

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

NEW YORK CIVIL LIBERTIES UNION,

Petitioner,

-against-

NEW YORK CITY POLICE DEPARTMENT, and
JESSICA S. TISCH, in her official capacity as
Commissioner of the New York City Police Department,

Respondents,

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

Index No. _____

VERIFIED PETITION

PRELIMINARY STATEMENT

1. This Article 78 action seeks to vindicate the public’s right to know essential information about the New York City Police Department’s implementation of a City initiative under which police officers are to forcibly remove people from the street and transport them to psychiatric facilities for involuntary confinement. Under the Involuntary Removal Policy, a policy directive released by Mayor Eric Adams in November 2022, NYPD officers are to carry out mental hygiene arrests under Mental Hygiene Law § 9.41 when they deem an individual unable to meet their “basic needs,” even when no dangerous act has been observed and even if there is no indication of a likelihood of harm to the individual or others.

2. The Involuntary Removal Policy implicates core civil liberties, including due process, individual autonomy, and dignity. It raises issues ranging from biased-based, racist policing to the harms associated with police contact with people living with mental illness. Interactions between police officers and vulnerable New Yorkers who are unhoused and living

with mental health challenges continue to feature prominently in our local and national conversation. And recent violent attacks on the subway have rekindled safety concerns and heightened calls for law enforcement and the courts to do more to remove people unhoused people off the streets and out of the subway. It is also now being reported that Governor Hochul and the State Legislature will enshrine the “basic needs” standard that underpins the Involuntary Removal Policy in Article 9 of the New York State Mental Hygiene Law in this year’s New York State budget process. Accordingly, the public’s right to information about the NYPD’s implementation of this Involuntary Removal Policy continues to be paramount.

3. Since the mental hygiene arrest initiative was implemented in November 2022, any data the Adams Administration has released on the efficacy and operations of the Involuntary Removal Policy has largely been offered only by Mayor Adams at press conferences, in press releases from his Administration, in tweets and other social-media posts offered by members of the Adams Administration, and in selective release of certain information. The New York City Council has criticized the information released recently by the City to the New York City Council as mandated by Local Law 116/2023, as “incomplete, preventing a clear understanding of the policy’s impacts and outcomes.”

4. Mayor Adams conducted a press conference on November 29, 2023 to coincide with the one-year anniversary of his announcement of the Involuntary Removal Policy. At that press conference, Mayor Adams touted the success of the City’s implementation of this mental hygiene arrest initiative, shared certain data about the numbers of people connected to services as a result of this initiative and, further, claimed that “[a]ll agencies involved in the involuntary removal process have now created mechanisms to better track all involuntary removals.”

5. Accordingly, the NYCLU filed a FOIL request with the NYPD on December 20, 2023 (the “December 2023 Request”). In the December 2023 Request, the NYCLU sought data concerning the efficacy and operations of the then-one year old Involuntary Removal Policy, including the numbers of people voluntarily or involuntarily transported by the NYPD for psychiatric evaluation, disaggregated by race, including the number of individuals transported for the purpose of a psychiatric evaluation because the individual “display[ed] an inability to meet basic living needs” as that term was set forth in the Involuntary Removal Policy. To the extent that the newly developed NYPD’s “tracking mechanisms” were insufficient to provide the data the NYCLU sought, the NYCLU requested that the NYPD provide Aided Reports and/or Threat, Resistance or Injury (T.R.I.) Interaction Reports, relating to people who had been involuntarily transported for psychiatric evaluation, as the NYPD Patrol Guide mandates must be completed.

6. The NYCLU also sought the policies and training materials that the NYPD has publicly admitted have been updated, or created, since the NYPD produced those materials pursuant to a May 3, 2023 court order in a prior NYCLU’s Article 78 proceeding.

7. The NYPD has completely stonewalled providing any response to the NYCLU’s December 2023 Request. The NYPD claimed that the NYPD is still searching for responsive records while the Adams Administration has publicly provided a selectively curated raft of data, including that sought by the NYCLU in its December 2023 Request, on any number of separate occasions.

8. Fifteen months since the NYCLU filed its request, the NYCLU has yet to receive any determination, let alone a single record, from the NYPD with respect to the NYCLU’s December 2023 Request.

9. The NYPD's repeated and unilateral extensions of its deadline for its response—most recently to March 13, 2025, fifteen months after the date of acknowledgement—is simply unreasonable and an unlawful violation of the New York State Freedom of Information Law.

PARTIES

10. Petitioner, the New York Civil Liberties Union (“NYCLU”), is a not-for-profit corporation that defends civil rights and civil liberties on behalf of individuals who have experienced injustice and promotes 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. The NYCLU works to advance the civil rights of, and ensure equality of opportunity, self-determination, and independence for, New Yorkers with disabilities and New Yorkers who are unhoused. The NYCLU also has long actively advocated to improve the City's response to individuals experiencing mental health crises. These rights rest on core civil liberties principles, including the rights of due process, individual autonomy, bodily integrity and dignity. The NYCLU maintains its office at 125 Broad Street, 19th floor, New York, New York 10004.

11. Respondent New York City Police Department is an agency administered under New York City Administrative Code, Title 14. The NYPD is responsible for law enforcement in the City of New York, and is subject to the requirements outlined in FOIL. *See* Pub. Off. Law §§ 84 *et seq.* The NYPD maintains its office at One Police Plaza, New York, New York 10038.

12. Respondent Jessica S. Tisch is a public officer, named in her official capacity as Commissioner of the NYPD.

FACTAL BACKGROUND AND PROCEDURAL HISTORY

The Involuntary Removal Policy

13. On November 29, 2022, Mayor Eric Adams announced at a press conference that he had issued a policy, titled “Mental Health Involuntary Removals as of 11/28/2022” (the “Involuntary Removal Policy” or the “Policy”). Haroules Affirmation dated April 30, 2025 (“Haroules Aff.”) ¶ 19 and Ex. J.

14. The Policy authorizes the involuntary removal of individuals living with mental illness for psychiatric evaluation and treatment when that person “appears to be mentally ill and displays an inability to meet basic living needs, even when no recent dangerous act has been observed.” The removal is pursuant to sections 9.41 and 9.58 of the Mental Hygiene Law. Haroules Aff. Ex. J.

15. The Involuntary Removal Policy mandates that a number of City agencies, including the NYPD, “update their policies and protocols” and train their staff according to the agency roles and responsibilities outlined in the Policy. *Id.*

16. The Involuntary Removal Policy requires NYPD police officers with little to no expertise in dealing with individuals with mental disabilities to determine, on the street or in the subways, whether an individual should be forcefully detained against their will and transported to a hospital for psychiatric assessment because those NYPD police officers have determined that person is unable to meet their basic needs. *Id.*

17. The Involuntary Removal Policy, as written (and as repeatedly discussed by Mayor Adams), provides vague, broad, and undefined standards that would establish when an individual’s “inability to meet essential needs” rises to the level of “likely to result in serious harm” sufficient to permit the NYPD to effectuate a so-called mental hygiene arrest pursuant to N.Y. Mental Hygiene Law § 9.41. *Id.*

The NYCLU's Prior Involuntary Removal Policy FOIL Request and the Article 78 Proceedings to Force NYPD to Comply with its FOIL Obligations

18. In December 2022, one month after Mayor Adams first announced the Involuntary Removal Policy in November 2022, the NYCLU filed a Freedom of Information Law request with the NYPD seeking records about the policies, protocols, and training materials relating to the Involuntary Removal Policy. The NYPD responded by stating it would not even respond to the request until May 1, 2023, over five months later. See *NYCLU v. NYPD*, N.Y. County Supreme Court, Index No. 152493/2023 (Waterman, J.), NYSCEF Doc. No. 1.

19. When the NYPD denied the NYCLU's constructive denial appeal, the NYCLU filed an Article 78 lawsuit in March 2023 against the NYPD for unlawfully denying the NYCLU's Freedom of Information Law request. *NYCLU v. NYPD*, NYSCEF Doc. No. 1.

20. Almost immediately after the NYCLU filed that first Article 78 petition, the NYPD entered into a stipulation of partial settlement in the proceedings and made a complete FOIL production of all responsive records encompassing the policies, procedures and training materials that then existed relating to the Involuntary Removal Policy. *NYCLU v. NYPD*, NYSCEF Doc. No. 21.¹

The City has Selectively Disclosed the Data Sought by the NYCLU in its December 2023 FOIL

21. Since the November 2022 announcement of the Involuntary Removal Policy, the Adams Administration has selectively provided publicly unavailable data and statistics about the Involuntary Removal Policy, as well as publicly providing deceptively incomplete and inaccurate data about the program, on a number of separate occasions. Haroules Aff. ¶ 15.

¹ Those materials included, for example, training materials, copies of the then-current and previous NYPD Patrol Guide sections relating to Involuntary Removal Policy and a Memorandum of Understanding between the NYPD and the New York City Health + Hospitals Corporation regarding the establishment of a so-called support line between the agencies regarding the Involuntary Removal Policy. *Id.*

22. On June 25, 2024, for example, Adams Administration personnel presented for more than 90 minutes on the City's mental health crisis response program at the New York State Daniel's Law Task Force monthly meeting. At that meeting, the City used a PowerPoint and was questioned and presented, verbally, data related to the NYPD's response to people in mental health crisis – but did not share that data in the PowerPoint presentation at the meeting or in any written format. Haroules Aff. ¶ 16. This data would be responsive to the December 2023 Request.

23. On September 23, 2024, a number of NYPD personnel, including Captain Michael Butler from Interagency Operations, Chief Lola Obe from Training, Deputy Chief Ebony Washington from Communications, and the Director of Legislative Affairs, Joshua Levin, appeared before the New York City Council at oversight hearings relating to mental health crisis response in the City. Haroules Aff. ¶ 17. In connection with that hearing, the City released certain data concerning the City's mental health crisis response model, including data specifically relating to the NYPD's participation in all aspects of mental health crisis response. *Id.* This data would be responsive to the December 2023 Request.

24. On October 10, 2024, Mayor Adams announced a new "co-response" operation, led by NYPD, to identify and remove unhoused individuals perceived as individuals with “severe mental illness” from the City's subway system. Mayor Adams cited data and statistics in touting the Involuntary Removal Policy's demonstrated success in NYPD removals of people perceived to be mentally ill from the subways. Haroules Aff. ¶ 18. This data would be responsive to the December 2023 Request.

New York City Council's Enactment of Local Law 116/2023

25. It became increasingly clear over the course of 2023 that the NYPD and the Adams Administration were withholding fundamental details on the Involuntary Removal Policy. The details ranged from how the Involuntary Removal Policy was being implemented and overseen, how many individuals were involuntarily removed from the streets and subways of New York City, whether those removals were justified, whether people of color were predominantly being “removed,” and what services, if any, the people “removed” were afforded.

26. In an effort to ensure accurate and complete data relating to the Involuntary Removal Policy was publicly available, the New York City Council enacted Local Law 116 of 2023. Haroules Aff. ¶ 24. Local Law 116 mandates that, on or before January 1, 2025, and annually thereafter, the Mayor's Office of Community Mental Health, in conjunction with the NYPD and other New York City agencies, provide an annual, publicly posted, report to the New York City Council with information regarding involuntary removals conducted pursuant to Mental Hygiene Law Sections 9.41 and 9.58 (the “Local Law 116 Report”). *Id.*²

27. The Administration delivered its first Local Law 116 Report to the New York City Council, tardily, on January 31, 2025. *See* Haroules Aff. ¶ 25. The Local Law 116 Report contains 10 pages of bar charts and pie charts, as well as a 2-page list of the hospitals that received the

² Because the Administration has refused to provide data on its homeless “sweeps” initiative which removes unhoused people from public spaces and which has resulted in mental hygiene arrests of unhoused individuals, the City Council also enacted Local Law 34 of 2024. *See* Haroules Aff. ¶ 28. Local Law 34 requires quarterly reports on NYPD “sweeps” and removals involving individuals experiencing homelessness and the outcomes for those individuals, including data such as how many individuals were affected by the removal, what housing services they were offered and whether there were any involuntary removals or arrests. *Id.* The Administration released reports for the first three quarters of 2024 in March 2025. The data in the Administration's quarterly reports, are also incomplete and provide insufficient information by which to evaluate precisely whom the City's homeless sweeps are targeting. The information also does not provide any information about how many people were subjected to mental hygiene arrests by NYPD in accord with the Involuntary Removal Policy. *See* Haroules Aff. ¶ 29.

“involuntarily transported individuals.” Haroules Aff. ¶ 26. According to the Local Law 116 Report, NYPD, and other outreach workers, involuntarily transported for hospitalization at least 7,700 New Yorkers in 2024. *Id.* at 6-7. More than 7,000 of those hospitalizations were initiated by NYPD or MTA police officers. Local Law 116 Report at 6, 8.

28. The Local Law 116 Report appears to demonstrate that involuntary removals were five times more likely to occur in private than in public spaces; 40% of those removed were not admitted for inpatient care, and Black New Yorkers accounted for more than half of the involuntary removals. *Id.*

29. But there are significant deficiencies with respect to the data reported in the Local Law 116 Report and the report is full of caveats about what information is **not** presented. The Local Law 116 Report also does not identify the source of records or systems from which the data has been derived.

30. Significantly, the Local Law 116 Report does not report any data from the initiation of the Involuntary Removal Policy in 2022. The Local Law 116 Report also notes that the report’s data for 2024 is entirely incomplete as the NYPD data does not reflect the first five months of 2024 and the NYPD data that is presented cannot be rationalized against the NYC Department of Health and Mental Hygiene (“DOHMH”) data because the Local Law 116 Report does not reflect a complete set of DOHMH data. Local Law 116 Report at 7, 8.³

31. Moreover, the Local Law 116 Report notes that much of the “removed” individuals’ biographical data, including age, perceived housing status and perceived disability, contained in the report is “incomplete” or “inaccurate” because there are “gaps in the data

³ The report also notes that the number of involuntary transports is not equivalent to the number of people involuntarily transported, as an individual may be involuntarily transported multiple times but the data for how many unique individuals have been involuntarily transported is not available. Local Law 116 Report at 2.

relating to race and ethnicity, including inconsistencies in data collection and the subsequent aggregation that may affect the accuracy and granularity of any analysis related to race and ethnicity.” Local Law 116 Report at 3, 12.

32. The Local Law 116 Report also presents an incomplete picture of the locations, regarding the borough and precinct, from which individuals subject to involuntary transport were removed because the data reflects a compilation of information disparately gathered from various City agencies including the NYPD. *Id.* at 9.

33. The Local Law 116 Report also does not capture the outcomes of NYPD-initiated involuntary transport to the hospital, and of course, does not capture what happens following hospital discharge.⁴

34. The City Council has strongly criticized the Local Law 116 Report, noting that the fundamentally incomplete “data in this report, released one month later than the legal deadline, raises questions about the effectiveness of this practice in ensuring New Yorkers experiencing a mental health crisis are connected to treatment that provides them with stability.” Haroules Aff. ¶ 27.

The NYCLU’s December 2023 Request

35. The NYCLU’s December 2023 Request was intended to obtain a complete set of critical information about the efficacy and operations of the first year of the NYPD’s implementation of the Involuntary Removal Policy. Haroules Aff. Ex. A.

⁴ Notably, in the case of clinician-initiated involuntary transport, discharge without treatment occurred in 42% of the cases. Local Law 116 Report at 15. Given the clinical involvement in directed transports of a person for psychiatric assessment under MHL § 9.58, the fact that almost half of the involuntary removals were deemed inappropriate resulting in the discharge of the “removed” individual rate is quite concerning and demonstrates the difficulty of involuntary treatment prognostication in the area of inability to meet one’s “basic needs.”

36. The December 2023 Request seeks policies and training materials that have been updated or created since the NYPD produced those materials pursuant to the May 3, 2023 so ordered stipulation in the NYCLU's first Article 78 proceeding. Haroules Aff. Ex. A (Request 1). It is clear that some, if not all, of these documents have, in fact, been significantly updated between the time the NYPD produced these documents to NYCLU in May 2023. For example, NYPD Commissioner Tisch has publicly noted that the NYPD Involuntary Removal Policy training materials have been updated and are being used to train NYPD officers. Haroules Aff. ¶¶ 22, 23. The Local Law 116 Report further indicates that NYPD has made certain changes to the Aided Report and/or the Aided Report system but does not disclose what those changes are. Haroules Aff. ¶ 33.

37. The December 2023 Request also seeks data that should be easily available and immediately produced. That data concerns the numbers and types of people impacted by the Involuntary Removal Policy, including the numbers of people voluntarily or involuntarily transported by the NYPD for psychiatric evaluation, because the individual “display[ed] an inability to meet basic living needs” as that term was set forth in the Involuntary Removal Policy. Haroules Aff. Ex. A (Requests 2, 3).⁵ This data has, in fact, already been selectively curated and publicly disclosed by Mayor Adams and members of his administration on a number of occasions.

38. In an email sent by NYC Open Records on December 27, 2023, the NYPD indicated that the NYCLU could “expect a response on or about Tuesday, May 7, 2024.” No

⁵ As noted above, to the extent that the NYPD's newly instituted “tracking mechanisms” were insufficient to provide the data the NYCLU sought, the NYCLU requested that the NYPD provide Aided Reports and/or the TRI Reports, relating to people who had been involuntarily transported for psychiatric evaluation, as the NYPD Patrol Guide mandates must be completed. Haroules Aff. Ex. A (Request 4).

further information or explanation concerning this response date was provided. Haroules Aff.

Ex. B.

39. The NYLCU filed an administrative appeal on January 10, 2024 on the basis that this deadline set by the NYPD was not reasonable. Haroules Aff. Ex. C.

40. The NYPD denied the administration appeal on January 25, 2024 and extended the NYPD's responsive time from May 7, 2024 to August 3, 2023[sic]." The asserted basis for the denial was that "[a]s of this writing, the search for records responsive to your request remains ongoing. Upon receipt of the records, a thorough review must be conducted for the possible application of redactions pursuant to any applicable exemptions under Public Officers Law §87(2). It is therefore estimated that the RAO will issue a determination on or about August 3, 2023." Haroules Aff. Ex. D.

41. On May 8, 2024, the NYPD issued a unilateral extension of its responsive time to August 2, 2024. Haroules Aff. Ex. E.

42. On July 24, 2024, the NYPD issued another unilateral extension of its responsive time to October 28, 2024. Haroules Aff. Ex. F.

43. On November 3, 2024, the NYPD informed the NYCLU that it was further extending its responsive time to March 13, 2025. The NYPD indicated that its search "for responsive records is still in progress." Haroules Aff. Ex. G.

44. On November 9, 2024, the NYCLU filed a second administrative appeal. Haroules Aff. Ex. H.

45. On November 26, 2024, the NYPD denied the NYCLU's administrative appeal, indicating that the NYPD's "search for records responsive to your request remains ongoing [and

that the NYPD] estimated that the RAO will issue a determination on or about December 13, 2024. Haroules Aff. Ex. I.

46. As is evident from Exhibits G and I, rather than provide a timely response and production of the records sought, the NYPD provided the NYCLU with 2 divergent dates by which they would provide its response to the NYCLU's request – December 13, 2024 and March 13, 2025.

47. The NYPD did not issue any determination on December 13, 2024, nor did the NYPD issue any determination on or about March 13, 2025. Haroules Aff. ¶¶ 11-12.

48. The NYCLU has yet to receive any determination from the NYPD with respect to the NYCLU's December 2023 Request. Haroules Aff. ¶ 13.

49. The NYCLU has yet to receive any records responsive to the NYCLU's December 2023 Request. Haroules Aff. ¶ 14.

50. Petitioner has timely commenced this Article 78 proceeding to force the NYPD to comply with its obligations under FOIL and provide Petitioner with records responsive to its December 2023 Request.

VENUE AND JURISDICTION

51. Pursuant to C.P.L.R. §§ 7804(b) and 506(b), venue in this proceeding lies in New York County, the judicial district in which both Petitioners' and Respondents' principal offices are located.

52. Article 78 of the C.P.L.R. (§ 7804(b)) confers jurisdiction over this matter upon this Court.

53. This Court has jurisdiction over the matter because the NYPD's denial of the NYCLU's appeal cannot be further "reviewed by appeal to a court or to some other body or officer." C.P.L.R. § 7801(1).

CAUSE OF ACTION

ARTICLE 78 REVIEW OF WRONGFUL DENIAL OF FOIL REQUEST

54. Article 78 is the appropriate method of review of final agency determinations concerning FOIL requests.

55. FOIL recognizes the public's right to access and review government documents, and agency records are presumed to be public and subject to disclosure under FOIL.

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

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

58. Respondents did not provide any responsive documents and have failed to properly invoke exemptions under FOIL.

59. Petitioner exhausted its administrative remedies with the Respondent when it appealed the Respondent's constructive denial of the request and did not receive records or an adequate response to the appeal within ten business days as required by Public Officers Law § 89(4)(a)

60. Petitioner has not made a prior application for the relief requested herein.

61. The petition is timely under CPLR § 217.

62. Petitioner has a legal right under FOIL to gain access to the public records sought in the Request.

CLAIM FOR RELIEF

Petitioner respectfully requests that this Court enter judgment, pursuant to C.P.L.R. § 7806, on its behalf:

- a. directing the NYPD and Commissioner Tisch to comply with their duty under FOIL to provide Petitioner access to the records requested by the NYCLU in its December 13, 2023 FOIL request;
- b. awarding Petitioner its reasonable attorney's fees and other litigation costs pursuant to Public Officers Law § 89(4)(c); and
- c. granting Petitioner such other and further relief as this Court deems necessary and equitable.

Dated: April 30, 2025
New York, New York

Respectfully Submitted,

NEW YORK CIVIL LIBERTIES UNION
FOUNDATION



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Counsel for Petitioner

VERIFICATION

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

Beth Haroules, being duly sworn, deposes and states under penalty of perjury:

1. I am a Senior Staff Attorney and Director of Disability Justice Litigation at the New York Civil Liberties Union Foundation and represent the Petitioner in these proceedings.
2. I make this verification pursuant to C.P.L.R. § 3020.
3. I have read the attached Verified Petition and know its contents.
4. The statements in the Verified Petition are true to my knowledge, or upon information and belief. As to those statements that are based upon information and belief, I believe those statements to be true.



Beth Haroules

Sworn to and subscribed before me
this 30th day of April, 2025



Notary Public

MOLLY K. BIKLEN
NOTARY PUBLIC-STATE OF NEW YORK
No. 02B16356621
QUALIFIED IN NEW YORK COUNTY
COMMISSION EXPIRES 04/03/20~~27~~²⁹