

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.

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

**PETITIONER’S MEMORANDUM OF LAW IN SUPPORT OF THE VERIFIED  
PETITION**

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FOUNDATION

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Dated: October 31, 2023  
New York, N.Y.

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## PRELIMINARY STATEMENT

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. It comes months after the NYCLU filed two lawsuits that sought identical vehicle stop data from the NYPD for 2022 and the first half of 2023.<sup>1</sup> Weeks after the NYCLU filed those lawsuits—arising, as here, out of the NYPD’s long FOIL response delays—the NYPD produced the requested records.

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. This lawsuit arises out of the NYPD’s unreasonable delay in producing a database it maintains of details of the stops it conducted in the third quarter of 2023.

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. The NYCLU submitted a June 2022 FOIL request to the department for the information underlying these reports. After the NYCLU was forced to bring a lawsuit challenging the NYPD’s constructive denial of that request, the NYPD produced the data sought. In the course of that lawsuit, the NYCLU attempted to resolve the issue of how and when the NYPD would produce updated data, particularly since the NYPD’s

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<sup>1</sup> On March 23, 2023, the NYCLU brought an Article 78 action challenging the NYPD’s constructive denial of the NYCLU’s June 2, 2022 FOIL request for the department’s vehicle stop data for the first half of 2022 (*see NYCLU v NYPD*, No. 152726/2023 [Sup Ct, NY County 2023]). On May 23, 2023, the NYPD completed production of the requested electronic database (Chikezie Affirmation ¶ 5). And on July 6, 2023, the NYCLU brought an Article 78 action challenging the NYPD’s constructive denial of the NYCLU’s June 6, 2023 FOIL request for the departments’ vehicle stop data for the second half of 2022 and the first half of 2023 (*see NYCLU v NYPD*, No. 155997/2023 [Sup Ct, NY County 2023]). On August 18, 2023, the NYPD completed production of the requested electronic database (Chikezie Affirmation ¶ 8).

unreasonable delays led to the lawsuit's limited focus on year-old data. However, the NYPD refused to consider any negotiated schedule, refused to provide any estimate for further productions, and instructed the NYCLU to file a new FOIL request.

On June 6, 2023, the NYCLU promptly submitted a FOIL request for the exact same electronic spreadsheets, updated with more recent data from the last half of 2022 and the first half of 2023. The NYPD replied with an estimated response date of "on or around October 23, 2023." Because the NYPD had already identified, compiled, and produced the datasets requested, its almost-five-month proposed delay was plainly unreasonable and constituted a constructive denial of the NYCLU's FOIL request. Again, the NYCLU was forced to bring a lawsuit to challenge this denial, and weeks after doing so, the NYPD produced the requested electronic database containing a year's worth of data.

The NYCLU submitted the FOIL request at issue here for the exact same electronic spreadsheet with data from the third quarter of 2023 on October 13, 2023. The NYPD provided an estimated response date of "on or about Tuesday, March 5, 2024," which is over four and a half months after the NYCLU submitted its FOIL request. Here, again, the NYPD's estimated response date is plainly unreasonable and constitutes a constructive denial of the NYCLU's FOIL request. Moreover, this delay is characteristic of the NYPD's routine, deliberate, and excessive delays in responding to straightforward public records requests, blocking timely access to critical information.

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

## FACTUAL BACKGROUND AND PROCEDURAL HISTORY

### A. Racial Bias in Vehicle Stops

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>2</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 October 26, 2023]).

The racial disparities in the occurrence and outcomes of these vehicle stops are stark. Between January 2022 and June 2023, of stops that reported the race of the civilian, 61 percent of civilians stopped were Black and Latinx, almost 90 percent of civilians arrested because of a vehicle stop were Black and Latinx, Black drivers were searched at a rate roughly nine times greater than the rate that white drivers were, and Latinx drivers were searched at a rate roughly six times greater than the rate that white drivers were.<sup>3</sup> Black and Latinx people only make up 50 percent of the NYC population.<sup>4</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>5</sup>

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<sup>2</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 October 26, 2023].

<sup>3</sup> *NYPD Traffic Stops Data*, NYCLU, available at <https://www.nyclu.org/en/nypd-traffic-stops-data> [last accessed October 26, 2023].

<sup>4</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>5</sup> *Id.*; *Vehicle Reporting*, New York City Police Department, available <https://www.nyc.gov/site/nypd/stats/reports-analysis/vehicle-stop-reports.page> [last accessed October 26, 2023]; 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>.



The NYPD did not start reporting summary data on vehicle stops voluntarily. The NYPD 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>6</sup>

The first complete year of statistics about vehicle stops that were published by the NYPD—even in this summary form—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>7</sup>

However, the summary information that is published by the NYPD is only a preview of the

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<sup>6</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 October 26, 2023].

<sup>7</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 October 26, 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-muav34i6izfhdcklwwohc7p5km-story.html> [last accessed October 26, 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 October 26, 2023]; *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 October 26, 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 [8](https://www.ny1.com/nyc/all-boroughs/public-</a></p></div><div data-bbox=)

underlying information that the NYPD collects. After obtaining access to the underlying information from 2022 and the first half of 2023, the petitioner is requesting the information that the NYPD collected for the third quarter of 2023.

B. The NYCLU's Prior Efforts to Provide Transparency on Police Encounters

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 October 26, 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.*).

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

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[safety/2023/02/22/report--88--of-drivers-arrested-by-the-nypd-during-traffic-stops-in-2022-were-black-or-latino](https://www.nyCLU.org/en/publications/stop-and-frisk-de-blasio-era-2019) [last accessed October 26, 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-were-stopped-the-most/video\\_4a4549ac-361f-5bb5-9b75-2bbf89d8583b.html](https://buffalonews.com/news/national/nypd-releases-car-stop-data-for-first-time-black-drivers-were-stopped-the-most/video_4a4549ac-361f-5bb5-9b75-2bbf89d8583b.html) [last accessed October 26, 2023].

(*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-stops-frisks-and-arrests-clean-halls> [last accessed October 26, 2023]).

The NYPD now publishes an annual database of pedestrian stops on its website.<sup>8</sup> But despite collecting similar data for vehicle stops, the NYPD has not been forthcoming with this information, repeatedly forcing the NYCLU to sue in order to obtain it in a timely manner. 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, recent dataset of information related to vehicle stops, so that this important information about NYPD-civilian encounters can be made available to the public.

C. Background of the Previous Litigation and the Instant Petition

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 (Chikezie Affirmation ¶ 2). The NYPD acknowledged this request by stating it would respond on October 19, 2022, and the department later extended its response date to December 19, 2022 (*Id.*). The NYPD then missed its own extended, self-imposed deadline and provided no further response or update to the NYCLU, forcing the NYCLU to sue over the NYPD's constructive denial of the request on March 23, 2023 (*Id.*; see also *NYCLU v NYPD*, No. 152726/2023 [Sup Ct, NY County 2023]).

In response to that litigation, the NYPD never claimed that the requested material was

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<sup>8</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 October 26, 2023].

exempt from FOIL. To the contrary, after the NYCLU filed suit, the NYPD quickly agreed to a production schedule and produced two electronic spreadsheets containing the requested data for Quarters 1 and 2 of 2022—the only data that existed at the time of the NYCLU’s original June 2022 FOIL request (Chikezie Affirmation ¶ 5).

Because the NYCLU anticipated making regular future requests for updated data and was prejudiced by the long delay between the June 2022 FOIL request and the resolution of the first litigation, the NYCLU sought to negotiate a production schedule for existing data and future requests as part of the resolution of that litigation (*Id.* ¶ 6). The NYPD refused to consider these proposals, instead instructing the NYCLU to file a new FOIL request (*Id.*). The NYCLU promptly did so.

On June 6, 2023, the NYCLU submitted a FOIL request seeking the same 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 and shared with the NYCLU pursuant to its earlier FOIL request and subsequent lawsuit (*Id.* ¶ 7). On June 8, 2023, the NYPD responded to the request informing the NYCLU that it could “expect a response on or about Monday, October 23, 2023” (*Id.*). The NYCLU timely submitted an administrative appeal of this constructive denial of the FOIL request and was forced to sue for production after the NYPD denied the appeal. Just over one month after the NYCLU filed suit—and less than three months after the NYCLU submitted its FOIL request—the NYPD produced the requested electronic spreadsheet (*Id.* ¶ 8).

The NYCLU’s October 13, 2023 FOIL request sought the same disaggregated, incident-level data of NYPD vehicle encounters collected by the police department pursuant to statute and shared with the NYCLU pursuant to its earlier FOIL requests and subsequent lawsuits (*Id.* ¶ 9, Exhibit A, NYCLU October 13, 2023 FOIL Request). Specifically, the NYCLU seeks a version

of the spreadsheets produced on August 18, 2023, in response to FOIL Request No. #2023-056-13047 and the lawsuit *NYCLU v NYPD* with data for 2023 Q3 (*Id.*).

On October 19, 2023, the NYPD responded to the request by informing the NYCLU that it could “expect a response on or about Tuesday, March 5, 2024” (*Id.*; Exhibit B, NYPD Acknowledgment Email dated October 19, 2023). The NYCLU administratively appealed the NYPD’s constructive denial of the request (*Id.*; Exhibit C, NYCLU Administrative Appeal dated October 23, 2023). The NYCLU argued that the estimated response 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—a dataset the NYPD *has already compiled and produced* for separate time periods in response to two previous FOIL requests and litigation required to obtain completion of those requests” 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]). On October 23, 2023, the same day the NYCLU submitted its administrative appeal, the NYPD constructively denied it, ignoring the NYCU’s arguments regarding the reasonableness of the NYPD’s proposed response date and 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” (*Id.*; Exhibit D, NYPD October 23, 2023 Response to the NYCLU’s Administrative Appeal).

D. The NYPD’s Practice of Routinely Delaying FOIL Requests

This lawsuit challenging the NYPD’s unreasonable delay in responding to a FOIL request comes in the context of an emerging awareness that the NYPD has been engaging in a practice of issuing similar unlawful delays to thousands of FOIL requests as a default matter. Recent reporting based on a years-long analysis of the NYPD’s FOIL practices has revealed that the NYPD has a

pattern of dramatic delays in responding to FOIL requests, and these unreasonable delays appear to have caused the denial that the NYCLU challenges here. Rather than providing New Yorkers with the information they are entitled to on a timeline that is reasonable for each particular request, as required under the law, this data suggests that the NYPD, as a blanket matter, imposes standard delays and regularly asks for over ninety business days to respond to straightforward FOIL requests.

Multiple lawsuits and reporting analyzing publicly-available data about tens of thousands of FOIL requests to the NYPD have revealed a sharp increase in standard ninety-business-day-delay notifications over the last four years (*see* Samantha Max, *Lawsuit: NYPD routinely delays requests for public records*, Gothamist, Mar. 23, 2023, available at <https://gothamist.com/news/lawsuit-nypd-routinely-delays-requests-for-public-records> [last accessed October 26, 2023]; *Surveillance Technology Oversight Project v New York City Police Department*, No. 152641/2023 [Sup Ct, New York County 2023] [*"S.T.O.P."*]; *Steven Lee v The City of New York and New York City Police Department*, No. 154862/2023, at \*44 [Sup Ct, New York County 2023] [class-action challenging the NYPD's practice of "stonewalling FOIL requesters"]). The NYPD's rate of issuance of these delay notifications is high and on the rise. For example, the NYPD asked for a ninety-business-day extension for more than half the requests it received last year—a significant increase from previous years (*see S.T.O.P.* at 12). The average wait time for FOIL production has now ballooned to 160 days (*id.* at 14-15), leaving requestors waiting for an average of five months, as the NYPD has imposed here, before they are able to access the information they are entitled to in a timely manner.

In the last several months alone, the NYCLU was forced to sue the NYPD twice to challenge similar unreasonable delays for the exact records at issue here, and, both times, the

NYCLU obtained the requested records promptly after filing suit (*see NYCLU v NYPD*, No. 152726/2023 [Sup Ct, NY County 2023] [extending deadline for response over six months after the NYCLU’s FOIL request]; *NYCLU v NYPD*, No. 155997/2023 [Sup Ct, NY County 2023] [setting deadline for response nearly five months after NYCLU’s FOIL request]). The NYCLU respectfully submits that this added context regarding the NYPD’s seemingly standard practice of issuing unreasonable delays—to the NYCLU and thousands of other FOIL requestors—is one relevant consideration weighing in favor of judicial intervention in this case. Having exhausted administrative remedies, the NYCLU now files 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.

### **ARGUMENT**

#### **I. THE NYPD VIOLATED FOIL BY FAILING TO PROVIDE A LAWFUL TIMEFRAME BY WHICH IT WOULD RESPOND TO PETITIONER’S REQUEST.**

Under FOIL, an agency responding to a FOIL request may not unreasonably delay its response (*see* Public Officers Law § 89 [3] [a]). Here, the NYPD’s imposition of an unreasonable deadline by which it expects to respond to the NYCLU’s FOIL request constitutes an unwarranted denial of the NYCLU’s request and undermines the purpose of FOIL. The Court should order the NYPD to provide responsive records promptly.

##### **A. The NYPD’s Proposed Timeframe to Respond to the NYCLU’s Request Is Unreasonable Under the Circumstances and Therefore Violates FOIL.**

The NYPD failed to meet its obligations under FOIL by proposing an unreasonable timeframe by which it would respond to the NYCLU’s request. In response to a written request for records, “an agency must either disclose the record sought, deny the request and claim a specific exemption to disclosure, or certify that it does not possess the requested document and that it could not be located after a diligent search” (*Legal Aid Socy. v New York State Dept. of*



*Corr. & Community Supervision*, 105 AD3d 1120, 1121 [3d Dept 2013] [quoting *Matter of Beechwood Restorative Care Ctr. v Signor*, 5 NY3d 435, 440–441 [2005]]; see also Public Officers Law § 89 [3] [a]). An agency is required to provide a statement of the approximate date, which should be reasonable under the circumstances, when the request will be granted or denied (Public Officers Law § 89 [3] [a]). “The determination of whether a period is reasonable must be made on a case by case basis taking into account the volume of documents requested, the time involved in locating the material, and the complexity of the issues involved in determining whether the materials fall within one of the exceptions to disclosure” (*Matter of Linz v NYPD*, NYLJ, Dec. 17, 2001 [Sup Ct, NY County 2001] [copy attached as Exhibit E to Chikezie Affirmation]).

State courts have held that delays of multiple months, even for voluminous records, can be unreasonable under the circumstances. In one instructive case involving a FOIL request seeking 30 categories of documents and over 11,000 responsive files, including both electronic and hard copy pages, the Third Department noted that the respondent could reasonably take three months to provide access to all of the documents (*see Miller v New York State Dept. of Transp.*, 58 AD3d 981, 983 [3d Dept 2009]; see also *Linz*, NYLJ, Dec. 17, 2001 at \*2 [rejecting as “unreasonable” the NYPD’s proposed delay of four months to respond to an extremely voluminous request for records involving every 911 call made in the City of New York over a period of three years—plus related code books and dispatch information]).

Here, the NYPD’s proposed response-by date of March 5, 2024, or nearly five months after the NYCLU’s FOIL request, is unreasonable under the circumstances. To start, the NYCLU’s request is narrowed to electronic data that the NYPD has already identified, compiled, and produced after the NYCLU was similarly forced to twice litigate the NYPD’s constructive denials of its prior FOIL requests (*see Chikezie Affirmation* ¶¶ 4-5, 7-8). The NYPD’s proposed timeline



is particularly unreasonable in light of these prior requests. In the NYCLU's most recent litigation, after providing a seemingly-standard near-five month estimated response timeline and forcing the NYCLU to sue for production, the NYPD produced a year's worth of data promptly after the NYCLU filed suit. Here, the FOIL request seeks only a single quarter of the same data; the petitioner submits that an identical dataset spanning an even shorter period of data should not require a longer period to produce, and certainly nothing approaching five months. Moreover, the 2021 Amendment to New York City Local Law 45 mandates the NYPD to collect the information sought here, underscoring that the data is readily identifiable and that the Legislature recognized the importance of collecting and sharing this information (Local Law No. 2021/045 of New York City). These circumstances illustrate the unreasonableness of the NYPD's proposed timeframe; as in *Linz*, the NYPD is not "entitled to a 'waiting period' of [over] 120 days" to provide a response (*see Linz*, NYLJ, Dec. 17, 2001 at \*1).

For all these reasons, this Court should order the NYPD to produce promptly all records responsive to the request.

## II. THE NYCLU IS ENTITLED TO ATTORNEYS' FEES.

The NYCLU respectfully requests an award of reasonable attorneys' fees and litigation costs. Courts are required to assess reasonable attorneys' fees and costs when the agency had "no reasonable basis for denying access" to the records in dispute and a party has "substantially prevailed" (Public Officers Law § 89 [4] [c] [ii]).

First, the NYPD failed to establish a "reasonable basis" in law for constructively denying the NYCLU's FOIL request for three reasons. The NYPD had "no reasonable basis" for: (a) asserting that the NYCLU's appeal seeking a reasonable date for production was "premature," (b) failing to engage with the NYCLU's appeal, and (c) delaying the production of records in this manner, particularly since the NYPD has twice recently identified and produced the exact database

that the NYCLU seeks here for different time periods. And on the second prong, if this Court orders the NYPD to disclose requested documents in response to this petition, or if the NYPD voluntarily provides documents after the filing of the petition, the NYCLU will have “substantially prevailed” for the purposes of this provision (*see Matter of Madeiros v New York State Educ. Dept.*, 30 NY3d 67, 79–80 [2017] [finding that the petitioner “substantially prevailed” when the respondent had made “no disclosures . . . prior to petitioner’s commencement of [a] CPLR article 78 proceeding”]; *Matter of Powhida v City of Albany*, 147 AD2d 236, 239 [3d Dept 1989] [finding that the petitioner substantially prevailed when it was “the initiation of this proceeding which brought about the release of the documents”]).

### CONCLUSION

For the foregoing reasons, the petitioner, the NYCLU, respectfully requests that the Court order the New York City Police Department to abide by Article 6 of the New York Public Officers Law and promptly disclose the records the petitioner requested in its October 13, 2023 FOIL request.

Dated: October 31, 2023  
New York, N.Y.

Respectfully Submitted,

NEW YORK CIVIL LIBERTIES UNION  
FOUNDATION

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**CERTIFICATE OF COMPLIANCE WITH 22 NYCRR §202.8-b**

I hereby certify that:

This brief complies with the word count limitation of 22 NYCRR §202.8-b because the total word count, according to the word count function of Microsoft Word, the word processing program used to prepare this document, of all printed text in the body of the brief, exclusive of the caption, table of contents, table of authorities and signature block, is 4,052.

Dated: October 31, 2023  
New York, N.Y.



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