

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

In the Matter of,

NEW YORK CIVIL LIBERTIES UNION,

Petitioner,

-against-

NEW YORK CITY POLICE DEPARTMENT,

Respondent.

Index No.

**VERIFIED PETITION**

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

**PRELIMINARY STATEMENT**

1. This Article 78 action seeks to vindicate the public’s right to essential information about the New York City Police Department’s encounters with New Yorkers through vehicle stops.

2. Vehicle stops are a central way that law enforcement interacts with the public. Across the country, Black and Latinx people are disproportionately stopped, searched, and arrested as a result of vehicle encounters—too often with fatal consequences.

3. This lawsuit arises out of the NYPD’s refusal to produce a database it maintains of details of the nearly 675,000 vehicle stops it conducted last year.

4. Pursuant to a mandate from the New York City Council, the NYPD last year started to produce for the first time quarterly reports about its vehicles stops.

5. Because these reports provide limited information about the stops, the NYCLU submitted a request to the agency for the database underlying the quarterly reports. Access to the database would provide the public with a much more comprehensive understanding of NYPD’s vehicle

stops, including the demographics of New Yorkers stopped in specific parts of the city, the units of the NYPD making those stops, and the outcomes of those stops. This dispute closely parallels prior litigation in which the NYCLU sought and ultimately obtained the NYPD database for pedestrian stops, which the NYCLU then used to produce detailed analyses of the NYPD's stop-and-frisk program.

6. After providing an initial, unreasonable deadline by which it would respond to the NYCLU's June 2022 request for the vehicle-stop database and related documents, the NYPD informed the NYCLU it would produce a response in December 2022.

7. To date, however, the NYPD has failed to produce any responsive documents.

8. Having exhausted administrative remedies, the NYCLU now seeks judicial relief to require the NYPD to produce records responsive to its request. The NYCLU also seeks an award of attorneys' fees and costs.

### **VENUE**

9. Pursuant to CPLR 7804(b) and 506(b), venue in this proceeding lies in New York County, in the judicial district in which the respondent took the action challenged here and where the office of the respondent is located.

### **PARTIES**

10. The petitioner, the New York Civil Liberties Union ("NYCLU"), is a not-for-profit corporation that seeks to defend civil rights and civil liberties on behalf of individuals who have experienced injustice and to promote transparency in government. For over seventy years, the NYCLU has been involved in litigation and public policy advocacy on behalf of New Yorkers to demand government accountability and transparency.

11. The respondent, the NYPD, is a public agency subject to the requirements of the Freedom of Information Law, New York Public Officers Law § 84 *et seq.*

## FACTUAL BACKGROUND AND PROCEDURAL HISTORY

### Racial Bias in Vehicle Stops

12. The NYPD stops hundreds of thousands of vehicles each year. According to the quarterly vehicle encounter reports published on the NYPD's website, in 2022 alone the NYPD made 673,000 vehicle stops.<sup>1</sup> This number nearly matches the number of pedestrians subject to the NYPD's "stop-and-frisk" policy in 2011 at the height of its prevalence and just prior to it being drastically curtailed pursuant to court order. (*Stop-and-Frisk Data*, NYCLU, available at <https://www.nyclu.org/en/stop-and-frisk-data> [last accessed Mar. 20, 2023].)

13. The racial disparities in the occurrence and outcomes of these vehicle stops are stark. In 2022, of stops that reported the race of the civilian, 59 percent of civilians stopped were Black and Latinx, 90 percent of civilians searched during a vehicle stop were Black and Latinx, and 88 percent of civilians arrested because of a vehicle stop were Black and Latinx.<sup>2</sup> Black and Latinx people only make up 50 percent of the NYC population.<sup>3</sup> Yet Black people, alone, make up about half of all vehicle searches and arrests that result from a vehicle stop, while Black people make up only 21 percent of the NYC population and 24 percent of the NYC population that commutes by car.<sup>4</sup>

14. The NYPD did not start reporting summary data on vehicle stops voluntarily. The NYPD

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<sup>1</sup> *Vehicle Reporting*, New York City Police Department, available at <https://www.nyc.gov/site/nypd/stats/reports-analysis/vehicle-stop-reports.page> [last accessed Mar. 23, 2023].

<sup>2</sup> *Id.*

<sup>3</sup> NYC population by race according to the US Census Bureau American Community Survey Table B03002:

<https://data.census.gov/table?q=B03002:+HISPANIC+OR+LATINO+ORIGIN+BY+RACE&g=1600000US3651000&tid=ACSDT5Y2021.B03002>

<sup>4</sup> *Id.*; <https://www.nyc.gov/site/nypd/stats/reports-analysis/vehicle-stop-reports.page>; NYC commuters by race according to the US Census Bureau American Community Survey 2016-2020 Table B08006:

<https://data.census.gov/table?q=B08006&g=1600000US3651000&tid=ACSDT5Y2020.B08006>

was required to do so by a 2021 amendment to Local Law 45, which mandates the NYPD to publish a variety of statistics about vehicle stops on a quarterly basis starting in 2022. The statistics that the NYPD must report include the number of summonses issued, arrests made, vehicles seized, related use-of-force incidents, vehicles searched, and whether consent was provided, all “disaggregated by precinct, race/ethnicity, and age of the driver” (Local Law No. 2021/045 of New York City). The NYPD publishes quarterly reports with summary data on vehicles stops on its website.<sup>5</sup>

15. The first complete year of statistics about vehicle stops that were published by the NYPD—even in this summary form—has garnered a large amount of public interest. The magnitude of vehicle encounters and the racial disparities in vehicle enforcement has been covered by numerous news outlets including Gothamist, the New York Daily News, CBS News, News 12 Brooklyn, NY1, and Buffalo News, among others.<sup>6</sup>

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<sup>5</sup> *Vehicle Reporting*, New York City Police Department, available at <https://www.nyc.gov/site/nypd/stats/reports-analysis/vehicle-stop-reports.page> [last accessed Mar. 23, 2023].

<sup>6</sup> Samantha Max, *About 90% of drivers searched or arrested by the NYPD in 2022 were Black or Latino*, Gothamist, Feb. 23, 2023, available at <https://gothamist.com/news/about-90-of-drivers-searched-or-arrested-by-the-nypd-in-2022-were-black-or-latino> [last accessed Mar. 15, 2023]; *Over Pulling Over: NYPD vehicle stop data raises concerns*, New York Daily News, Feb. 26, 2023, available at <https://www.nydailynews.com/opinion/ny-edit-criminal-justice-policing-reform-statistics-cops-government-20230226-muav34i6izfhdckclwwohc7p5km-story.html> [last accessed Mar. 15, 2023]; Christina Fan, *NYPD: More than 670,000 pulled over in 2022, with vast majority arrested and searched people of color*, CBS News New York, Feb. 23, 2023, available at <https://www.cbsnews.com/newyork/news/nypd-traffic-stops-racial-disparity/?intcid=CNM-00-10abd1h> [last accessed Mar. 15, 2022]; *NYPD releases car stop data for first time, showing racial disparity in traffic stops*, News 12 Brooklyn, Feb. 21, 2023, available at <https://brooklyn.news12.com/nypd-releases-car-stop-data-for-first-time-showing-racial-disparity-in-traffic-stops> [last accessed Mar. 15, 2023]; Rebecca Greenberg, *Report: 88% of drivers arrested by the NYPD during traffic stops in 2022 were Black or Latino*, NY1, Feb. 21, 2023, available at <https://www.ny1.com/nyc/all-boroughs/public-safety/2023/02/22/report--88--of-drivers-arrested-by-the-nypd-during-traffic-stops-in-2022-were-black-or-latino> [last accessed Mar. 15, 2023]; *NYPD releases car stop data for first time; Black drivers were stopped the most*, Buffalo News, February 21, 2023, available at <https://buffalonews.com/news/national/nypd-releases-car-stop-data-for-first-time-black-drivers->

16. However, the summary information that is published by the NYPD is only a preview of the underlying information that the NYPD collects and that the petitioner is requesting.

#### The NYCLU’s Prior Efforts to Provide Transparency to Police Encounters

17. The NYCLU has been a leader in advocating for data transparency in police encounters for decades. As the NYPD’s stop-and-frisk program expanded dramatically during the mayoralty of Michael Bloomberg, the NYCLU used New York’s Freedom of Information Law to obtain and regularly report to the public information about NYPD pedestrian stops. (*Stop-and-Frisk in the De Blasio Era (2019)*, NYCLU, Mar. 14, 2019, available at <https://www.nyclu.org/en/publications/stop-and-frisk-de-blasio-era-2019> [last accessed Mar. 15, 2023].) The NYCLU expanded its reporting on pedestrian stops when it successfully sued to obtain the database the NYPD was compiling with the details of each stop. (*Id.*) Using information from the database, the NYCLU in May 2012 released a report analyzing NYPD stop-and-frisk activity in 2011 with a level of detail never before available to the public. (*Id.*)

18. Also in 2012—based in part on an analysis of the same data discussed above—the NYCLU, The Bronx Defenders, LatinoJustice PRLDEF and civil rights attorney Chris Fabricant filed a federal lawsuit challenging aspects of the stop-and-frisk program, including its racially-biased application. (*Ligon v City of New York*, 925 F Supp 2d 478 [SD NY 2013, No. 12 CIV 2274].) That case, along with several related cases, resulted in a series of federal judgments declaring the NYPD’s racially biased stop-and-frisk practices unconstitutional and ordering major reforms. (*Floyd v City of New York*, 959 F Supp 2d 540 [SD NY 2013]; see also *Settlement Will End Unconstitutional NYPD Stops, Frisks and Arrests in Clean Hall Buildings*, NYCLU, Feb. 2, 2017, available at <https://www.nyclu.org/en/press-releases/settlement-will-end-unconstitutional-nypd->

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[were-stopped-the-most/video\\_4a4549ac-361f-5bb5-9b75-2bbf89d8583b.html](https://www.nyclu.org/en/press-releases/settlement-will-end-unconstitutional-nypd-were-stopped-the-most/video_4a4549ac-361f-5bb5-9b75-2bbf89d8583b.html) [last accessed Mar. 15, 2023].

[stops-frisks-and-arrests-clean-halls](#) [last accessed Mar. 15, 2023].)

19. The NYPD now publishes an annual database of pedestrian stops on its website.<sup>7</sup> But despite ostensibly collecting similar data for vehicle stops, the NYPD has not shared this information. Much like before the NYCLU obtained the database of pedestrian stop-and-frisks a decade ago, granular details about vehicle stops remain hidden from the public. The FOIL request at issue in this petition attempts to obtain a more complete dataset of information related to vehicle stops, so that this important information about NYPD-civilian encounters can be made available to the public.

#### Background of the Instant Petition

20. On June 2, 2022, the NYCLU submitted a FOIL request seeking disaggregated, incident-level data of NYPD vehicle encounters collected by the police department pursuant to the 2021 Amendment to New York City Local Law 45 (Hodgson Affirmation, Exhibit A, NYCLU June 2, 2022 FOIL Request).

21. Specifically, the NYCLU seeks: 1) the disaggregated, incident-level data used to produce the NYPD quarterly vehicle encounter reports in electronic spreadsheet or comma-separated format (Excel or CSV), and 2) records, manuals, keys, and/or legends that describe or explain how to understand that data. (*Id.*)

22. On June 6, 2022, the NYPD responded to the request informing the NYCLU that it could “expect a response on or about Wednesday, October 19, 2022” (Hodgson Affirmation, Exhibit B, NYPD Acknowledgment Email dated June 6, 2022).

23. The NYCLU administratively appealed the NYPD’s constructive denial of the request (Hodgson Affirmation, Exhibit C, NYCLU First Administrative Appeal dated June 13, 2022).

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<sup>7</sup> *Stop, Question and Frisk Data*, New York City Police Department, available at <https://www.nyc.gov/site/nypd/stats/reports-analysis/stopfrisk.page> [last accessed Mar. 23, 2023].

The NYCLU argued that the date was not reasonable under the circumstances of the request because the “request is sufficiently narrowed to a single *electronic* dataset that the NYPD maintains” and because “the dataset and the quarterly summaries that the NYPD publishes on its website are mandated by statute (the 2021 Amendment to New York City Local Law 45).” (*Id.* [emphasis in original].)

24. On June 13, 2022, the NYPD responded to the administrative appeal, stating that the “appeal is premature because, as of the date of your appeal, the Records Access Officer (RAO) had not yet issued a determination on your request, and, therefore, your appeal lacked the predicate denial of access” (Hodgson Affirmation, Exhibit D, NYPD June 13, 2022 Response to the NYCLU’s First Administrative Appeal).

25. On October 3, 2022, the NYCLU emailed the NYPD confirming that “we are expecting to get a full production” by October 19, 2023, the initial response date that the NYPD provided (Hodgson Affirmation, Exhibit E, NYCLU October 3, 2022 Email).

26. On October 17, 2022, the NYPD extended its response date to “on or about Monday, December 19, 2022” (Hodgson Affirmation, Exhibit F, NYPD October 17, 2022 Email).

27. On October 26, 2022, the NYCLU administratively appealed the NYPD’s denial (Hodgson Affirmation, Exhibit G, NYCLU Second Administrative Appeal dated October 26, 2022). The NYCLU argued that the newly-extended deadline was unreasonable and improper. The NYCLU reiterated that the narrow request was specific and targeted at a single electronic dataset that the NYPD maintains pursuant to law. (*Id.*)

28. On October 27, 2022, the NYPD responded to the administrative appeal, again deeming the appeal “premature” (Hodgson Affirmation, Exhibit H, NYPD October 27, 2022 Response to the NYCLU’s Second Administrative Appeal).

29. The NYPD failed to produce responsive records by its own extended, self-imposed

deadline of December 19, 2022. The NYCLU has received no additional response or update from the NYPD.

30. Having exhausted administrative remedies, the NYCLU filed its Verified Petition pursuant to Article 78 of New York’s Civil Practice Law and Rules seeking the prompt production of responsive records as well as attorneys’ fees and costs.

**CAUSES OF ACTION UNDER ARTICLE 78**

31. The petitioner repeats and realleges paragraphs 1–30 hereof as if fully set forth herein.

32. Article 78 is the appropriate method for review of agency determinations concerning FOIL requests.

33. The petitioner has a clear right to production of the records responsive to the June 2, 2022 FOIL request.

34. There is no basis in law or fact for the respondent to fail to respond to the request or the administrative appeals.

35. The respondent’s obligation under FOIL to respond to a FOIL request, respond to a FOIL administrative appeal, and produce responsive documents is mandatory.

36. The petitioner exhausted administrative remedies.

37. The petitioner has no other remedy at law.

38. The petition is timely under CPLR § 217.

**REQUESTED RELIEF**

WHEREFORE, the petitioner seeks judgment:

- (1) Pursuant to CPLR § 7806, directing the respondent to comply with their duty under FOIL and disclose the records sought by the petitioner in the FOIL request dated June 2, 2022;
- (2) Awarding reasonable attorneys’ fees and litigation costs as allowed under New York Public Officers Law § 89; and



(3) Granting such other relief as the Court deems just and proper.

Dated: March 23, 2023  
New York, New York

Respectfully Submitted,

NEW YORK CIVIL LIBERTIES UNION  
FOUNDATION

/s/ Robert Hodgson

Robert Hodgson

Christopher Dunn

125 Broad Street, 19th Floor

New York, N.Y. 10004

Tel: (212) 607-3300

[rhodgson@nyclu.org](mailto:rhodgson@nyclu.org)

[cdunn@nyclu.org](mailto:cdunn@nyclu.org)

*Counsel for Petitioner*