

# Exhibit 2

# Milbank

55 Hudson Yards | New York, NY 10001-2163

September 15, 2020

## VIA ELECTRONIC MAIL AND U.S. MAIL

Records Access Officer  
Nassau County Police Department  
The Legal Bureau  
1490 Franklin Avenue  
Mineola, New York, 11501

Re: Freedom of Information Law Application for Public Access to Records

Dear Records Access Officer:

On behalf of the New York Civil Liberties Union (“NYCLU”), we respectfully request that copies of the following Nassau County Police Department (“NCPD”) records be provided to us pursuant to the New York Freedom of Information Law (“FOIL”), N.Y. Pub. Off Law § 85, *et seq.* The NYCLU is deeply concerned about long-standing and pervasive racially-biased policing throughout the state. For decades, documents bearing on these practices have been hidden behind N.Y. Civil Rights Law Section 50-a, a state law that the legislature recently repealed to encourage transparency and police accountability. The NYCLU now is moving forward with a project to investigate disciplinary records<sup>1</sup> and other police records to identify patterns of discriminatory policing, including (but not limited to) records that had previously been kept secret under Section 50-a. To this end, we submit this FOIL request for the records requested below.

**Unless otherwise indicated, the time period for all documents requested below is January 1, 2000 to the Present (the “Relevant Time Period”).** If records from January 1, 2000 are not available, please provide records from the earliest date after January 1, 2000 that such records are available.

### *Disciplinary Records*

1. All disciplinary records of all law enforcement officers employed by the NCPD during the Relevant Time Period, including without limitation, for civilian complaints that were

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<sup>1</sup> As used herein, the term “law enforcement disciplinary records” has the same meaning as provided in N.Y. Pub Off. Law § 86(6).

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substantiated, all materials regarding corrective and/or disciplinary measures, if any, taken against law enforcement officers.

### ***Use of Force***

As used herein, the term “use of force” means: (a) the use of weapons, including, but not limited to, firearms, tasers, nightsticks, tactical batons, or the use of a chemical agent (*e.g.*, mace, pepper spray) capable of causing discomfort or pain; and (b) the use of bodily force that includes a degree of physical contact, including, but not limited to, striking, kicking, pushing, punching, biting, choking, or the use of pressure point controls and physical restraints, or the use of bicycles or other vehicles to physically control people’s movement.

2. All directives, orders, guidance, procedures, memoranda, rules, regulations, forms, and other statements of policy concerning officers’ use of force, including without limitation:
  - a. All policies and guidelines concerning record-keeping requirements associated with the use of force, including the length of time these records must be retained; and
  - b. Examples of all forms or reports (*i.e.*, blank forms or reports) used to document uses of force.
3. All records regarding uses of force, including without limitation, analyses, statistics, memoranda and reports.

### ***Stops/Temporary Detentions/Field Interviews***

As used herein, the term “stops” means temporary detentions of either, or both, pedestrian stops and/or vehicle traffic stops by police officers employed by the NCPD.

4. All records documenting stops and/or field interviews, including but not limited to, records sufficient to identify the race, gender, and location of any person stopped, detained, or interviewed.
5. All directives, orders, guidance, procedures, memoranda, rules, regulations, forms, and other statements of policy concerning stops and/or field interviews, including without limitation:
  - a. All policies and guidelines concerning record-keeping requirements for stops and/or field interviews, including the length of time these records must be retained; and
  - b. Examples of all forms or reports (*i.e.*, blank forms or reports) that officers are required to complete to document stops and/or field interviews.

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### *Civilian Complaints*

6. All civilian complaints against law enforcement officers.
7. All records regarding the manner in which civilian complaints against law enforcement officers are investigated, including:
  - a. The number, qualifications, and affiliation or assigned division of investigators assigned to investigate complaints;
  - b. The process, policies, and procedures for recording witness accounts;
  - c. Policies regarding the referral of complaints to the NCPD Internal Affairs Unit (“IAU”); and
  - d. The process, policies, and procedures by which the IAU determines whether a complaint has been substantiated or corroborated.
8. All directives, orders, guidance, procedures, memoranda, rules, regulations, forms, and other statements of policy concerning civilian complaints against law enforcement officers, including without limitation:
  - a. The receipt, intake, investigation, and adjudication of complaints alleging misconduct by the NCPD or officers employed by the NCPD; and
  - b. Disciplinary and civilian complaint monitoring systems for police officers.
9. All materials produced for the purpose of educating the public on the NCPD’s complaint process, including, but not limited to:
  - a. Examples of all forms made available to members of the public to file a complaint against the NCPD or specific officers.
10. All records sufficient to identify, per calendar year, the average, minimum, and maximum number of days to investigate:
  - a. All civilian complaints against law enforcement officers;
  - b. All civilian complaints against law enforcement officers deemed unsubstantiated; and
  - c. All civilian complaints against law enforcement officers deemed substantiated.
11. All records sufficient to identify, per calendar year, the number of days that open complaints have been or were pending.

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12. Records sufficient to identify the total number of civilian complaints per calendar year, broken down by the subject of the complaint (the categories used internally to categorize complaints are sufficient for the purposes of this request), including without limitation, complaints about bias-based policing<sup>2</sup>, racial profiling<sup>3</sup>, the use of force, and vehicle traffic stops, pedestrian stops or temporary detentions.
  - a. All policies, procedures, and guidelines concerning the investigation of civilian complaints;
  - b. For each category of complaints, please also provide the data broken down by the outcome (*e.g.*, substantiated, unsubstantiated, or open) of the complaints, and broken down by the race and gender of the complainant; and
  - c. For substantiated complaints in each category, please identify what disciplinary action was taken, if any.

### *Internal Affairs Unit*

13. All directives, orders, guidance, procedures, memoranda, rules, regulations, forms, and other statements of policy concerning the IAU, including without limitation:
  - a. All policies and guidelines concerning record-keeping requirements associated with the IAU, including the length of time these records must be retained by the NCPD in an electronic database or in any other format. This includes policies and procedures concerning reporting and review that occurs both on-scene and after the incident.
  - b. Examples of all forms or reports (*i.e.*, blank forms or reports) used to document use of force.
14. All records regarding the structure, composition, and staffing of the IAU, including the names of IAU members, their race, and their gender; how members are selected for the IAU; and the necessary qualifications to become a member of the IAU.

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<sup>2</sup> Bias-based policing includes, but is not limited to, the intentional or unconscious use of race, ethnicity, national origin, gender, gender expression, sexual orientation, and/or religion in initiating and carrying out law enforcement action, whether actual or perceived by the complainant.

<sup>3</sup> Racial profiling includes, but is not limited to, the intentional or unconscious use of race, ethnicity, and/or national origin as grounds for suspecting a person of having committed a crime, whether actual or perceived by the complainant.

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***Investigative Reports***

15. All records sufficient to identify, by name and rank, every officer involved in a police-involved death<sup>4</sup> of a civilian and all investigative reports about the incident.
16. All investigative reports regarding each law enforcement officer cleared of, or found to have engaged in, wrongdoing in civilian complaints.
17. Records sufficient to identify the total number of internal investigations concerning alleged misconduct by police officers opened by the NCPD per calendar year, broken down by the subject of the investigation (the categories used internally to categorize complaints are sufficient for the purposes of this request).
  - d. For each category of investigations, please also provide the data broken down by the outcome (*e.g.*, substantiated, unsubstantiated, or open) of the investigation; and
  - e. For substantiated allegations in each category, identify what disciplinary action was taken, if any.

***Diversity in the Ranks***

18. Records sufficient to identify the total numbers of department personnel broken down by race and gender for the following ranks:
  - a. Police officer;
  - b. Detective;
  - c. Sergeant;
  - d. Lieutenant;
  - e. Captain; and
  - f. All ranks above captain.

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<sup>4</sup> As used herein, the term "police-involved death" includes, but is not limited to: (1) any civilian death that is related to, or occurs during, the course of police use of force (as defined herein) -- or threatened use of force; (2) any civilian death that occurs in the custody of the police; or (3) any civilian death that is related to, or occurs during, the course of a "stop" (as defined herein), a field interview, or when fleeing from the police.

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### *Policies*

19. All policies governing officer conduct, including but not limited to all directives, orders, guidance, procedures, memoranda, rules, regulations, forms, and other statements of policy concerning:
  - a. Bias-based policing and/or racial profiling;
  - b. Asset forfeiture and property seizures;
  - c. Equal employment opportunity;
  - d. Interactions with protesters, including any policies related to the use of pepper spray, tear gas, and drones;
  - e. Mental health, including all NCPD interactions with individuals experiencing a psychological emergency or otherwise demonstrating signs of emotional distress; and
  - f. Strip searches and body searches.

### *Trainings*

20. All training materials used by the NCPD, including but not limited to all training materials concerning:
  - a. Investigation of civilian complaints;
  - b. Use of force, including but not limited to materials that address the circumstances under which the use of force is permitted and training materials that address how to document incidents when force is used;
  - c. De-escalation strategies and tactics;
  - d. Conducting pedestrian stops, vehicle traffic stops, and/or field interviews; and
  - e. Cultural diversity, procedural justice, and/or cross-cultural awareness and cross-cultural competency based on race, ethnicity, immigration status, LGBT status, and disability.

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21. For each training program on the topics listed in Request 20, records sufficient to identify the following information:
- a. The total number of training programs that have been held on each topic during the Relevant Time Period;
  - b. The frequency with which training programs have been held on each topic during the Relevant Time Period;
  - c. Policies and procedures indicating the frequency with which cadets, police officers, detectives, sergeants, lieutenants, captains, and all ranks above captain were/are required to participate in and/or re-attend training programs on each topic during the Relevant Time Period; and
  - d. The number of cadets, police officers, detectives, sergeants, lieutenants, captains, and all ranks above captain who attended each training program on each topic each time such training program took place during the Relevant Time Period.

### ***Collective Bargaining Agreements***

22. All collective bargaining agreements to which the NCPD was a party during the Relevant Time Period.

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Except where explicitly noted, we expressly exclude from these requests individually identifiable information or other private individual information.

Wherever possible, please provide the responsive records in electronic format. Please provide all data in electronic spreadsheet format (.xls or .csv format where possible). In the event certain responsive records are unavailable in electronic format, please provide hard copies. We agree to compensate the NCPD for the cost of duplicating and providing paper copies of any responsive records that cannot be produced electronically, as provided by law.

Pursuant to FOIL Section 89(3)(a), your response is respectfully requested within five (5) business days of receipt of this request. Please furnish all applicable records to the undersigned.

If for any reason any portion of my request is denied, please inform us of the reasons for the denial in writing and provide the name and address of the person or body to whom an appeal should be directed. Thank you in advance for your cooperation.



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Very truly yours,

/s/Atara Miller

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