

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

In the matter of
YOAV GONEN, and
THE CITY REPORT, INC.,

Petitioners,

- against -

NEW YORK CITY POLICE
DEPARTMENT,

Respondent,

For a Judgment Pursuant to Article 78
of the Civil Practice Law and Rules.

Index No.

VERIFIED PETITION

Oral argument requested

Petitioners Yoav Gonen and The City Report, Inc. (collectively "Petitioners"), for their verified petition for judgment pursuant to Article 78 of New York Civil Practice Law and Rules, by and through their undersigned counsel, respectfully allege as follows:

PRELIMINARY STATEMENT

1. This is a petition under the Freedom of Information Law (FOIL) seeking records that would help the public understand the actions of New York City Police Department ("NYPD" or the "Department") officers that led to a New Yorker's death, as well as the extent to which the Department investigated those actions.

2. The facts underlying these FOIL requests are simple. Samuel Williams died in May 2023 after a collision with an unmarked NYPD vehicle. Body-worn camera footage released by

the New York Attorney General shows that the NYPD officer crossed into oncoming traffic with his unmarked vehicle and hit Mr. Williams head-on.¹

3. With the critically injured Mr. Williams splayed on the hood of the NYPD vehicle, a broken leg bone reportedly jutting through his pants, officers put him in handcuffs before attempting to help him.² He died at a hospital the next day.

4. Two months later, NYPD, through a report it submitted to the New York City Comptroller, attempted to bill Mr. Williams' family for damage to the Department's vehicle.³

5. Petitioner Yoav Gonen, a journalist who covers the NYPD and has reported on deaths resulting from NYPD crashes in the city, filed three requests seeking records related to the incident. These records include body-worn camera footage, other recordings obtained by NYPD, and the closing memo issued by the Department's Force Investigation Division. These records would reveal the actions of NYPD officers and the extent to which the Department investigated its officers' actions.

6. NYPD denied the requests. It claimed that all responsive records were "sealed under court order, pursuant to Criminal Procedure Law Section 160.50."

¹ *Attorney General James Releases Footage from Investigation into Death of Samuel Williams*, New York State Attorney General's Office (Dec. 19, 2024), <https://ag.ny.gov/press-release/2024/attorney-general-james-releases-footage-investigation-death-samuel-williams>; Sadie Brown, *Attorney General releases footage of police pursuit that led to Bronx fathers death*, Bronx Times (Dec. 23, 2024), <https://www.bxtimes.com/body-cam-footage-samuel-williams-death/>.

² Eric Umansky, *How Eric Adams Has Backed a Secretive NYPD Unit Ridden With Abuses*, ProPublica (March 11, 2025), <https://www.propublica.org/article/eric-adams-nypd-community-response-team-police-nyc-misconduct-transparency>.

³ Yoav Gonen, *City Billed Family of Man Killed During Police Pursuit for Damage to Cops Car*, THE CITY (Dec. 19, 2024), <https://www.thecity.nyc/2024/12/19/city-billed-family-samuel-williams-police-car-crash/>.

7. These were blanket denials. NYPD claimed that even the body-worn camera footage previously released by the Attorney General was sealed.

8. Criminal Procedure Law Section 160.50 requires certain records to be sealed after a prosecution is terminated in favor of the defendant in specified circumstances. The statute "serves a laudable goal of insuring that one who is charged but not convicted of an offense suffers no stigma as a result of his or her having once been the object of an unsustained accusation." *Leah W v. Keith W*, 242 N.Y.S.3d 569,571 (1st Dep't 2025) (cleaned up).

9. Mr. Williams had not been charged with any crime before he died, nor do his circumstances meet any of the other preconditions necessary for Section 160.50 to apply. Additionally, the records that Mr. Gonen seeks - some of which have already been released by the Attorney General - would not be shielded by Section 160.50 even if the statute did apply in Mr. Williams' circumstance.

10. NYPD's reliance on 160.50 stretches the law far beyond its breaking point. The law does not allow NYPD to hide the actions of its own officers that caused the death of a man who was never charged with a crime.

11. Petitioners respectfully request this Court to order NYPD to promptly produce the records sought in Mr. Gonen's FOIL requests. Petitioners also ask that this Court award them costs and fees.

VENUE AND JURISDICTION

12. Pursuant to CPLR §§ 7804(b) and 506(b), venue in this proceeding lies in New York County, the judicial district in which NYPD's principal offices are located, where its agent made the determinations petitioned against, and where it failed to perform the duties required of it by law.

13. Petitioners have exhausted their administrative appeals under FOIL. This Court therefore has jurisdiction over this matter pursuant to N.Y. Pub. Off. Law § 89(4)(b) and CPLR Article 78.

PARTIES

14. Petitioner Yoav Gonen is a senior reporter at *THE CITY*. He reports on, among other things, NYPD and other areas of New York City government.

15. Petitioner The City Report, Inc. is a 501(c)(3) not-for-profit organization headquartered in New York City. It publishes *THE CITY*, an independent nonprofit news outlet covering New York City.

16. Respondent NYPD is a public agency subject to the requirements of the Freedom of Information Law, N.Y. Public Officers Law § 84 *et seq.* NYPD maintains its office at 1 Police Plaza, New York, N.Y. 10038.

STATEMENT OF FACTS

17. Samuel Williams was killed in a collision with an unmarked NYPD vehicle on May 28, 2023.

18. Mr. Williams' death attracted significant public attention. Mr. Gonen reported on the city's attempt to bill Mr. Williams' family for the damage to NYPD's vehicle, and he reported on a pattern of deaths resulting from NYPD's policy on car chases.⁴

19. As part of his reporting on Mr. Williams' death and the NYPD, Mr. Gonen filed the three FOIL requests at issue in this Petition.

⁴ Yoav Gonen, *City Billed Family of Man Killed During Police Pursuit for Damage to Cops Car*, *THE CITY* (Dec. 19, 2024), <https://www.thecity.nyc/2024/12/19/city-billed-family-samuel-williams-police-car-crash/>; Haidee Chu and Yoav Gonen, *More Than a Crash a Day as NYPD Keeps Pedal to the Metal on Car Chases*, *THE CITY* (Dec. 16, 2024), <https://www.thecity.nyc/2024/12/16/nypd-police-car-crashes-chases/>.

20. On October 15, 2024, he filed request number 2024-056-29429 (the "-429 Request"). The -429 Request seeks "a copy of the Force Investigation Division's closing memo in its investigation" of Mr. Williams' death. A true and correct copy of the -429 Request is attached as **Exhibit A**.

21. Also on October 15, 2024, Mr. Gonen filed request number 2024-056-29430 (the "-430 Request"). The -430 Request seeks "any and all video footage, including but not limited to BWC footage, obtained by the Force Investigation Division for its investigation" of Mr. Williams' death. A true and correct copy of the -430 Request is attached as **Exhibit B**.

22. Mr. Gonen filed a third request on December 3, 2024, number 2025-056-34780 (the "-780 Request"). The -780 Request seeks "any and all video footage - including but not limited to BWC, vehicle dash cam footage and street cameras - that was obtained by the NYPD in the course of its investigation" of Mr. Williams' death. A true and correct copy of the -780 Request is attached as **Exhibit C**.

23. After delaying for more than half a year, the Department finally responded to the requests in June 2025.

24. NYPD denied the -429 Request and the -430 Request on June 10, 2025, claiming that all responsive records were "sealed under court order, pursuant to Criminal Procedure Law Section 160.50." True and correct copies of NYPD's denials of the -429 Request and the -430 Request are attached as **Exhibit D** and **Exhibit E**, respectively.

25. On June 11, 2025, NYPD denied the -780 Request, claiming that it was "duplicative" of the -430 Request. A true and correct copy of this denial is attached as **Exhibit F**.

26. Mr. Gonen filed an administrative appeal of these denials on July 9, 2025. He explained that Criminal Procedure Law Section 160.50 only bars release of records that meet

certain requirements set out in the law, and the requested records do not meet those requirements. He further explained that the -780 Request seeks a different universe of documents from the -430 Request - while the -780 Request seeks footage obtained by any part of NYPD, the -430 Request is much narrower, asking only for footage obtained by the Force Investigation Division - and therefore the later-filed -780 Request could not be duplicative of the -430 Request.

27. NYPD granted Mr. Gonen's appeal on July 23, 2025. A true and correct copy of this appeal decision is attached as **Exhibit G**.

28. Rather than releasing the requested records upon granting the appeal as the law requires, *see* N.Y. Pub. Off. Law§ 89(4)(a) (requiring an appeal decision to either "fully explain in writing to the person requesting the record the reasons for further denial, or provide access to the record sought"), NYPD unlawfully "remanded" the requests "back to the Records Access Officer for a further search and review," Ex. G. It did not address any of the arguments Mr. Gonen made in his appeal. *Id.*

29. This unlawful "remand[]" appears to be another attempt by NYPD to avoid public scrutiny by further delaying a final decision on the requests.

30. NYPD issued a second final response to the three requests on August 13, 2025. True and correct copies of these responses are attached as **Exhibit H** (response to the -429 Request), **Exhibit I** (response to the -430 Request), and **Exhibit J** (response to the -780 Request).

31. This time, NYPD abandoned its claim that the -780 Request was "duplicative." *See* Ex. J.

32. Instead, NYPD denied all three requests in full, claiming that the requested records "are sealed under court order, pursuant to Criminal Procedure Law Section 160.50." Exs. H-J. It did not address any of the arguments Mr. Gonen made in his prior appeal. *See id.*

33. Mr. Gonen appealed these second final responses on August 22, 2025.

34. NYPD denied the appeals on September 5, 2025. True and correct copies of the appeal denials are attached as **Exhibit K** (denial of the -429 Request appeal), **Exhibit L** (denial of the -430 Request appeal), and **Exhibit M** (denial of the -780 Request appeal).

35. The three appeal denials are identical. NYPD stated that, for each request, all responsive records were properly withheld because they "have been SEALED pursuant to New York Criminal Procedure Law §160.50." Exs. K-M.

36. NYPD additionally claimed, for the first time, that "certain portions of the records" in all three requests are also exempt from disclosure under "either" the personal privacy exemption to FOIL "or" because their disclosure would reveal non-routine law enforcement techniques or procedures. *Id.* It provided no justification for why either exemption would apply and no explanation of which portions of the records it believed were covered by the exemptions. *See id.*

37. Neither of those exemptions, nor Criminal Procedure Law Section 160.50, permits NYPD's blanket withholding of the requested records.

CAUSE OF ACTION

(Article 78 Review of Wrongful Denial of FOIL Request)

38. Petitioners hereby reassert and reallege each and every allegation contained in the preceding paragraphs as if fully set forth herein.

39. Petitioners commence this proceeding pursuant to CPLR Article 78 and N.Y. Pub. Off. Law § 89(4)(b).

40. Under FOIL, all documents held by government entities like NYPD are presumed open for public inspection and copying. Documents may be withheld from public inspection only if expressly permitted by a specific statutory exemption, and such exemptions must be interpreted narrowly to ensure the public has the maximum possible access to government records.

41. NYPD has no reasonable basis for denying access to the requested records.
42. Specifically, NYPD has misapplied FOIL's exemptions and Criminal Procedure Law § 160.50, attempting to withhold material that may not properly be withheld.
43. NYPD's actions have caused and continue to cause irreparable harm to the rights guaranteed to Petitioners and to the public at large under FOIL.
44. The information requested by Petitioners is of significant interest and concern to the general public.
45. Petitioners have exhausted their administrative remedies and have obtained none of the withheld information.
46. As a result of the foregoing, NYPD has violated FOIL.
47. Petitioners have no other adequate remedy at law.
48. No prior application for the relief requested herein has been made to the Court.

CLAIM FOR RELIEF

For the foregoing reasons, Petitioners respectfully request that this Court:

- a. Grant Petitioners' Article 78 Petition, directing NYPD to comply with its duty under FOIL and to produce the requested records within twenty (20) days;
- b. Award Petitioners their costs and attorneys' fees pursuant to Public Officers Law § 89(4)(c); and
- c. Award Petitioners such other and further relief as the Court deems just and proper.

Dated: January 2, 2026

Respectfully submitted,

By: /s/ Michael Linhorst

Michael Linhorst

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Counsel for Petitioners

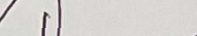
⁵ The Clinic is housed within Cornell Law School and Cornell University. Nothing in this Petition should be construed to represent the views of these institutions, if any.

VERIFICATION

STATE OF NEW YORK)
) SS.:
COUNTY OF NEW YORK)

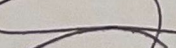
CARROLL BOGERT, being duly sworn, deposes and says under penalty of perjury:

1. I am Chief Executive Officer of *THE CITY*.
2. In order to gather information relevant to *THE CITY*'s reporting, Yoav Gonen filed the FOIL requests at issue in this Verified Petition.
3. I have read the annexed Verified Petition. Based on my personal knowledge, and on information obtained in the regular course of business from records and from individuals with knowledge, the information contained herein is true to the best of my knowledge, information, and belief.


Carrol Bogert

Sworn before me this

2 day of ~~December~~ January 2026


Notary Public
JEANMARIE ODDON
Notary Public, State of New York
No.01OD6251238
Qualified in Suffolk County
Commission Expires November 14, 2022