procedure 23. The Court finds that the proposed settlement classes meet the requirements of Rule 23(a) as well as the requirements of Rule 23(b)(2). The Court therefore grants the request to certify the Settlement Classes as defined above.

#### **Preliminary Approval of the Settlement**

3. Upon review of the record, the Court finds the proposed Settlement Agreement was arrived at by arm’s length negotiations between highly experienced counsel. The Court further finds that the terms of the settlement fall within the range of possible approval and therefore the Court preliminarily approves of the settlement subject to further consideration at the Court’s Final Approval Hearing. The Court finds that the Settlement Agreement is preliminarily determined to be fair, reasonable, adequate, and in the best interests of the certified classes, raises no obvious reasons to doubt its fairness, and raises a reasonable basis for presuming that the Settlement and its terms satisfy the requirements of Federal rules of Civil Procedure 23(c)(2) and 23(e).

#### **Approval of the Notice Plan**

4. The Court hereby directs notice to be distributed pursuant to Federal Rule of Civil Procedure 23(c)(2). The Court has reviewed the Notice of Class Action Settlement and the Summary

Class Notice. The Court finds that they will adequately provide Class Members with notice of the Settlement and their right to object.

5. Pursuant to the Settlement Agreement, the Parties will create and maintain a website that will include, at a minimum, copies of the Settlement Agreement, the Parties' Joint Statement concerning the Settlement, the Class Notice, and this Order. Additionally, the City will create and maintain a link on the Chicago Police Department's website that will include, at a minimum, copies of the Settlement Agreement, the Parties' Joint Statement concerning the Settlement, the Class Notice, and this Order. Further, the City will publish the Summary Class Notice in the legal notice section of *The Chicago Tribune* in three (3) consecutive weeks during the notice period.

6. The Court finds that notice plan described above constitutes the best and most practicable notice to Class Members under the circumstances and constitutes due and sufficient notice of the Final Approval Hearing and proposed Settlement Agreement and satisfies the requirements of Rule 23(c)(2) and due process.

#### **Preliminary Approval of Awards**

7. Pursuant to the Settlement Agreement, the City has agreed 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. The Court preliminarily finds that the settlement amounts are within the range of possible approval and therefore preliminarily approves the same.

8. Pursuant to the Settlement Agreement, the City has agreed to pay \$12,500 to each of the following Settlement Class Representatives for their participation and service in this case: Darnell Smith, Araceli Fontanez, as Parent and Next Friend of Hector Fontanez, Jr., Marcell Davis, and

Rashawn Lindsey. The Court preliminarily finds that the settlement amounts are within the range of possible approval and therefore preliminarily approves the same.

9. Pursuant to the Settlement Agreement, The City has agreed to pay Plaintiffs' Counsel a Negotiated Fee Award of \$4,875,000 for their extensive work on the case over more than eight (8) years as summarized in the Motion. The Court preliminary finds that the Negotiated Fee Award is within the range of possible approval and therefore preliminarily approves the same.

**Objections and Schedule for Class Notice and the Final Approval Hearing**

10. The Court hereby sets the below schedule for: (i) the dissemination of notice to the Class Members; (ii) Class Members to object to the Settlement; and (iii) the Court's Final Approval Hearing, at which time the Court will determine whether the Settlement Agreement should be finally approved as fair, reasonable, and adequate.

<b>Date</b>	<b>Event</b>
Within 14 days of entry of this order	The Class Notice shall be posted on the websites
30 days after posting of the Class Notice	Last day to object to the Settlement
14 days before Final Hearing	Parties to file their Motion for Final Approval of the Settlement and all supporting papers
September 20, 2023 at 11:00 a.m. via telephonic hearing: Tel. 888-684-8852 Access Code 8623687#	Final Approval Hearing

**IT IS SO ORDERED.**

DATED: July 14, 2023



\_\_\_\_\_  
HON. HEATHER K. McSHAIN

**EXHIBIT E**

**Stipulation**

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

STATE OF ILLINOIS,

Plaintiff,

v.

CITY OF CHICAGO,

Defendant.

Case No. 17-cv-06260

Hon. Rebecca R. Pallmeyer

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**AMENDED**  
**STIPULATION REGARDING INVESTIGATORY STOPS, PROTECTIVE**  
**PAT DOWNS, AND ENFORCEMENT OF LOITERING ORDINANCES**

Subject to the approval of the Court, the City of Chicago (the “City”) and the Office of the Illinois Attorney General (the “OAG”) on behalf of the State of Illinois (collectively, the “Parties”) agree to the following stipulation amending the Consent Decree (Dkt. 703) with respect to Chicago Police Department’s (“CPD”) policies and practices governing investigatory stops, protective pat downs, and the enforcement of the City of Chicago’s Gang and Narcotics-Related Loitering Ordinances (“the Loitering Ordinances”).

WHEREAS, in *Smith v. The City of Chicago*, No. 1:15-cv-03467, 2015 WL 1842780, (N.D. IL April 20, 2015), a class action of plaintiffs alleged that CPD officers engage in a pattern and practice of unconstitutional stops and frisks in violation of the United States Constitution and laws of the State of Illinois. *Smith* plaintiffs and the City have agreed to settlement relief related to certain monitoring, reporting, review, community engagement, training, and accountability measures relating to investigatory stops conducted by CPD, along with revisions to CPD’s policies and procedures concerning investigatory stops and CPD’s enforcement of the City’s Loitering Ordinances, as set forth in Exhibit [A].

WHEREAS, in August 2015, the City and the American Civil Liberties Union of Illinois (“ACLU-IL”) agreed to the Investigatory Stop and Protective Pat Down Settlement Agreement (“ACLU Agreement”) to ensure that CPD’s policies and procedures relating to investigatory stops and protective pat downs comply with applicable law, including the United States and Illinois Constitutions and the Illinois Civil Rights Act of 2003 (“ICRA”). On September 26, 2019, the ACLU-IL and the City agreed to a Temporary Stay of certain provisions of the ACLU Agreement, particularly those concerning data analysis, and agreed to take additional steps to advance the ACLU Agreement’s goals.

WHEREAS, the Consent Decree between the State of Illinois and the City seeks to ensure that the City and CPD deliver services in a manner that fully complies with the Constitution and laws of the United States and the State of Illinois, respects the rights of the people of Chicago, builds trust between officers and the communities they serve, and promotes community and officer safety. In addition, the Consent Decree seeks to ensure that Chicago police officers are provided with the training, resources, and support they need to perform their jobs professionally and safely.

With the termination of the ACLU Agreement and upon entry of this Stipulation, this Stipulation addresses the scope and applicability of the Consent Decree to the *Smith* settlement relief and replaces Paragraph 712 of the Consent Decree with the provisions stated herein.

Unless otherwise specified, this Stipulation incorporates all defined terms from the Consent Decree and does not alter or change the other requirements, deadlines, or terms of the Consent Decree. Any additional stipulations to the Consent Decree, including paragraphs cited in this Stipulation, are subject to the approval of the Parties and the Court, pursuant to Paragraph 696 of the Consent Decree.

**XIV. INVESTIGATORY STOPS, PROTECTIVE PAT DOWNS, AND THE ENFORCEMENT LOITERING ORDINANCES**

**A. Guiding Principles**

800. The Parties agree that the Consent Decree will be expanded to include obligations by CPD to monitor, report, review, train, and implement accountability measures with respect to investigatory stops, protective pat downs, and enforcement of the Loitering Ordinances. Enforcement of the Loitering Ordinances will include initial dispersal orders and, where appropriate, may include investigatory stops, protective pat downs, and arrests. These measures will ensure that CPD's investigatory stops, protective pat downs, and enforcement of the Loitering Ordinances are conducted in a manner that comply with the Constitution and laws of the United States and the State of Illinois and are in accordance with best practices, as defined in Paragraph 730 of the Consent Decree.

801. In conducting investigatory stops and protective pat downs and enforcing the Loitering Ordinances, CPD will interact with all members of the public without bias and will treat all persons with the courtesy and dignity which is inherently due every person as a human being without reference to stereotypes based on race, color, ethnicity, religion, homeless status, national origin, immigration status, gender identity or expression, sexual orientation, socio-economic class, age, disability, incarceration status, or criminal history.

802. The Parties agree that in achieving the goals of this Stipulation, CPD will encourage officers, through training and supervision, to employ a less intrusive response when enforcing the Loitering Ordinances when appropriate and reasonable under the circumstances.



**B. Investigatory Stops, Protective Pat Downs, and Enforcement of the Loitering Ordinances**

803. CPD will review and, to the extent necessary, revise the policies and procedures for the enforcement of the Loitering Ordinances consistent with the law, the Consent Decree, and this Stipulation and in accordance with the terms set forth in Exhibit [A], including that:

- a. Upon initial contact with person(s) engaged in loitering prohibited by the Loitering Ordinances, CPD officers will issue a dispersal order without conducting an investigatory stop, unless:
  - i. A previous dispersal order has been given and documented for that person(s) at that location within eight hours of such contact, in which case CPD officers may undertake enforcement action under the Loitering Ordinances; or
  - ii. They have separate and distinct reasonable articulable suspicion, based on specific and articulable facts, that an individual has committed, is committing, or is about to commit a crime;
- b. CPD officers will document the initial contact with person(s) engaged in loitering prohibited by the Loitering Ordinances and any dispersal orders on a Loitering Dispersal Report (“LDR”); and
- c. If a dispersed person fails to promptly obey the dispersal order or violates the dispersal order by returning within sight or hearing of the location where loitering is prohibited within eight hours of the dispersal, CPD officers may undertake enforcement action as provided for under the Loitering Ordinances.

804. CPD will review and, to the extent necessary, revise the policies and procedures for conducting investigatory stops and protective pat downs consistent with the law, the Consent Decree, and this Stipulation.

805. CPD will require officers to:

- a. Conduct investigatory stops and protective pat downs, and undertake enforcement action under the Loitering Ordinances in a manner consistent with the Constitution and laws of the United States and the State of Illinois, the Consent Decree, this Stipulation, and best practices;
- b. Communicate with individuals regarding the specific basis for an investigatory stop, consistent with principles of procedural justice, by:

- i. Identifying themselves by name and rank as soon as it is safe, reasonable, and practical to do so;
  - ii. Stating the reason for the investigatory stop as soon as it is safe, reasonable, and practicable to do so;
  - iii. If it is safe, reasonable, and practical to do so, notifying the person(s) encountered that they are being lawfully detained temporarily, indicating that they will be free to leave at the conclusion of the investigatory stop, and if asking the individual questions, informing the individual they are not required to answer; and
  - iv. When an officer is equipped with a properly functioning body-worn camera (“BWC”) activated to record the incident, informing the person that the encounter is being recorded on BWC;
- c. Ensure that the duration of an investigatory stop is no longer than reasonably necessary to confirm or dispel reasonable articulable suspicion and to take the appropriate enforcement actions, if any; and
  - d. Act with professionalism and courtesy throughout the duration of the investigatory stop interaction.

806. CPD will prohibit officers from:

- a. Performing investigatory stops unless they have reasonable articulable suspicion, based on specific and articulable facts that an individual has committed, is committing, or is about to commit a crime;
- b. Unreasonably extending a stop lawfully made based on reasonable articulable suspicion or probable cause to conduct an investigation into other criminal activity unless they have reasonable articulable suspicion, based on specific and articulable facts, that an individual has committed, is committing or is about to commit another crime;
- c. Relying on information known to the officer at the time to be materially false to establish reasonable articulable suspicion for an investigatory stop or protective pat down;
- d. Basing investigatory stops or protective pat downs solely on an individual’s geographic location, such as presence in a high crime area or proximity to the scene of suspected or reported crimes, without any other reasonable articulable suspicion that the individual is, has, or is about to be engaged in criminal activity;
- e. Basing investigatory stops or protective pat downs solely on an individual’s response to the presence of police officers, such as an individual’s attempt to avoid contact with an officer (e.g., walking away, declining to talk,

running away, or crossing the street to avoid contact), without any other reasonable articulable suspicion that the individual is, has, or is about to be engaged in criminal activity;

- f. Basing investigatory stops or protective pat downs solely on an individual's presence in the company of others suspected of criminal activity without any other reasonable articulable suspicion that the individual is, has, or is about to be engaged in criminal activity;
- g. Conducting investigatory stops and protective pat downs solely on the basis of an individual's race, ethnicity, color, national origin, religion, disability, gender, gender identity, sexual orientation, immigration status, homeless status, marital status, parental status, military discharge status, financial status, or lawful source of income, except that officers may rely on the listed characteristics when part of a specific suspect description;
- h. Conducting a protective pat down, with or without consent, except where officers have reasonable suspicion, based on specific and articulable facts, that a person is armed and dangerous;
- i. Conducting an investigatory stop or search of an individual based solely on an officer smelling cannabis/marijuana without any other specific and articulable facts of criminal activity; and
- j. Conducting a protective pat down based solely on "officer safety," without having reasonable articulable suspicion, based on specific and articulable facts, that a person is armed and dangerous.

807. During an investigatory stop, CPD officers may conduct a search of a person upon consent if officers have reasonable articulable suspicion that the person is involved in a crime or possesses evidence of the crime.

808. CPD will require that when an officer requests consent for a search of a person during an investigatory stop, the officer will specifically ask the person for consent to search, and document on an Investigatory Stop Report ("ISR") or whatever similar form of documentation CPD may implement ("Stop Report") the request for consent, the person's response, and whether a search was conducted by consent. If an individual gives consent to search, the officer must inform the individual that they may revoke consent at any time.

809. CPD will ensure that when officers request consent to conduct a search during an investigatory stop, officers will record the entire interaction on BWC.

810. An officer must establish and communicate the scope of the consensual search and end the search upon the person revoking consent.

811. Whenever CPD officers conduct a search by consent during an investigatory stop, the Investigatory Stop Receipt or whatever similar form of documentation CPD may implement (“Stop Receipt”) provided to the person will indicate that a consent search was conducted.

812. CPD will ensure that CPD officers report when they conduct investigatory stops, protective pat downs, or enforce the Loitering Ordinances.

813. CPD will ensure that officers’ reasonable suspicion for their investigatory stops and protective pat downs, the facts on which the suspicion is based, and other information from an investigatory stop or protective pat down are documented in a written or electronic ISR or Stop Report using specific and clear language that does not rely solely on standardized or boilerplate terms.

814. When CPD officers conduct an investigatory stop, protective pat down, or engage in the enforcement of the Loitering Ordinances, their reports need to justify that the stop, pat down, or enforcement action complies with the law and CPD policy.

815. CPD officers will not justify an investigatory stop solely by describing an individual’s behavior as “suspicious,” without further articulating specific facts that the individual has committed, is committing, or is about to commit a crime.

816. CPD policy will continue to require that all of the factors that support reasonable articulable suspicion in order to temporarily detain an individual and, if applicable, all of the factors that support reasonable articulable suspicion in order to perform a protective pat down of

an individual, will be documented on an ISR or Stop Report in CPD's electronic reporting application.

817. CPD will require officers to document on the ISR or Stop Report any BWC footage viewed prior to the completion of the report.

818. CPD will permit officers to submit only one revised version of an ISR, Stop Report, or LDR from an investigatory stop, protective pat down, or Loitering Ordinance dispersal order, upon a supervisor's review and rejection of the originally submitted ISR, Stop Report, or LDR. When a supervisor rejects an ISR, Stop Report, or LDR, the supervisor will document in writing the reason for the rejection, such as requesting that an officer amend an ISR or Stop Report for lack of sufficient description of reasonable articulable suspicion. CPD will prohibit officers from submitting multiple revised versions of an ISR, Stop Report, or LDR, or further revising an ISR, Stop Report, or LDR once a revised version has been submitted.

819. CPD will require officers to provide an Investigatory Stop Receipt or Stop Receipt to a stopped individual at the conclusion of an investigatory stop, except an officer will not provide a receipt when an investigatory stop ends in an arrest and transport to a CPD facility or ends in the issuance of a citation and release from the scene under the Illinois Pre-Trial Fairness Act. In any circumstance in which an Investigatory Stop Receipt or Stop Receipt was required, but was not provided to or received by the individual, the CPD officer will articulate in the ISR or Stop Report the reasons why the receipt was not provided to or received by the individual stopped.

820. Investigatory Stop Receipts and Stop Receipts will indicate the Office of Emergency Management and Communications Police Computer Aided Dispatch event number of the stop, the reason for the stop, the CPD officer's name and star number, whether a consent search

was conducted, and instructions on how to obtain a copy of the ISR or Stop Report from CPD through an Illinois Freedom of Information Act request.

821. CPD will ensure that the policies for conducting investigatory stops and protective pat downs are consistent with the policies for the enforcement of the Loitering Ordinances in instances where both policies may be applicable.

### **C. Training**

822. CPD will train officers how to perform investigatory stops and protective pat downs and to enforce the Loitering Ordinances consistent with CPD policies and all applicable laws. This training will be consistent with CPD's commitment to procedural justice, de-escalation, impartial policing, and community policing, and will incorporate scenario-based elements.

823. CPD will review and, to the extent necessary, revise its training specific to investigatory stops, protective pat downs, and enforcement of the Loitering Ordinances so that they are sufficient in quantity, quality, type, and scope to prepare officers to comply with CPD directives consistently, effectively, and in accordance with the law, CPD policy, best practices, and the Consent Decree.

824. CPD will provide training for officers and supervisors instructing that:

- a. Officers should consider reasonable alternatives to the enforcement of the Loitering Ordinances based on the circumstances, including lesser actions such as a repeated dispersal;
- b. Investigatory stops are conducted only where there is reasonable articulable suspicion that a crime has been, is being, or is about to be committed;
- c. If it is safe, reasonable, and practical to do so, Officers will notify the person(s) encountered that they are being lawfully detained temporarily, indicate that they will be free to leave at the conclusion of the investigatory stop, and if asking the individual questions, inform the individual that they are not required to answer;
- d. Protective pat downs are performed only where there is reasonable articulable suspicion that the person stopped is armed and dangerous;

- e. An individual subject to an investigatory stop conducted by a CPD officer is not required to answer any questions asked by the CPD officer; and
- f. Consent to conduct a search of an individual must be voluntarily given based on the totality of the circumstances, including that consent cannot be obtained by using force, threats of force, promises, misrepresentation, intimidation, or exertion of authority, and the individual may revoke consent at any time.

825. CPD will train all officers with respect to ISRs, Stop Reports, Stop Receipts, and LDRs, the electronic applications for documenting of ISRs/Stop Reports, and their responsibilities to record the specific and articulable facts for each investigatory stop and protective pat down.

826. CPD will train supervisors on how to review ISRs, Stop Reports, and LDRs and how to discuss the results of the supervisory review of these reports and officers' practices with officers.

827. As part of CPD's 2024 Training Needs Assessment, and annually thereafter, under the supervision of the Training Oversight Committee, CPD will determine any additional development and administration of training related to investigatory stops, protective pat downs, and enforcement of the Loitering Ordinances.

**D. Supervisory Review**

828. All submitted ISRs, Stop Reports, LDRs, and related arrest reports must be reviewed by a CPD supervisor.

829. CPD supervisors will approve or reject all submitted ISRs, Stop Reports, and LDRs documenting investigatory stops, protective pat downs, or enforcement of the Loitering Ordinances by the end of their tours of duty.

830. CPD supervisors will review and ensure submitted ISRs, Stop Reports, and LDRs are properly completed and conform to CPD policy (e.g., ensuring that CPD officers document in

the narrative sections of the ISR or Stop Report the reasonable articulable suspicion that justifies the investigatory stop and, if performed, protective pat down).

831. CPD supervisors will inform the preparing CPD officer of the reason for any rejection of a submitted ISR, Stop Report, or LDR and comply with CPD policy on Department review of such reports.

832. With respect to the supervisory review of ISRs, Stop Reports, and LDRs, CPD supervisors will take the appropriate action, such as after-action support recommendations, to address any rejected reports and deviations from CPD policy related to the report or the conduct described in the report. The after-action support recommendations may include, but are not limited to, individual debriefing with a supervisor, reviewing CPD policy with the CPD officer, reviewing BWC footage from the stop with the CPD officer, mandatory re-training, formal counseling, enhanced supervision, or initiating progressive discipline. The appropriate after-action support will be documented within the report rejection.

833. When directed by a 4th Amendment Street Stop Review Unit after-action support recommendation, CPD supervisors will review the BWC footage from the identified investigatory stop or protective pat down with the involved officer(s). CPD supervisors will document the viewing of the BWC footage and the results of the after-action support in the appropriate supervisory reports.

**E. Data Collection**

834. CPD will continue to post de-identified investigatory stop data derived from ISRs or Stop Reports on its website (currently, <https://home.chicagopolice.org/statistics-data/isr-data/>) on an annual basis, including fields for which information is collected on the ISR or Stop Report. CPD also will continue to post on its website the ISR data dictionary or an equivalent data dictionary for Stop Report data.



835. To evaluate and improve its data collection efforts with respect to investigatory stops, protective pat downs, and enforcement of the Loitering Ordinances, CPD agrees that, within 180 days, or a reasonable extension of time approved by the Monitor, of entry of this Stipulation, it will conduct an assessment of the reporting and data collection mechanisms and system for investigatory stops, protective pat downs, and enforcement of the Loitering Ordinances.

836. Within 180 days of completion of the needs assessment provided for in Paragraph 835 of this Stipulation, CPD will submit a plan to address areas of need to the Monitor and OAG for the review and approval process, as provided for in Paragraph 640 of the Consent Decree.

837. CPD's data plan for investigatory stops, protective pat downs, and enforcement of the Loitering Ordinances will:

- a. Ensure that CPD maintains an electronic system such that every CPD officer will be able to electronically complete the documents related to investigatory stops, protective pat downs, and enforcement of the Loitering Ordinances, with the exception of Investigatory Stop Receipts or Stop Receipts;
- b. Where feasible and practical, ensure every CPD officer in Patrol Field Units will have the equipment necessary while on patrol to electronically complete ISRs, Stop Reports (when implemented), and LDRs (when implemented); and
- c. Ensure that all required fields of the ISR, Stop Report, and LDR are completed before the electronic document can be submitted.

838. CPD will maintain and preserve all electronic versions of any ISRs, Stop Reports, and LDRs submitted or re-submitted by CPD officers.

839. CPD will collect and maintain the data and records related to investigatory stops, protective pat downs, and enforcement of the Loitering Ordinances necessary to:

- a. Accurately evaluate its practices concerning investigatory stops, protective pat downs, and enforcement of the Loitering Ordinances; and
- b. Post de-identified investigatory stop data derived from ISRs or Stop Reports on its website as provided for in Paragraph 834 of this Stipulation.

840. Upon approval and implementation of the data plan provided for in Paragraph 837 of this Stipulation, CPD will have an electronic reporting system that accurately and reliably maintains data and records related to investigatory stops, protective pat downs, the enforcement of the Loitering Ordinances, and unit-level supervisory and 4th Amendment Street Stop Review Unit reviews, including all electronic versions of any ISRs, Stop Reports, and LDRs submitted or re-submitted. CPD will continue to maintain all data, records, and reports relevant to and associated with investigatory stops and protective pat downs, including BWC footage, consistent with legal requirements and the requirements of the Consent Decree.

841. Further, CPD will also continue to develop, implement, and maintain an electronic system to track and document which CPD officers have repeated rejected ISRs or Stop Reports consistent with the review process performed by the 4th Amendment Street Stop Review Unit (or an equivalent internal CPD unit) described in Paragraph 857 of this Stipulation.

**F. Data Analysis**

842. The Parties acknowledge that the Consultant for the ACLU Agreement is preparing a report, in consultation with an independent statistical expert, which assesses data regarding investigatory stops completed by CPD officers for the period between 2018 and 2020 (“Report”). With respect to the disparate impact compliance methodology for this Report, the City has agreed that the Consultant may (1) assume that a prima facie showing under ICRA based on disparate impact on the basis of race has been satisfied, and (2) forego that analysis. The Parties recognize that the methodology for this Report includes, but is not limited to, an analysis of the following:

- a. Total CPD investigatory stops citywide and by police district, broken down by racial/ethnic identity;
- b. Comparison of investigatory stop share to population share by race/ethnicity;

- c. Protective pat downs, searches, and enforcement actions by race/ethnicity;
- d. Hit-rate analysis for all contraband, firearms/weapons, drugs, and cannabis, including variations in hit rates between police districts; and
- e. Analysis of the boxes most often checked by officers to document reasonable articulable suspicion, including variations by race/ethnicity and by police district.

843. An independent subject matter expert (selected by the Monitor) will compile and assess data regarding investigatory stops and Loitering Ordinance dispersals completed by CPD officers through and including the period ending December 31, 2024. For the initial report, the Monitor will set a period for review and establish the date by which the report will be published. The preparation of the initial report will be under the direction of the Monitor. The methodology for this report will be consistent with the methodology for the report referenced in Paragraph 842 of this Stipulation, except that this report will also include (1) a Fourth Amendment analysis of a statistically representative sample of Stop Reports to assess whether the reports contain sufficient facts to establish the requisite reasonable suspicion for the investigatory stop and for any protective pat down, (2) an analysis of Loitering Ordinance dispersal orders issued by CPD officers and documented on LDRs, and (3) an analysis of the relative frequency of requests for consent to search and searches conducted based on consent. To the extent the report includes an analysis of the relative frequency of all Loitering Ordinance dispersal orders issued by CPD officers of persons in specific demographic categories, including race/ethnicity and gender within the reporting period, the report will clearly state that such analysis will be for information purposes only because the demographic classifications are based on the subjective observations of the CPD officer(s) who (1) pursuant to CPD policy, will not have stopped the individual to conduct the dispersal and (2) lacks the means to validate or confirm the demographic classifications. Any

further changes in methodology will be submitted by the Monitor to the City and OAG in advance for review, comment, and approval.

844. After publication of the report as provided for in Paragraph 843 of this Stipulation, the City will submit to the Monitor and OAG for approval its plan for taking over the responsibility for obtaining and publishing periodic future independent subject matter reports from the Monitor. Once the plan has been approved, the Monitor will transfer the responsibility for obtaining periodic future independent subject matter reports to CPD.

845. After the Monitor transfers to CPD the responsibility for obtaining periodic independent subject matter reports on investigatory stops and Loitering Ordinance dispersal orders, CPD will annually submit to the Monitor and OAG a copy of the annual independent subject matter expert report consistent with the methodology in Paragraph 843 of this Stipulation. The Monitor and OAG will review and approve the proposed independent subject matter expert and any proposed modifications to the methodology, including whether the use of an independent subject matter expert may be phased out in favor of an assessment methodology to be administered by CPD for future reports.

846. Prior to conducting this assessment, CPD will share its proposed methodology, including any proposed factors to be considered as part of the assessment, with the Monitor for review and approval. The Monitor will approve CPD's proposed methodology provided that the Monitor determines that CPD's methodology comports with published, peer-reviewed methodologies and the Consent Decree.

847. After the Monitor transfers to CPD the responsibility for obtaining periodic independent subject matter reports on investigatory stops and Loitering Ordinance dispersal

orders, CPD will annually submit to the Monitor and OAG a copy of the annual independent subject matter expert report consistent with the methodology in Paragraph 843 of this Stipulation.

848. As part of CPD's annual report on investigatory stops and Loitering Ordinance dispersal orders, CPD will conduct an assessment of: (1) the relative frequency of all investigatory stops made by CPD officers of persons in specific demographic categories, including, race/ethnicity, gender, age, or perceived or known disability status for the prior calendar year, (2) the relative frequency of all Loitering Ordinance dispersal orders issued by CPD officers, and (3) an analysis of the relative frequency of requests for consent to search and searches conducted based on consent. For informational purposes only, CPD will identify the relative frequency of all Loitering Ordinance dispersal orders issued by CPD officers of persons in specific demographic categories, including race/ethnicity and gender. The report will clearly indicate that the assessment of Loitering Ordinance dispersal orders based on demographic categories is for informational purposes only because the demographic classifications are based on the subjective observations of the CPD officer(s) who (1) pursuant to CPD policy, will not have stopped the individual to conduct the dispersal and (2) lacks the means to validate or confirm the demographic classifications.

849. The assessment of all investigatory stops and protective pat downs conducted by CPD officers will be conducted in accordance with the requirements set forth in Paragraphs 79-82 of the Consent Decree. This assessment of all investigatory stops and protective pat downs effectuated by CPD will be in addition to and does not replace the requirements of Paragraph 79 of the Consent Decree.

850. Within 180 days after completion of each independent expert report, CPD will review the data and results of the analysis set forth in the report and assess whether to implement any revision to policies, procedures, or training to address any patterns of disparities, bias, or

constitutional inadequacies in CPD's investigatory stops, protective pat downs, and enforcement of the Loitering Ordinances.

851. If CPD's assessment determines there are any necessary revisions to policies, procedures, or training, CPD will develop a timeline for implementation of the modifications, subject to the processes provided for in Paragraph 627 of the Consent Decree for policies and Paragraph 641 of the Consent Decree for training.

**G. 4th Amendment Street Stop Review Unit Review**

852. CPD's 4th Amendment Street Stop Review Unit (or an equivalent internal CPD unit), under the authority of the Tactical Review and Evaluation Division (or an equivalent internal CPD unit), will serve as the designated unit within CPD tasked with conducting Department-level reviews of a representative sample of ISRs and Stop Reports, including a representative sample of those completed for the enforcement of the Loitering Ordinances.

853. CPD will ensure that the 4th Amendment Street Stop Review Unit has sufficient resources to perform these review duties promptly, efficiently, and effectively, including staff with sufficient experience, rank, knowledge, and expertise.

854. Beginning at the entry of this Stipulation, the 4th Amendment Street Stop Review Unit will perform the Department-level reviews, consistent with the requirements of Paragraph 857(a) through (d) of this Stipulation, of 5% of the backlog of ISR reviews maintained in the 4th Amendment Street Stop Review Unit for January 1, 2021 through the entry of this Stipulation.

855. The backlog of ISR reviews consists of 15% of all ISRs completed during 2021 through the entry of this Stipulation that have been randomly selected.

856. The 4th Amendment Street Stop Review Unit will create and submit to the Monitor and OAG a summary to report the demographic and geographic distribution of the

individuals subject to the investigatory stops and protective pat-downs reviewed as prescribed in Paragraph 854 of this Stipulation.

857. The 4th Amendment Street Stop Review Unit will perform regular Department-level reviews of a representative sample of ISRs and Stop Reports, including a representative sample of those completed for the enforcement of the Loitering Ordinances, submitted by CPD officers after the entry of this Stipulation, sufficient to reach relevant and reliable observations on:

- a. Whether CPD officers completely and thoroughly reported all factors that established the reasonable articulable suspicion to justify the investigatory stop;
- b. Whether CPD officers completely and thoroughly reported all factors that established the reasonable articulable suspicion to justify the protective pat down;
- c. Whether CPD officers completely and thoroughly completed the report and complied with CPD policy; and
- d. Whether supervisory review was timely, thorough, complete, objective, and consistent with CPD policies.

858. For the representative sample of ISRs and Stop Reports described in Paragraph 857 of this Stipulation, CPD must demonstrate that the subset of investigatory stops and protective pat-downs reviewed is demographically and geographically representative of community members stopped by CPD officers throughout Chicago.

859. CPD will recommend an involved officer(s) and their supervisor review the BWC footage for the identified investigatory stop or protective pat down conducted by the involved officer(s), after the involved officer has submitted five ISRs or Stop Reports within a 90-day period that have resulted in a recommendation for after-action support to resolve a lack of sufficient description of reasonable articulable suspicion.

860. On a semi-annual basis, the 4th Amendment Street Stop Review Unit will report on the ISRs and Stop Reports reviewed beginning with the time period ending with December 31, 2023, including those completed for the enforcement of the Loitering Ordinances, and identify:

- a. The total number of ISRs and Stop Reports reviewed by the 4th Amendment Street Stop Review Unit;
- b. Any trends or patterns relating to investigatory stops, protective pat downs, and enforcement of the Loitering Ordinances identified through the 4th Amendment Street Stop Review Unit reviews;
- c. The number of reports rejected by supervisors and categories of reason for rejection;
- d. The number of officers who had multiple ISRs and Stop Reports rejected;
- e. The number of officers who had multiple ISRs and Stop Reports rejected for a lack of sufficient description of reasonable articulable suspicion; and
- f. Any equipment, training, or policy concerns, and to the extent necessary, recommendations regarding modifications to equipment, training, or policy as necessary to address those concerns.

861. CPD will develop a timeline for implementation of the recommendations provided for in Paragraph 860(f) of this Stipulation and consult at the earliest feasible time with the Monitor and OAG, with the goal of developing consensus on the substance and timetable for the implementation of recommendations, subject to the processes provided for in Paragraph 627 of the Consent Decree for policies and Paragraph 641 of the Consent Decree for training.

#### **H. Community Engagement**

862. CPD will establish and maintain clear channels through which community and Department members can provide input regarding CPD's investigatory stop policies and forms and propose revisions or additions to those policies and forms.

863. In developing or revising policies and training referenced in this Stipulation, including those on investigatory stops, protective pat downs, and the enforcement of the Loitering



Ordinances, CPD will seek input from members of the community and community-based organizations with relevant knowledge and experience through community engagement efforts.

864. CPD will regularly conduct a community engagement process through which community members, reflecting a broad cross section of the Chicago community the Department serves, can provide feedback on CPD's policy for investigatory stops, protective pat downs, and enforcement of the Loitering Ordinances. At a minimum CPD will conduct this community engagement process every two years and will consider the recommendations, in accordance with the terms set forth in Exhibit [A], during the biennial policy review process. A summary of CPD's policy review and community engagement efforts will be shared with the community organizations and community members that participated in the community engagement process.

865. The Parties recognize that the City, ACLU-IL, and the ACLU Agreement Consultant have developed a promising model for thoughtful community engagement through the creation of a Request for Proposals which sought community organizations to co-design and lead a citywide process to engage individuals and stakeholders to develop recommendations regarding CPD's investigatory stop and protective pat down practices. Within 180 days of the release of these recommendations, the Monitor will publicly report on these recommendations and CPD's response, and will further make recommendations as to CPD's ability to adapt elements of this model for community engagement. CPD will consider the results of the Monitor's report in developing future community engagement processes.

866. Investigatory stops, protective pat downs, and enforcement of the Loitering Ordinances will be included among the topics covered in the public awareness campaign provided for in Paragraph 28 of the Consent Decree.

**I. Policy, Training, and Plan Review**

867. The Parties agree that the provisions in Paragraphs 627-633 of the Consent Decree apply to the policies and procedures, Paragraph 640 of the Consent Decree applies to the plans, and Paragraph 641 of the Consent Decree applies to the training described herein.

868. Within 60 days of the entry of this Stipulation, CPD will submit the most recently developed draft versions of the CPD policies and reports related to investigatory stops, protective pat downs, and the enforcement of the Loitering Ordinances, in accordance with the terms set forth in Exhibit [A], to the Monitor and OAG for the review, comment, and, if necessary, objection process as provided for in Paragraphs 627-30 of the Consent Decree.

869. After the review, comment, and, if necessary, objection process provided for in Paragraphs 627-30 of the Consent Decree, CPD will adopt and utilize an LDR in accordance with the terms set forth in Exhibit [A].

870. After the review, comment, and, if necessary, objection process provided for in Paragraphs 627-30 of the Consent Decree, CPD will adopt and utilize a revised Stop Report and Stop Receipt, to replace the use of the ISR and the Investigatory Stop Receipt.

871. The Parties further agree that CPD will submit any new or revised policies, procedures, and trainings regarding investigatory stops, protective pat downs, and the enforcement of the Loitering Ordinances to the Monitor and OAG for review, comment, and, if necessary, objection, consistent with the requirements of the Consent Decree.

872. Every two years, CPD will conduct a comprehensive review of its investigatory stops policies to assess whether the policies meet the requirements of this Stipulation, incorporate best practices, address observed trends and practices, as necessary, and reflect developments in applicable law. CPD will regularly review and consider the community input received, including during this biennial policy review process.

**J. Miscellaneous**

873. CPD will not permit the number of investigatory stops, protective pat downs, or enforcement of the Loitering Ordinances to be considered as part of any bonus, incentive, or promotional process for any CPD officer and will not implement any form of quota relating to the same.

874. The Parties agree that the Implementation, Enforcement, and Monitoring provisions in Part XII of the Consent Decree apply to the requirements described herein, including those of the Coalition described in Paragraph 709 of the Consent Decree.

**K. Community Input on this Stipulation**

875. The Parties agree that they will make a joint request to the Court for a Community Input Session on this Stipulation, to be held within 90 days of the submission of this Stipulation by the parties and to include an opportunity for community input and public testimony by individuals affected by this Stipulation.

**L. Definitions**

876. Loitering Ordinances – the City of Chicago’s Gang and Narcotics-Related Loitering Ordinances set forth in the Municipal Code of Chicago Section 8-4-015 “Gang Loitering” and Section 8-4-017 “Narcotics-Related Loitering.”

877. Patrol Field Units – the primary beat cars, rapid response cars, and watch specialty cars (squadrol, traffic car, and park car) assigned to watch field operations in District Law Enforcement; District tactical teams; and Community Safety Teams (or operationally equivalent units).

Respectfully submitted,

Kwame Raoul  
Attorney General for the  
**State of Illinois**

Mary B. Richardson-Lowry,  
Acting Corporation Counsel for the  
**City of Chicago**

By: /s/ Karyn L. Bass Ehler

By: /s/ Allan T. Slagel

Karyn L. Bass Ehler  
Assistant Chief Deputy Attorney General  
[Karyn.BassEhler@ilag.gov](mailto:Karyn.BassEhler@ilag.gov)  
Amy Meek, Bureau Chief  
Civil Rights Bureau  
[Amy.Meek@ilag.gov](mailto:Amy.Meek@ilag.gov)  
Mary J. Grieb, Deputy Bureau Chief,  
Civil Rights Bureau  
[Mary.Grieb@ilag.gov](mailto:Mary.Grieb@ilag.gov)  
Rebekah Newman,  
Assistant Attorney General,  
Special Litigation Bureau  
[Rebekah.Newman@ilag.gov](mailto:Rebekah.Newman@ilag.gov)  
Office of the Illinois Attorney General  
100 West Randolph Street  
11th Floor  
Chicago, Illinois 60601  
(312) 814-5968  
  
Christopher G. Wells  
Chief, Public Interest Division  
[christopher.wells@ilag.gov](mailto:christopher.wells@ilag.gov)  
Office of the Illinois Attorney General  
100 West Randolph Street  
Chicago, IL 60601  
(312) 814-3000

Allan T. Slagel  
[aslagel@taftlaw.com](mailto:aslagel@taftlaw.com)  
Elizabeth E. Babbitt  
[ebabbitt@taftlaw.com](mailto:ebabbitt@taftlaw.com)  
Paul J. Coogan  
[pcoogan@taftlaw.com](mailto:pcoogan@taftlaw.com)  
Anna Greve  
[agreve@taftlaw.com](mailto:agreve@taftlaw.com)  
TAFT STETTINIUS & HOLLISTER LLP  
111 East Wacker Drive  
Suite 2600  
Chicago, Illinois 60601  
(312) 527-4000  
  
Jennifer Bagby  
[Jennifer.Bagby@cityofchicago.com](mailto:Jennifer.Bagby@cityofchicago.com)  
Deputy Corporation Counsel  
City of Chicago Department of Law  
Public Safety Reform Division  
121 North LaSalle Street  
Room 600  
Chicago, Illinois 60602  
(312) 742-6408

SO ORDERED this 27th, day of June, 2023.



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REBECCA R. PALLMEYER  
United States District Judge  
Northern District of Illinois

# EXHIBIT A

**AGREEMENT ON AMENDMENT TO  
GANG- AND NARCOTICS-RELATED LOITERING ENFORCEMENT**

- I. First Contact – Initial Dispersal Order. Upon observation of the initial instance of person(s) engaged in prohibited loitering, the officer will issue an initial dispersal order to those person(s) pursuant to MCC 8-4-015(a) (gang loitering) or MCC 8-4-17(a) (narcotics loitering). The officer will not conduct a stop or complete an Investigatory Stop Report, or whatever similar form of documentation CPD may implement, (“ISR”) of the person(s) in order to issue the dispersal order, except upon such circumstances in which a separate and distinct basis exists for reasonable articulable suspicion or probable cause for the stop and completion of an ISR.

CPD will create a new document to record the initial dispersal order (“Gang/Narcotics-Related Loitering Dispersal”). The Gang/Narcotics-Related Loitering Dispersal will contain sections to document the basis for the initial dispersal order, a description of the person(s) being dispersed, including names – only if known without conducting an investigatory stop – and physical descriptions, and the time and place of the initial dispersal. This information will be reported in a mandatory field. The initial dispersal will be further documented with an event number generated by OEMC.

- A. First Contact – Refusal to Disperse. A refusal to promptly obey the initial dispersal order will subject the person(s) to arrest pursuant to MCC 8-4-015(e) (gang loitering) or MCC 8-4-17(d) (narcotics loitering).

- II. Subsequent Contact. In the event that the officer from the first contact, or a different officer, arrives in the dispersal area and observes a person(s) fitting the description of a person(s) previously documented as being dispersed for gang or narcotics-related loitering engaging in prohibited loitering in the location from which they were dispersed, the officer may take the following actions, as applicable:

- A. Probable Cause to Arrest. The officer may arrest the person(s) at the Second Contact if the officer is able to establish probable cause to arrest for prohibited loitering following the initial dispersal based on the officer’s knowledge, observations, and the Gang/Narcotics-Related Loitering Dispersal, pursuant to MCC 8-4-015(e) (gang loitering) or MCC 8-4-17(d) (narcotics loitering). Under this scenario, the officer shall prepare both an ISR and an arrest report.

- B. Where Probable Cause To Arrest Is Not Established. The officer can rely on his or her knowledge, observations, and the Gang/Narcotics-Related Loitering Dispersal as reasonable articulable suspicion to conduct an investigatory stop. Where the officer determines the person(s) was not previously dispersed from that location, the officer will issue a dispersal order to those person(s) pursuant to MCC 8-4-015(a) (gang loitering) or MCC 8-4-17(a) (narcotics loitering). The officer will complete an ISR identifying the person(s) who are being dispersed. This dispersal order will be further documented with an event number generated by OEMC. A refusal to promptly obey the second dispersal order will subject the person(s) to

arrest pursuant to MCC 8-4-015(e) (gang loitering) or MCC 8-4-17(d) (narcotics loitering). Under this scenario, the officer shall prepare both an ISR and an arrest report.

1. Subsequent Contact – Enforcement. An officer who observes prohibited loitering by person(s) identified in the ISR prepared for prohibited loitering will take appropriate enforcement action pursuant to MCC 8-4-015(e) (gang loitering) or MCC 8-4-17(d) (narcotics loitering). Under this scenario, the officer shall prepare both an ISR and an arrest report.

**EXHIBIT F**

**Summary Class Notice**



## SUMMARY NOTICE OF CLASS ACTION SETTLEMENT

The City of Chicago has reached a class action settlement in the case of *Smith, et al., v. City of Chicago, et al.*, No. 15-cv-03467. The case was brought by individuals challenging the Chicago Police Department's ("CPD") policies and practices in conducting investigatory stops. The parties have reached a settlement requiring certain reforms to CPD's policies and practices pertaining to investigatory stops that shall be included in a consent decree. The settlement does not include any monetary relief to class members. Anyone who is a member of either of the two classes below may be interested in the settlement and also has the right to object to it.

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."

More information concerning this settlement can be found at:

[www.chicagoinvestigatorystopsettlement.com](http://www.chicagoinvestigatorystopsettlement.com) and

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

**EXHIBIT G**

**Final Agreed Order of Dismissal**

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

DARNELL SMITH, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	Case No.: 1:15-cv-03467
v.	)	
	)	Honorable Andrea R. Wood
CITY OF CHICAGO, a municipal	)	Magistrate Judge Heather K. McShain
corporation, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**FINAL AGREED ORDER OF DISMISSAL**

This matter coming before the Court on the Stipulation of the parties, the parties having reached agreement to settle this matter, and the respective parties being represented by counsel, plaintiffs and settlement class representatives Darnell Smith, Araceli Fontanez, as Parent and Next friend of Hector Fontanez, Jr., Marcell Davis, and Rashawn Lindsey, individually and on behalf of all others similarly situated, and plaintiff Edgar Marshall, Jr., individually, by their attorneys; and Defendants City of Chicago, former Superintendent Garry McCarthy, and individual CPD Officers Anthony Gemignani, Michael Callahan, Roy Mazzanti, Adolfo Garcia, Kris Stipanov, Mario Cruz, Nicholas Cordova, Thomas Laurin, Patrick Kelly, Daniel Schmit, Anthony Rosen, and Gerardo Vega, by their respective attorneys; and Chicago City Council having enacted an ordinance authorizing the settlement and payment of the settlement funds agreed upon, the Court having approved the settlement pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, and the conditions to settlement set forth in Article VII of the Stipulation and Class Action Settlement Agreement having occurred, the Court being otherwise fully advised in the premises, orders as follows:

All of the claims of plaintiffs and settlement class representatives Darnell Smith, Araceli Fontanez, as Parent and Next friend of Hector Fontanez, Jr., Marcell Davis, and Rashawn Lindsey, individually and on behalf of all others similarly situated, and plaintiff Edgar Marshall, Jr., individually, against defendants, City of Chicago former Superintendent Garry McCarthy, and individual CPD Officers Anthony Gemignani, Michael Callahan, Roy Mazzanti, Adolfo Garcia,

Kris Stipanov, Mario Cruz, Nicholas Cordova, Thomas Laurin, Patrick Kelly, Daniel Schmit, Anthony Rosen, and Gerardo Vega, are dismissed with prejudice and without leave to reinstate.

Entered:

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Dated: \_\_\_\_\_

Prepared by:

Michael P. Sheehan

Allan T. Slagel

Barton O'Brien

Elizabeth Winkowski

**TAFT STETTINIUS AND HOLLISTER LLP**

111 East Wacker Drive, Suite 2800

Chicago, Illinois 60601

Tel: (312) 527-4000

Fax: (312) 527-4011

[msheehan@taftlaw.com](mailto:msheehan@taftlaw.com)

[aslagel@taftlaw.com](mailto:aslagel@taftlaw.com)

[bobrien@taftlaw.com](mailto:bobrien@taftlaw.com)

[ewinkowski@taftlaw.com](mailto:ewinkowski@taftlaw.com)

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**EXHIBIT H**

**Stipulation to Dismiss**

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

DARNELL SMITH, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	Case No.: 1:15-cv-03467
v.	)	
	)	
CITY OF CHICAGO, a municipal	)	Magistrate Judge Heather K. McShain
corporation, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**STIPULATION TO DISMISS**

IT IS HEREBY STIPULATED AND AGREED by and between the parties hereto, by their respective attorneys of record, that this matter has been settled by the parties, the Court having approved the settlement pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, and, therefore, all claims related to this cause should be dismissed without prejudice and with leave to reinstate solely in the event that the Chicago City Council rejects the Stipulation and Class Action Settlement Agreement (“Settlement Agreement”) executed by the parties or any party exercises their right to terminate the Settlement Agreement in accordance with Article XII of the Settlement Agreement. This Action shall become a dismissal with prejudice upon (a) the later date of: (i) entry of the Stipulation in the Consent Decree Suit, as set forth in the Settlement Agreement, and (ii) the expiration of the right to withdraw set forth in Article XII, Section A of the Settlement Agreement based on the failure to obtain approval and entry of the Stipulation, and (b) the entry of the Final Agreed Order of Dismissal.

Dated: \_\_\_\_\_, 2023

[Signatures On Following Page]

Respectfully submitted,

By: \_\_\_\_\_  
One of the Attorneys for Plaintiffs  
and the Class

Steven A. Hart  
Brian Eldridge  
**HART McLAUGHLIN &  
ELDRIDGE, LLC**  
1 South Dearborn, Suite 1400  
Chicago, Illinois 60603  
Tel: (312) 955-0545  
Fax: (312) 971-9243  
[shart@hmelegal.com](mailto:shart@hmelegal.com)  
[beldridge@hmelegal.com](mailto:beldridge@hmelegal.com)

Antonio M. Romanucci  
Martin D. Gould  
**ROMANUCCI & BLANDIN, LLC**  
321 North Clark Street, Suite 900  
Chicago, Illinois 60654  
Tel: (312) 458-1000  
Fax: (312) 458-1004  
[aromanucci@rblaw.net](mailto:aromanucci@rblaw.net)  
[mgould@rblaw.net](mailto:mgould@rblaw.net)

By: \_\_\_\_\_  
One of the Attorneys for Defendants City  
of Chicago, Garry McCarthy, and  
Individual Officers, except Patrick Kelly

Michael P. Sheehan  
Allan T. Slagel  
Elizabeth Winkowski  
**TAFT STETTINIUS AND  
HOLLISTER LLP**  
111 East Wacker Drive, Suite 2600  
Chicago, Illinois 60601  
Tel: (312) 527-4000  
Fax: (312) 527-4011  
[msheehan@taftlaw.com](mailto:msheehan@taftlaw.com)  
[aslagel@taftlaw.com](mailto:aslagel@taftlaw.com)  
[ewkinkowski@taftlaw.com](mailto:ewkinkowski@taftlaw.com)

By: \_\_\_\_\_  
One of the Attorneys for Defendant Patrick  
Kelly  
Kenneth M. Battle  
Michele J. Braun  
Winnefred A. Monu  
**O'CONNOR & BATTLE LLP**  
111 W. Jackson Blvd., Suite 1700  
Chicago, Illinois 60602  
Tel: (312) 786-4600  
Fax: (312) 786-4612  
[kbattle@mokblaw.com](mailto:kbattle@mokblaw.com)  
[mbraun@mokblaw.com](mailto:mbraun@mokblaw.com)  
[wmonu@mokblaw.com](mailto:wmonu@mokblaw.com)

**EXHIBIT I**

**Agreement On Amendment To Gang- And Narcotics-Related Loitering Enforcement**

74481173v12



## EXHIBIT I

### **AGREEMENT ON AMENDMENT TO GANG- AND NARCOTICS-RELATED LOITERING ENFORCEMENT**

- I. First Contact – Initial Dispersal Order. Upon observation of the initial instance of person(s) engaged in prohibited loitering, the officer will issue an initial dispersal order to those person(s) pursuant to MCC 8-4-015(a) (gang loitering) or MCC 8-4-17(a) (narcotics loitering). The officer will not conduct a stop or complete an Investigatory Stop Report, or whatever similar form of documentation CPD may implement, (“ISR”) of the person(s) in order to issue the dispersal order, except upon such circumstances in which a separate and distinct basis exists for reasonable articulable suspicion or probable cause for the stop and completion of an ISR.

CPD will create a new document to record the initial dispersal order (“Gang/Narcotics-Related Loitering Dispersal”). The Gang/Narcotics-Related Loitering Dispersal will contain sections to document the basis for the initial dispersal order, a description of the person(s) being dispersed, including names – only if known without conducting an investigatory stop – and physical descriptions, and the time and place of the initial dispersal. This information will be reported in a mandatory field. The initial dispersal will be further documented with an event number generated by OEMC.

- A. First Contact – Refusal to Disperse. A refusal to promptly obey the initial dispersal order will subject the person(s) to arrest pursuant to MCC 8-4-015(e) (gang loitering) or MCC 8-4-17(d) (narcotics loitering).
- II. Subsequent Contact. In the event that the officer from the first contact, or a different officer, arrives in the dispersal area and observes a person(s) fitting the description of a person(s) previously documented as being dispersed for gang or narcotics-related loitering engaging in prohibited loitering in the location from which they were dispersed, the officer may take the following actions, as applicable:
- A. Probable Cause to Arrest. The officer may arrest the person(s) at the Second Contact if the officer is able to establish probable cause to arrest for prohibited loitering following the initial dispersal based on the officer’s knowledge, observations, and the Gang/Narcotics-Related Loitering Dispersal, pursuant to MCC 8-4-015(e) (gang loitering) or MCC 8-4-17(d) (narcotics loitering). Under this scenario, the officer shall prepare both an ISR and an arrest report.
- B. Where Probable Cause To Arrest Is Not Established. The officer can rely on his or her knowledge, observations, and the Gang/Narcotics-Related Loitering Dispersal as reasonable articulable suspicion to conduct an investigatory stop. Where the officer determines the person(s) was not previously dispersed from that location, the officer will issue a dispersal order to those person(s) pursuant to MCC 8-4-015(a) (gang loitering) or MCC 8-4-17(a) (narcotics loitering). The officer will complete an ISR identifying the person(s) who are being dispersed. This dispersal

order will be further documented with an event number generated by OEMC. A refusal to promptly obey the second dispersal order will subject the person(s) to arrest pursuant to MCC 8-4-015(e) (gang loitering) or MCC 8-4-17(d) (narcotics loitering). Under this scenario, the officer shall prepare both an ISR and an arrest report.

1. Subsequent Contact – Enforcement. An officer who observes prohibited loitering by person(s) identified in the ISR prepared for prohibited loitering will take appropriate enforcement action pursuant to MCC 8-4-015(e) (gang loitering) or MCC 8-4-17(d) (narcotics loitering). Under this scenario, the officer shall prepare both an ISR and an arrest report.