

R Robinette & Associates, Inc.
Expert Consultation • Investigations • Training

P.O. Box 340
Cartersville, GA 30120

Office (770) 383-8933
Fax (770) 383-9676

EXPERT OPINION REPORT

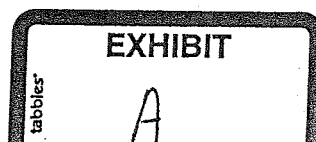
Of

Fred G. Robinette III

Re:

Richard Kline v. City of Smyrna, Georgia, et al

April 17, 2006



QUALIFICATIONS

I am a resident of Bartow County, Georgia. I retired from the Federal Bureau of Investigation as a Special Agent, after 30 years of service, in 1994. I have knowledge, training, and experience in all aspects of federal, state, and local law enforcement operations and intelligence. During the last 8 years of my career, I specialized in civil rights investigations, most of which constituted allegations of police misconduct. Over the course of my career, I have investigated thousands of such cases. Throughout my career, I have had extensive contact with state and local law enforcement agencies and officers, and have participated in countless joint operations. I have also worked extensively on Indian and Military reservations, where under the Assimilative Crimes Act, all crimes committed on the reservation by civilians that would be violations of state law are federal crimes. In that regard, I have conducted many investigations that would normally be considered police work.

Since my retirement in 1994, I have engaged in private practice as an expert consultant and witness in law enforcement misconduct litigation. I have, during that course of time, reviewed hundreds of cases, and evaluated police actions, policies, training, and supervision, among other things, to determine if police personnel and agencies violate legal, ethical, and constitutional standards of conduct under color of law.

I served as Chairman of the Georgia Committee on Civil Rights Under Color of Law, and published a handbook titled "An Ounce of Prevention" as a result of research done by this committee, which focused on many aspects of police misconduct, and the proper administrative response, primarily in the area of excessive force.

I have written authoritative articles for law enforcement publications, and write a column on law enforcement subjects that appears weekly in the Cartersville Daily Tribune News.

I have lectured, as a faculty member, at ICLE conferences on 42, USC, 1983 matters in 1995 "Internal Investigations as a window of Liability"; 1997 "Evaluation and Analysis of Excessive Force Cases"; 1998 "Police Officer and Municipal Liability: Administrative Concerns"; 2000 "Establishing Custom and Practice of Deliberate Indifference - Case Studies;" 2001 "Expert Evaluation of Excessive Force Claims - The Use of Force Continuum, and Evolution of Use of Force Standards and Technology in Law Enforcement"; 2002 "Less Lethal Force Options - An Emerging Standard"; and 2003 "A Window of Vulnerability - The Integrity of the Internal Investigation Process".

I have conducted two internal investigations for police departments, at the request of the chiefs (Dalton, Georgia and Marietta, Georgia), who respect my credentials. Chief Bobby D. Moody, Marietta Police Department, at the time of this request, was serving as President of the International Association of Chiefs of Police (IACP). I have also conducted an internal investigation of the Fulton County Medical Examiner's Office, on behalf of the Fulton County Manager, Atlanta, Georgia.

I have been qualified as an expert in Superior Court trials in Lee County, GA, Fayette County, GA, Haralson County, GA, Cobb County, GA, Floyd County, GA, Bibb County, GA, Dougherty County, GA, Durham County, NC, Orange County, NC, Prince George's County, MD, and Berkeley County, WV.

I have also been qualified as an expert at trial in United States District Courts, Northern District of Georgia, Atlanta Division, Southern District of Georgia, Statesboro Division, Middle District of North Carolina, Greensboro Division, Northern District of Iowa, Western Division, and Northern District of West Virginia, Martinsburg Division.

I have filed expert opinion reports and affidavits in numerous other cases in state and federal courts throughout the United States.

I am a certified police instructor by the Georgia Peace Officer Standards and Training Council, and have trained thousand of police officers, executives, chiefs, and sheriffs from hundreds of agencies in the area of civil rights under color of law, police misconduct and liability issues.

I am also a state certified Law Enforcement Firearms instructor, and a nationally certified instructor in Less Lethal Force weaponry. In addition, I am certified by the American College of Forensic Examiners, International, as a Certified Forensic Consultant, and am also certified as an In-Custody Death Prevention instructor by the Institute for the Prevention of In-Custody Deaths, Inc.

Attached, as Exhibit A, is my resume and other information relating to my experience and credentials, a list of cases in which I have previously provided expert opinions, via affidavit, report, deposition, and trial testimony, and the fee schedule which is applicable in this case.

BASIS FOR PRELIMINARY OPINIONS

I have been retained to evaluate information provided to me for my review in this case, and to render expert opinions. The preliminary opinions expressed in this report are mine and mine alone, based upon my many years of professional education, experience, and training. I reserve the right to modify, supplement, or abandon any or all of the opinions expressed herein on the basis of any additional information that may be brought to my attention that is material to my analysis and findings.

In rendering these preliminary opinions, I have relied upon examination and consideration of the following information:

1. Internal Investigative file on Officer Chondra Freeman at Atlanta Police Department
2. POST Training Profile for Freeman
3. City of Atlanta Personnel File for Freeman

4. Misconduct complaint record of Freeman at Smyrna Police Department
5. Incident Report
6. Memorandum of Lt. Thomas Baker dated September 9, 2004
7. Deposition of Chondra Freeman
8. Deposition of Lt. Thomas Baker
9. Deposition of Chief Stanley Hook
10. Defendant Freeman's responses to Interrogatories and Request for Production of Documents

SUMMARY OF ALLEGED FACTS

On the night of May 7, 2004, Richard Kline became involved in a verbal altercation at a nightclub in Smyrna. Kline and the other parties to the confrontation were asked to leave by the club manager. Officer Koss, of the Smyrna Police Department, responded to the scene, and was backed up by Officer Freeman.

Kline refused to leave and became argumentative. The decision was made by the officers to arrest Kline and charge him with disorderly conduct. Kline did not resist arrest, and submitted to being handcuffed by Officer Freeman. Freeman transported Kline to the Smyrna City Jail without incident.

Freeman failed to double lock the handcuffs, allowing them to tighten down and cut off the circulation in Kline's hands, and causing nerve damage to his wrists that prohibited him from practicing his vocation as an airline pilot.

Freeman has testified that this failure on her part was deliberate.

Her procedure violated the written policy of the Smyrna Police Department on handcuffing, which requires that the handcuffs be double locked to prevent the type of injury that was suffered by Kline.

DISCUSSION

Negligent hiring

Previous official misconduct history of Freeman

Freeman was previously employed as an officer with the Atlanta Police Department from December 1996 to January, 2003.

1. On June 10, 2000, she was given a letter of reprimand for failure to obey a supervisor. Freeman refused to sign the letter.
2. On December 8, 2000, Freeman again refused to obey an order from a superior and left the precinct while the superior was ordering her to come back. She was charged by the superior with failure to obey a supervisor. Freeman denied the allegations of the Sergeant, but the allegations were

corroborated by other employees who were present. The resolution of the complaint was reduction to a sustained violation of courtesy. In a memorandum of findings, the investigator recommended that Freeman be placed on the early warning program.

3. On March 11, 2001, a belligerent patron was arrested at a nightclub and was argumentative with Freeman. When Freeman arrested the man, he complained that she had put the handcuffs on too tight and that they were cutting into his flesh. Freeman allegedly responded to the man by saying, "Y'all are going to have to learn who and who not to fuck with. I am not the one to fuck with," and refused to release the pressure on the handcuffs, which appears to have been a deliberately punitive act on her part to punish the man for his disrespect. Again, during the internal investigation, Freeman denied that the man had complained about the handcuffs being too tight, and denied using profanity against him. However, both allegations were corroborated by an eyewitness. The complaint was resolved as not sustained for lack of sufficient evidence.
4. On October 28, 2001, Freeman drove her patrol car into a tree while pursuing a subject who was fleeing on foot. Freeman made up a story about the accident being unavoidable, but a Sergeant at the scene wrote a memorandum refuting Freeman's version and stating that she was acting in a reckless manner. A complaint against her for improper operation of a city vehicle was sustained. The recommendation for disciplinary action was 5 days suspension without pay. The recommendation was reduced to a written reprimand.
5. On January 9, 2002, Freeman was the subject of another internal complaint made by a superior involving her actions at a road barricade. The allegation was ruled unsubstantiated.

In her deposition, she testified that when she was hired by the Smyrna Police Department, Lt. Baker, who conducted her background investigation, pulled her disciplinary file at the Atlanta Police Department and went over the contents with her. She was interviewed by Chief Hook and Deputy Chief Hook, and both were aware of the contents of this file.

In the pre-employment screening of Freeman at the Smyrna Police Department, the information available to the investigator as well as the Chief and Deputy Chief revealed that this officer had been documented at a previous police department as one who was disrespectful and disobedient to superiors, disdainful of standards of conduct as a police officer and employee, vindictive and punitive towards arrestees who failed to give her the proper respect, reckless in her official conduct, unconcerned about constitutional constraints on her police authority, and untruthful during internal investigations of her misconduct.

Freeman has many documented symptoms of being a bad cop and a problem employee. She should not have been hired by the Smyrna Police Department. By offering her employment Chief Hook and the City of Smyrna assumed an unacceptable liability risk that Freeman would commit acts that would violate the constitutional rights of

persons who were to be subjected to her police authority and bring discredit to the department.

If Freeman had not been hired, she would not have interfaced with Richard Kline in this incident, and could not have subjected him to the physical pain and suffering and injury that were imposed upon him by Freeman while acting under color of law on behalf of the City of Smyrna.

Prior standard of care violation

The standard of care for the handling of persons in custody is that the arrestee's safety and well being becomes the primary consideration of the custodial officer once the person is in custody and restraints. This is a universally accepted standard in the law enforcement industry that is reinforced in training and written policy at police academies and departments throughout America.

Freeman demonstrated during her prior employment at the Atlanta Police Department that she has no respect for this standard of care and is willing to violate it and the constitutional rights of arrestees that are protected by the standard.

This propensity is a very serious issue, and was known to Lt. Baker, Deputy Chief Brown, and Chief Hook before Freeman was hired.

The predictability that she would violate this standard of care as an officer of the Smyrna Police Department was foreseeable and probable, and was realized in her mistreatment of Kline while he was in her physical custody.

Opinion:

The negligent hiring of Freeman is a directly causative factor in the injury of Richard Kline and the violation of his constitutional rights.

Negligent retention/failure to discipline

The typical probationary period of a newly hired officer is one year. During that period, an officer can be terminated for any reason without a show of cause. Given Freeman's track record with Atlanta, if she was to be hired, she should have been closely scrutinized for violations of policy and reasonable conduct.

Within that period at the Smyrna Police Department, Freeman was accused of mistreating a juvenile at the Sparkles Skating Rink. The investigation cleared her of the allegations. However, it was determined that Freeman was "moonlighting" at the rink as a security officer. She had not been given approval for this outside employment in accordance with the written policy of the Smyrna Police Department.

Chief Hook concluded that Freeman was a relative stranger to the department who may not be totally familiar with all the conditions. In that condition, he closed the investigation without taking any further action.

What Chief Hook, who is a former career officer of the Department, chose to ignore is that off duty employment is a common industry, just as it is in his department, and he had a seven year tenure with Atlanta, and is quite aware of other departments to have outside employment approved, especially when wearing the uniform.

What Freeman demonstrated, here, is more of her failure to follow the rules. It is such a blatant and arrogant violation that she has been terminated. The fact that she received no discipline sent her the message, from the chief of police, that adherence to the rules is really important at the Smyrna PD.

Had Freeman been rightfully terminated for this violation, she would not have been on duty to arrest and abuse Richard Kline.

On the other hand, if she had been retained, but subjected to a severe disciplinary action and specifically required to study the rules, it is possible that she would have had second thoughts about her actions the night of his arrest.

Opinion:

Negligent retention and failure to properly discipline Freeman is the choice of the Chief of Police is a causative factor in the termination of Freeman at the hands of Freeman.

Standards

Standards provide the baseline against which law enforcement officers are judged with regard to performance, delivery of service, safety, and the enforcement industry exists when it has become generally accepted as a standard of operation within the industry. Standards exist in the form of policies, force, training, supervision, internal investigations, discipline, and standard equipment, etc.

Standards are exemplified in training formats, written policies, authoritative publications, and the like. The standard of care is so well established in the industry, and so long known to all officers who are properly trained and guided by up to date standards that they unknowingly violate the standard.

Chief Hook concluded that Freeman was a relatively new officer with the department who may not be totally familiar with all the rules governing conduct. On that condition, he closed the investigation without taking any disciplinary action against her.

What Hook, who is a former career officer of the New York City Police Department, chose to ignore is that off duty employment policy is universal in the law enforcement industry, just as it is in his department, and was at the Atlanta PD. Freeman had a seven year tenure with Atlanta, and is quite aware of the policy provisions of police departments to have outside employment approved, especially if it includes the wearing of the uniform.

What Freeman demonstrated, here, is more of her documented unwillingness to follow the rules. It is such a blatant and arrogant violation of policy that she should have been terminated. The fact that she received no discipline whatsoever when she got caught sent her the message, from the chief of police, that adherence to official policy is not really important at the Smyrna PD.

Had Freeman been rightfully terminated for this violation, she would not have been on duty to arrest and abuse Richard Kline.

On the other hand, if she had been retained, but subjected to much deserved severe disciplinary action and specifically required to study the policy manual, it is possible that she would have had second thoughts about the way she handled Kline on the night of his arrest.

Opinion:

Negligent retention and failure to properly discipline Freeman, as a deliberate choice of the Chief of Police is a causative factor in the mistreatment and injury of Kline at the hands of Freeman.

Standards

Standards provide the baseline against which law enforcement agencies can be judged with regard to performance, delivery of service, safety, etc. A standard in the law enforcement industry exists when it has become generally accepted as a minimal standard of operation within the industry. Standards exist in the form of written policy, use of force, training, supervision, internal investigations, discipline, less lethal force options, standard equipment, etc.

Standards are exemplified in training formats, written policies and procedures, authoritative publications, and the like. The standard of care for persons in custody, for instance, is so well established in the industry, and so long standing, that reasonable officers who are properly trained and guided by up to date departmental policy cannot unknowingly violate the standard.

Officers who violate this standard do so deliberately.

Furthermore, departments that ignore violations of standards and written policy embrace ethics and procedures that are contrary to public safety. Failure to ensure that a department is currently operating within the framework of minimal industry standards, either deliberately or through indifference, creates liability for the department and the municipality when officers violate generally accepted standards of conduct because of their perception that standards and policy accountability are not important.

Freeman knew that she was supposed to double lock the handcuffs to prevent injury. She testified to this knowledge in her deposition when referring to the prior case in Atlanta when she was accused of similar misconduct.

Q: "Well, as you sit here right now, is there any correlation in your mind between double locking the cuffs and the tightness of the cuffs in your mind?"

A: "Oh, yes... If the cuffs are double locked, they won't lock any further. If the cuffs are not double locked, any pressure put onto the cuff will continue to cause the cuff to click."

Freeman deposition, p. 16

Opinion:

Chondra Freeman knew that she was violating the standard of care when she deliberately chose to not double lock the handcuffs on Kline, or intentionally put them on too tight. Her deliberate violation of this standard is a proximate cause of Richard Kline's injury.

Opinion:

Chief Hook's indifference to standard of care and policy violations encouraged Freeman to disregard and violate accepted standards of conduct of a police officer.

Smyrna PD policy on arrest and transporting of prisoners

This policy is Chapter 02-12 of the Policy and Procedure Manual, and is effective November 10, 2003.

The policy states in part:

"IV. PROCEDURES:

...I. Searching/Handcuffing...

2. Any person taken into lawful custody shall be secured with properly placed handcuffs or other appropriate departmentally approved restraint devices prior to placement into transport vehicles.
3. Method:
 - a. The hands shall be handcuffed to the rear of the suspect.
 - b. Once applied, the handcuffs shall be checked for fit insuring that they are not too tight.
 - c. The handcuffs will always be double locked then checked by pulling or pushing on the handcuffs jaw..."

Opinion:

Freeman violated this policy.

Failure to train

Had the personnel of the Smyrna Police Department, including Freeman, been trained in accordance with the policy on handcuffing, which was instituted by Chief Hook six months prior to this incident, the injury to Mr. Kline might have been avoided.

The failure to train to policy became known to Chief Hook, who has made no effort to correct it.

Hook is evidently indifferent to the possibility of future injuries to arrestees by sworn personnel who either remain unaware of this policy, or choose to violate it.

Opinion:

The failure of Chief Hook to train his officers to policy regarding safety of prisoners is a proximate cause of Kline's injuries.

Evidence of a custom and practice of executive deliberate indifference to standards, training, policy, and discipline

I have already discussed the fact that Freeman, with her prior track record, should not have been hired in the first place. If I had been Freeman, just knowing that that this department would hire such a renegade officer would have let me know that this department is "loose."

Getting caught in an unapproved off duty job, in uniform, was brushed off by the chief. This was another clue to Freeman that accountability to standards and policy in this department was not something she needed to be concerned about.

In the Kline incident, the investigator, Lt. Baker, determined that Freeman never double locks handcuffs, and that this was a violation of written policy. However, he did not mention this policy violation in his report and refer to it as a sustained violation. In his deposition, he stated that it was not his job to do so, and it was the prerogative of Chief Hook to make such determinations. This statement is hogwash. It is the duty of the internal investigator to identify policy violations and failures as well as training deficiencies and other sustained allegations of misconduct. Baker also learned in his investigation that Freeman was unaware of the department's written policy mandating that handcuffs will always be double locked. This points out a glaring training deficiency. The policy was dated November 10, 2003, and as of six months later, on the date of the Kline injury, Freeman was unaware that the policy had been instituted.

During Baker's interview of Freeman, he discussed double locking with her but never told her that the policy of the department required it (Freeman depo, p. 36).

Freeman stated in her deposition (p. 21) that even after the lawsuit was filed by Richard Kline, she was not instructed by anyone at the department that policy required her to double lock handcuffs.

She further testified (p. 22) that a training officer named Mitch Plum taught a class to all Smyrna officers on arrest techniques and mechanics of arrest, which included handcuffing. This was after the Kline lawsuit had been filed. During the handcuffing demonstration, there was no mention of double locking handcuffs to prevent injury. Because of the Kline incident, she specifically asked this instructor about departmental policy on double locking. Plum advised these officers that double locking was optional.

Even the training officer, who has the responsibility to instruct officers, was unaware that the policy was in place.

Published policies and procedures are important for a variety of reasons. They provide guidelines for official conduct, which are intended to provide guidance for police personnel to ensure that service is provided consistently, in a manner which is in conformity with accepted law enforcement standards, the law, and the Constitution.

Policies and procedures establish accountability for misconduct, and serve as an active deterrent against official misconduct if properly enforced.

It does no good to institute policy if you do not train your personnel in the policy and hold them accountable to it. In this instance, training was not provided, and this failure is a directly causative factor in the injuries sustained by plaintiff Kline.

Lt. Baker, in his findings, ignored the policy violation and also ignored the obvious training deficiency.

Baker, in his investigative report, and later in a separate memo, made note of Kline's claim of injury to his wrists, but made no effort to verify the injuries. He simply

concluded that Kline's claim of injury was "unfounded." This is a bogus statement. Any time a person claims injury and medical treatment, it is a fundamental procedure in the investigation to obtain medical records to verify the injury and the cause of the injury. Baker did not do this. It is such a basic protocol that my conclusion is that he deliberately avoided it so that the alleged injury would not be proven, and he would not have to deal with it.

This type of deliberate cover up is typical of internal investigations conducted by ethically corrupt departments. The custom and practice of deliberate indifference to official misconduct, in my experience, is almost always revealed in the internal investigative process.

Upon review of Baker's findings, Chief Hook once again made the decision to ignore the obvious policy violation. He admitted in his deposition that he was aware of it at the time. He stated in deposition (p. 49) "I read the report thoroughly. I chose to ignore it."

He also ignored the obvious training deficiency and made no effort to correct it.

He also chose to accept the bogus finding of Baker that Kline's claim of injury was unfounded, when it should have been obvious to him that the investigation was biased and incomplete. He did not require Baker to complete the investigation. Hook stated in his deposition that he spent a long time as an internal affairs investigator. He knew the investigation by Baker resulted in bogus findings.

In a memorandum to Freeman, Hook stated that after reviewing Baker's report, he found nothing therein to support any acts of misconduct. He wrote that it was his determination that the complaint filed by Kline was completely unfounded and the matter was considered closed.

Since Hook is the chief executive of this department, the only reasonable conclusion that can be drawn is that he does not care about official misconduct and civil rights violations committed by sworn personnel, and his indifference has been effectively communicated throughout the rank and file.

When asked in his deposition if his choice to deliberately ignore policy violations encourages officers to continue to violate policies, he stated that he didn't know.

There is ample evidence to conclude that Chief Hook, as the official policy maker and chief executive of the Smyrna Police Department has instituted and perpetuated a well established and long standing custom and practice of deliberate indifference to official misconduct and unconstitutional acts committed by his officers.

He has also demonstrated deliberate indifference to his duty to ensure that his officers are properly trained in official policy and procedure.

Negligent and abusive police officers thrive in such environments and soon learn that they have no fear of reprisal for abusing their authority.

Opinion:

The internal investigative process in this department, from the fundamental function of honest investigation and reporting, to the ultimate function of resolution by the chief executive, is intentionally corrupt.

Opinion:

There exists in the Smyrna Police Department a custom and practice, or unwritten policy, of deliberate indifference to official misconduct and training, which has been established by the Chief of Police. This custom became known to Officer Freeman, and encouraged her to commit acts of official misconduct under color of law. This custom of deliberate indifference is a causative factor for the injuries sustained by Richard Kline and the violation of his constitutional civil rights.

Municipal liability

Municipal governments have the ministerial and non-delegable duty to ensure that their police agencies do not violate the constitutional rights of constituents. The governing body must ensure that the department operates in a manner which will ensure the following of proper procedures, and require adherence to effective policies and nationally accepted industry standards.

A police chief is an appointed department head, and is accountable to the city officials for the management and internal affairs of the department. The **duty** to ensure that constitutional rights are protected by the police can not be delegated to the chief. Only the **responsibility** of proper management can be delegated. This duty requires that the city officials monitor the police agency for proper operation, and ensure that approved policies and procedures are in place, and are being followed.

It has been established that this department, and its chief, have been violating law enforcement standards and have been ignoring policy, training, and disciplinary failures as well as official misconduct of its sworn personnel on a consistent and continuing basis.

The City of Smyrna evidently has no oversight procedure in place to monitor the management and function of this department. The critical failures that have been revealed in this department could have and should have been corrected. However, there was either no audit protocol in place by which the city officials could monitor the activities of this department, and their appointed chief, or if one existed, it was ignored with the same degree of indifference as that exhibited by the customs and practices of the Chief of Police.

Opinion:

The Smyrna Police Department is operating well below standard in areas recognized within the law enforcement industry as being essential to proper delivery of public safety services and safeguarding constitutional rights of citizens.

Opinion:

The failure or indifference to the necessity of the elected officials of the City of Smyrna to properly monitor and guide the police department has permitted and encouraged the shoddy management and negative culture that has become the hallmark of the agency. The City's failure or indifference to its duty to ensure that the constitutional rights and safety of its constituents are protected under color of law is a causative factor in the injuries sustained by Richard Kline.

SUMMARY OF EXPERT OPINIONS

The expert opinions expressed herein are based upon review of the materials listed. I reserve the right to express additional opinions, modify these opinions, or abandon any opinion upon review of additional materials or information. On the basis of my many years of experience, training, and research, I state these conclusions with a reasonable degree of professional certainty.

1. Chondra Freeman was negligently hired by Chief Stanley Hook and the City of Smyrna.
2. Chondra Freeman was negligently retained by Chief Hook and the City of Smyrna.
3. The negligent hiring and negligent retention of Freeman are directly causative factors in the injuries sustained by Richard Kline and the violation of his Constitutional civil rights.
4. The negligent retention, refusal to discipline, and negligent retention of Freeman were deliberate choices made by Chief Hook.
5. The Fourth Amendment and possibly the Fourteenth Amendment civil rights of Kline were violated by Chondra Freeman while acting under color of law.
6. By her own admission, her misconduct that led to the civil rights violation was deliberate and she knew that she was violating a standard of care for persons in custody. Her deliberate violation of the standard is a proximate cause of Mr. Kline's injury.
7. Freeman violated the policy of the Smyrna Police Department on handcuffing, and this violation is the proximate cause of the injuries suffered by Kline and the violation of his civil rights.
8. Had the personnel of the Smyrna Police Department, including Freeman, been trained in accordance with the policy on handcuffing that was instituted by Chief Hook six months prior to this incident, the injury to Mr. Kline might have been avoided.

9. The failure to train to policy became known to Chief Hook, who has made no effort to correct it.
10. Hook is evidently indifferent to the possibility of future injuries to arrestees by sworn personnel who either remain unaware of this policy, or choose to violate it.
11. The training failure is a directly causative factor in Kline's injury and the violation of his rights by Freeman.
12. The policy violations committed by Freeman were consistently and deliberately ignored by Chief Hook. Previous ignored violations encouraged Freeman to engage in official misconduct resulting in Kline's injury.
13. There exists within the Smyrna Police Department a custom and practice of deliberate executive indifference to policy violations, training failures, discipline, industry standards, and acts of official misconduct and unconstitutional behavior on the part of sworn personnel.
14. The custom and practice of deliberate indifference has been established by the Chief of Police and is deliberate.
15. The custom and practice of this department encourages unconstitutional conduct on the part of its sworn personnel, and is a causative factor in this case.
16. The Smyrna Police Department is operating below industry standards.
17. The internal affairs function of the Smyrna Police Department is deliberately and intentionally corrupt.
18. The governing body of the City of Smyrna has neglected or been indifferent to its duty to monitor the quality of operation of the police department and has failed to properly supervise and oversee the department head and departmental functions.
19. This failure on the part of the City to correct the failures within the police department and its chief executive is a causative factor in this case.



Fred G. Robinette III