

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

<p>NEW YORK CIVIL LIBERTIES UNION,</p> <p style="text-align: center;">Petitioner,</p> <p style="text-align: center;">vs.</p> <p>CITY OF BUFFALO and BUFFALO POLICE DEPARTMENT,</p> <p style="text-align: center;">Respondents.</p>
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**AFFIRMATION OF JOSHUA EBERSOLE IN SUPPORT OF THE VERIFIED
PETITION**

JOSHUA EBERSOLE, a member of the bar of New York, affirms the following to be true under the penalties of perjury:

1. I am an attorney for the petitioner in this action. I make this Affirmation upon personal knowledge and in support of the Verified Petition dated April 20, 2021 (“Verified Petition”), in the above-captioned case.
2. Based on either my direct involvement in or supervision of other attorneys at my law firm who were directly involved in communications with the City of Buffalo and the Buffalo Police Department (“BPD”) on behalf of the petitioner in the course of this Freedom of Information Law proceeding, I affirm that paragraphs 11-24 in the Verified Petition, which set forth the procedural history of the request, are true to my personal knowledge. I affirm that:
 - a. Attached as **Exhibit A** to the Verified Petition is a true and correct copy of the Annual Report to the Governor and State Legislature, dated December 2014, that I caused to be downloaded on December 2, 2020, at 9:44 am from

<https://on.ny.gov/3fbCxGO>. The report from the Department of State Committee on Open Government describes how the scope of section 50-a was steadily expanded in the courts.

- b. Attached as **Exhibit B** to the Verified Petition is a true and correct copy of the petitioner's FOIL Request dated September 15, 2020.
- c. Attached as **Exhibit C** to the Verified Petition is a true and correct copy of the letter dated September 21, 2020, from Jeff Rinaldo, the Records Access Officer for the City of Buffalo, acknowledging the FOIL request.
- d. Attached as **Exhibit D** to the Verified Petition is a true and correct copy of the letter dated December 3, 2020, in which the petitioner administratively appealed the constructive denial of the FOIL request.
- e. Attached as **Exhibit E** to the Verified Petition is a true and correct copy of the letter dated January 21, 2021, in which the respondent provided notice of its production of the discipline file of Lt. Michael A. Delong.
- f. Attached as **Exhibit F** to the Verified Petition is a true and correct copy of the letter dated January 29, 2021, in which the petitioner requested clarification on the production of remaining records responsive to the FOIL request.
- g. Attached as **Exhibit G** to the Verified Petition is a true and correct copy of the letter dated March 11, 2021, in which the petitioner administratively appealed the constructive denial of the FOIL request.

Dated: April 20, 2021
New York, New York

Respectfully Submitted,

By: /s/ Joshua Ebersole
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