Chicago attorney resigns after judge rules he concealed evidence in police shooting case

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Jordan Marsh, a Senior Corporation Counsel in Chicago's Law Department, resigned on January 4 after US District Judge Edmond Chang issued a ruling which found that Marsh had "intentionally concealed evidence" in a wrongful-death lawsuit brought against the city and two Chicago police officers in the shooting of Darius Pinex in January 2011.

Against the backdrop of the murders of Laquan McDonald, Quintonio LeGrier, Bettie Jones, and others, the ruling underscores the extent to which the entire city government is engaged in a systematic defense and cover-up of police violence.

Marsh, who has worked for the city in various capacities since 1997, worked in the Federal Civil Rights Litigation Division, where his job was to defend the city against accusations of civil rights violations. He was part of a team of lawyers in the city's law department who were representing the city and Chicago Police officers Raoul Mosqueda and Gildardo Sierra in a suit brought by the estate of Darius Pinex and Matthew Colyer, a passenger in Pinex's vehicle.

Pinex and Colyer were driving in Pinex's Oldsmobile Aurora when they were aggressively pulled over by Mosqueda and Sierra, who approached the vehicle with guns drawn. Pinex put the car in reverse, at which point Colyer fell out of the car, and the car then hit a light post. Pinex attempted to drive away but was shot by Mosqueda after both officers opened fire.

Justifying their actions, the officers claimed that the car matched a description of another car that had been reported over the police radio to have been fleeing from police in another area and possibly armed. While there was a police radio communication concerning another Oldsmobile Aurora and speculation that there might be weapons, during the pretrial phase of the case it turned out that there was no way the officers could have heard that communication, as they were part of a different radio communication zone.

The lawyers for the plaintiffs reasonably proceeded to construct their case under the assumption that Mosqueda and Sierra had not heard anything over the radio, and therefore that they had made an illegal stop of Pinex's car, fabricating their account of all of the events which followed, including the death of Pinex. Indeed, whether the officers had heard radio communications about the car emerged as a central issue in the case.

In the middle of the trial, it emerged that there was a recording of a radio communication that the officers could have heard in their radio zone which mentioned an Oldsmobile Aurora, a rebroadcast of limited details from the other radio zone. However, it only mentions that there was a "traffic pursuit" that was terminated, and did not mention anything further about the car's appearance or about the possibility of weapons. The recording does not contain any mentions of "shots fired" as claimed by Mosqueda.

Even though the recording ultimately supports the unjustified nature of the aggressive pull-over and shooting of Pinex, its emergence during the trial undermined the case the plaintiffs' lawyers had premised on the officers having heard nothing about an Oldsmobile Aurora over the police radio. As Chang wrote, "the misconduct unfairly pulled the rug out from under Plaintiffs' theory of the case, and with it, undercut Plaintiffs' Counsel's credibility with the jury."

It came to light during post-trial investigation that this recording had been known to Marsh before the trial, but he failed to disclose its existence to either the lawyers for the plaintiffs or his own co-counsels on numerous occasions when the matter arose and was discussed.

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Chang wrote in his ruling, “Based on the record evidence, the Court must conclude that City Law Department attorney Jordan Marsh intentionally concealed the existence of the OEMC record that would have led to the discovery of the Zone 6 Audio before the trial.”

Aside from Marsh’s misconduct, Chang’s ruling also sanctions—though somewhat less severely—another Law Department attorney, Thomas Aumann, for failing to make a “reasonable” effort to find the recording. Aumann left the Law Department in August.

Based on these violations, Chang ordered the jury trial verdict, which found Mosqueda and Sierra’s actions justified, overturned and awarded the plaintiffs their attorney fees, allowing the case to be retried.

As noted by the *Chicago Tribune*, this is the “second time in seven months that the judge has sanctioned the Law Department for withholding records in a police misconduct lawsuit and ordered a new trial.” The other suit, brought by Jonathan Hadnott over an illegal arrest and search, resulted in a $200,000 settlement and an order to pay Hadnott’s attorney fees.

Hadnott’s attorney, Irene Dymkar said, “It’s not a coincidence that there are two (discovery violations) in less than a year. The corporation counsel believes it has to support the police whether the police are right or wrong. But if you work for the city, you have an obligation to the public to look at things objectively. You have to protect the truth.”

Questioned about the ruling, Chicago Corporation Counsel Stephen Patton, stated, “To say this is a practice, a systemic abuse or part of a cover-up, there’s just no evidence of that. There’s nothing in the ruling to support it.”

Chicago Mayor Rahm Emanuel also claimed that the Law Department is not involved in the cover-up of police killings and said that the recently announced Justice Department probe of Chicago’s police department need not expand its investigation to the city’s legal division.

While Patton is indeed correct that Chang’s ruling does not allege or support systematic abuse or cover-up by the Law Department, the record of events in Chicago and elsewhere have established the existence of a wide-ranging coordinated effort on the part of the Obama administration and the Democratic Party to cover up police violence and allow officers who have committed murder to walk away free.

In fact, Sierra remained on the job after killing Pinex, going on to shoot 19-year-old Dion Richards in the leg during a confrontation in March 2011. Finally in June 2011, he was stripped of his police powers after he egregiously murdered Flint Farmer, shooting him 16 times, including three times in the back, while Farmer lay on the ground in Chicago’s West Englewood neighborhood.

As revealed in the thousands of emails released by the city in regard to the killing of Laquan McDonald by Chicago police officer Jason Van Dyke, a large number of city functionaries, including Patton himself, are involved on a day-to-day basis in the crafting of messaging and policy for the purpose of manipulating public opinion. Furthermore, this coordination extends to the White House, which is kept closely in the loop regarding developments.

Outside of Chicago and the shootings of Laquan McDonald, Rekia Boyd, and Ronald Johnson, the Democratic Party has been intimately involved in making sure that the murderers of Michael Brown in Ferguson, Missouri, Tamir Rice in Cleveland, Sandra Bland in Texas, Freddie Gray in Baltimore, and others, escape prosecution for their crimes.

Ultimately, Emanuel, Obama, and the rest of the ruling class are keenly aware that the police are their first line of defense against the emergence of a mass working class response to their policies of unending war and austerity.

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