

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

NEW YORK LAWYERS FOR THE PUBLIC
INTEREST,

Petitioner,

-against-

NEW YORK CITY POLICE DEPARTMENT, and
JAMES P. O'NEILL, in his 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 Proceeding asserts the right of Petitioner, New York Lawyers for the Public Interest (“NYLPI”), and the public, to access the police body-worn camera (“BWC”) footage and 911 call tapes of the fatal encounter between the New York City Police Department (“NYPD”) and Susan Muller.

2. New York’s Freedom of Information Law (“FOIL”) expresses this State’s strong commitment to open government and public accountability and imposes a broad standard of disclosure upon the State, the City, and their agencies. Pub. Off. Law § 84. FOIL proceeds under the premise that the public is vested with an inherent right to know and notes that “[a]s state and local government services increase and public problems become more sophisticated and complex and therefore harder to solve . . . it is incumbent upon the state and its localities to extend public accountability . . .” *Id.* Therefore, pursuant to FOIL, all government records are presumptively open for public inspection and copying. Although this presumption is subject to

certain statutory exceptions, “the agency involved shall have the burden of proving that such record falls within” those exceptions. Pub. Off. Law § 89(4)(b).

3. On September 17, 2018, the NYPD shot and killed fifty-four-year-old Susan Muller, a woman with a history of mental health issues. Ashley Southall and Nate Schweber, *The Local Precinct Knew Her Troubles. The Officers Who Shot Her Came From Another*, The New York Times (Sept. 18, 2018), <https://www.nytimes.com/2018/09/18/nyregion/nyc-police-queens-shooting-911-call.html>.

4. Ms. Muller had called the police to report a burglary in her home in Queens. Notwithstanding the fact that Ms. Muller was known to the NYPD—the police had responded to nine 911 calls to the home since August 2000—fifty seconds after four NYPD officers arrived at her home, Ms. Muller was dead. Anthony M. DeStefano, *Cop who fatally shot woman in Queens first pulled out Taser, NYPD says*, AMNY (Sept. 20, 2018), <https://www.amny.com/news/police-shooting-queens-1.21179118>; Southall & Schweber, *supra* ¶ 3. She was shot three times by an NYPD police officer and declared dead at the scene after reportedly approaching the officer with a knife. Benjamin Fang, *Police shoot knife-wielding Maspeth woman*, Queens Ledger (Sept. 18, 2018), http://www.queensledger.com/view/full_story/27600689/article-Police-shoot-knife-wielding-Maspeth-woman?instance=most_viewed.

5. Earlier in the day, Ms. Muller reportedly had been unable to fill her medication for an antidepressant and had consumed alcohol. Trevor Boyer and Graham Rayman, *Police shooting victim’s boyfriend says alcohol is to blame for deadly dust up*, Daily News (Sept. 18, 2018), <https://www.nydailynews.com/new-york/ny-metro-woman-shot-cops-alcohol-abuse-queens-20180918-story.html>.

6. Even though officers who arrived at Ms. Muller's home were wearing BWCs,¹ no video or audio footage of the incident was released to the public. DeStefano, *supra* ¶ 4; Southall & Schweber, *supra* ¶ 3.

7. Following public reports of the incident, NYLPI made a FOIL request for the unedited audio and video files from all of the BWCs of all of the officers involved in the fatal incident. NYLPI additionally requested unedited audio files from the 911 calls placed by Ms. Muller that day. *See* Exhibit A.

8. The NYPD provided a blanket denial to NYLPI's FOIL request, refusing to provide even redacted portions of audio and video files. The NYPD merely provided NYLPI with a list of FOIL exemptions, without providing any facts or reasoning for withholding this presumptively public information. The NYPD did not even bother to specifically indicate which portions of video and audio were withheld pursuant to each exemption. *See* Exhibit C. The NYPD subsequently denied an appeal by NYLPI, predicated its denial principally on the existence of an active investigation into the incident, but also indicating that unspecified portions of the requested records were subject to several other FOIL exemptions. *See* Exhibit E.

9. The NYPD's refusal to release *any* record of this controversial encounter keeps valuable records shrouded by a cloak of secrecy that undermines the purposes that both FOIL and the NYPD's BWC program serve: namely, fostering transparency and accountability between the government and the public. As interactions between police officers and the public, particularly those resulting in the use of deadly force, have featured prominently in our local and

¹ Officers indicated to reporters that the shooting was "captured in the audio portion of the recordings" but "video from the body cameras was obscured by the torsos of officers as they moved inside the home." DeStefano, *supra* ¶ 4.

national conversation, the public's right to access contemporaneous records has never been more paramount.

10. This Article 78 petition seeks to compel the NYPD to comply with its statutory mandate under FOIL, and respectfully asks this Court to direct the NYPD to provide Petitioner with all records responsive to its FOIL request.

PARTIES

11. Petitioner NYLPI is a nonprofit civil rights law firm that seeks to advance equality and civil rights through the power of community lawyering and partnership with the private bar. NYLPI focuses on disability justice, health justice, and environmental justice. NYLPI's Disability Justice Program works to advance the civil rights of, and ensure equality of opportunity, self-determination, and independence for, people with disabilities. NYLPI's Disability Justice Program actively advocates to improve the City's response to individuals experiencing mental health crises.

12. Respondent NYPD 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.*

13. Respondent James P. O'Neill is a public officer who is named in his official capacity as Commissioner of the NYPD.

FACTS

Susan Muller's Death

14. Ms. Muller had received help from the NYPD in the past. Southall & Schweber, *supra* ¶ 3. In fact, the police had responded to nine 911 calls to her home since August 2000. *Id.*

15. During at least two of the incidents, Ms. Muller was reported to have been acting irrationally. *Id.* During the most recent incident on September 9, 2018—a mere eight days before the fatal shooting—Ms. Muller was taken to the hospital for mental health treatment. *Id.*

16. One of Ms. Muller’s neighbors described Ms. Muller as “a sick person,” “depressed,” and “walk[ing] with her head down, like a zombie.” Southall & Schweber, *supra* ¶ 3. Neighbors also reported noticing signs that Ms. Muller abused alcohol and that arguments between Ms. Muller and her partner of five years, retired police officer Edward Rogers, could be heard from her apartment. *Id.* According to Mr. Rogers, Ms. Muller had never raised any kind of a weapon at him. *Id.*

17. Prior to her death on September 17, 2018, Ms. Muller was unable to fill her prescription for trazodone, an antidepressant, at her pharmacy. Boyer & Rayman, *supra* ¶ 5. Mr. Rogers reported, “She was pleading with them. And she was, like, really upset. And she, like, really went off the wall, not being able to get her medication.” *Id.* Ms. Muller began to drink alcohol and asked Mr. Rogers for a ride home. He said that when he picked her up, “she was acting like a lunatic talking to everyone on the street.” Southall & Schweber, *supra* ¶ 3. Mr. Rogers said that he left the couple’s home after she began yelling at him. *Id.*

18. Soon after Mr. Rogers left the home, Ms. Muller called 911 to report a burglary. Boyer & Rayman, *supra* ¶ 5. According to news reports, Ms. Muller reported that there was a woman with a knife and a razor inside her home. *Id.*

19. The facts surrounding Ms. Muller’s subsequent interaction with the police were provided to the news press by the NYPD. According to those reports, when police officers arrived, Ms. Muller met them at the front of the house and identified herself as the 911 caller.

Fang, *supra* ¶ 4. Four officers were present at Ms. Muller's home. Southall & Schweber, *supra* ¶ 3.

20. The officers searched the home and did not find the reported burglar. DeStefano, *supra* ¶ 4. At that point, one of the officers asked Ms. Muller if she had, in fact, seen an intruder. *Id.* Ms. Muller allegedly then approached the officer who was questioning her, carrying a kitchen knife. *Id.*

21. The officer allegedly commanded Ms. Muller to drop the knife, which command she allegedly ignored. DeStefano, *supra* ¶ 4. Allegedly, the officer initially pulled out a Taser, but then displayed his firearm. *Id.*

22. After allegedly telling Ms. Muller again to drop the knife, the officer shot Ms. Muller three times in the torso. *Id.* The responding officers reportedly attempted to perform cardiopulmonary resuscitation, but Ms. Muller was pronounced dead at the scene. *Id.* The entire deadly encounter took just over fifty seconds, beginning from the time the officers entered the apartment. Fang, *supra* ¶ 4.

23. Three of the four officers present at the scene had not received specialized training for handling people in mental or emotional crisis. Southall & Schweber, *supra* ¶ 3.

The NYPD's Body-Worn Camera Program

24. On August 12, 2013, Judge Shira Scheindlin of the United States District Court for the Southern District of New York issued an extensive decision finding that the City of New York engaged in an unconstitutional and racially discriminatory stop-and-frisk policy and practice in violation of the Fourth and Fourteenth Amendments. *See Floyd v. City of New York*, 959 F. Supp. 2d 540 (S.D.N.Y. 2013) ("Liability Opinion").

25. Judge Scheindlin issued a second opinion on the same day ordering the development and implementation of a series of remedial reforms, including the use of BWCs on

a pilot program basis for a one-year period by officers on patrol in one precinct per borough. (“Joint Remedial Process”). *Floyd v. City of New York*, 959 F. Supp. 2d 668, 685 (S.D.N.Y. 2013) (“Remedies Opinion”). Judge Scheindlin’s Remedies Opinion found that “[t]he use of body-worn cameras by NYPD officers would address a number of the issues raised in the Liability Opinion.” *Id.* It explained that video recordings would provide a “contemporaneous, objective record of stops and frisks” and serve a variety of other useful functions, including encouraging lawful and respectful police-citizen interaction, alleviating mistrust between the NYPD and black and Latino communities, and offering a way to help determine the validity of accusations of police misconduct. *Id.*

26. The Facilitator appointed to guide the Joint Remedial Process issued a report setting forth a series of supplemental reform proposals, after collecting community input, as required by the Remedies Opinion. *See* Hon. Ariel E. Belen (Ret.), *New York City Joint Remedial Process: On NYPD’s Stop, Question, and Frisk, and Trespass Enforcement Policies; Final Report and Recommendations*, at i (May 15, 2018), <https://www.jamsadr.com/files/uploads/documents/articles/belen-new-york-city-joint-remedial-process-may-2018.pdf> (“Final Report”). The Final Report described the benefits of BWCs: “The most well-known recent response to the call for greater accountability and transparency has been the adoption of BWC programs by police departments across the country.” *Id.* at 102. It further stated:

[W]hether BWC programs are effective depends on the extent to which they actually increase transparency in police interactions. . . . [R]esearch shows, the existence of an objective record supports both positive and negative claims by the police department and the public, minimizing time spent investigating unfounded complaints or misconduct. This in turn provides a mechanism for greater accountability.

Id. at 102-03.

27. The Final Report cautioned that “[w]hile many groups were in favor of body-worn cameras, there was a general sense that *without access* to the footage BWCs would not serve their purpose.” *Id.* at 123 (emphasis added).

28. In April 2017, the NYPD began Phase 1 of its BWC program, outfitting 1,300 police officers with cameras in 20 precincts in New York City. In December 2017, the NYPD began Phase 2 of the BWC program, equipping officers on all shifts throughout the city. New York City Police Department, “Body-Worn Cameras: NYPD Body-Worn Camera Program” <https://www1.nyc.gov/site/nypd/about/about-nypd/equipment-tech/body-worn-cameras.page>.

29. As of February 2019, “The NYPD’s [BWC] roll-out to all uniformed patrol officers in New York City was completed[.]” *Id.* In March 2019, the NYPD began rolling out roughly 4,000 BWCs to specialized units, including the Emergency Services Unit, Strategic Response Group and Critical Response Command. *Id.*

30. The NYPD has repeatedly emphasized that its BWC program promotes transparency and accountability to the public. The NYPD’s BWC procedures proposed in conjunction with its pilot program in 2017 state, “[t]he BWC pilot program will serve to provide a contemporaneous, objective record of encounters, facilitate review by supervisors, foster accountability, and encourage lawful and respectful interactions between the public and the police.” NYPD Response to Public and Officer Input on the Department’s Proposed Body-Worn Camera Policy app. B, at 1 (April 2017), http://nypdnews.com/wp-content/uploads/2017/04/NYPD_BWC-Response-to-Officer-and-Public-Input.pdf. The NYPD’s press release announcing those procedures further quoted Respondent O’Neill as stating: “Not only will body-worn cameras enhance transparency and accountability, they will further improve the trust that continues to grow in [relationships between New York City communities and

officers].” Press Release, NYPD News, NYPD Releases Proposed Police Officer Body-Worn Camera Procedure (April 7, 2017), <http://nypdnews.com/2017/04/nypd-releases-proposed-police-officer-body-worn-camera-procedure/>.

31. The NYPD has also made clear that its commitment to transparency extends to footage of officer shootings: “The Department believes that allowing the public to see footage of officer shootings is an important way to demonstrate our commitment to transparency and will continue to advocate for such a policy.” NYPD, *The Way Forward: The NYPD’s Response to the Joint Remedial Process Report 29* (June 8, 2018), *available at* <https://www.politico.com/states/f/?id=00000164-8604-d20a-a96f-969773bb0000>.

32. In apparent furtherance of the NYPD’s stated belief that BWC footage of officer shootings should be made available to the public, on September 14, 2017, the NYPD released of its own volition some of the BWC footage of the September 6, 2017 fatal police shooting of Miguel Richards, who was experiencing a mental health crisis at the time he was killed. Although the release was incomplete, and NYLPI needed to bring a FOIL request and Article 78 proceeding to obtain a more comprehensive release, the NYPD’s release on September 14, 2017, eight days after the shooting, was made well before any investigations of the incident could have been completed.

33. On April 30, 2019, the Appellate Division of the Supreme Court, First Judicial Department upheld the NYPD’s public release of BWC footage of police shootings in a lawsuit brought by the Patrolmen’s Benevolent Association (“PBA”), which argued that BWC footage is a “personnel record” subject to confidentiality and disclosure requirements of Civil Rights Law Section 50-a. *Patrolmen’s Benevolent Ass’n of City of N.Y., Inc. v. De Blasio*, 101 N.Y.S. 3d 280, 282 (1st Dep’t 2019). In determining that BWC footage is not a personnel record under the

statute, the court held that “[t]he purpose of [BWC] footage is for use in the service of other key objectives of the program, such as transparency, accountability, and public trust-building.” *Id.* Following the decision, Respondent Commissioner O’Neill stated: “This ruling is an important step forward for transparency and affirms what the NYPD believes – not only is the public entitled to this information, but this footage overwhelmingly shows just how brave, skilled and dedicated our cops are every single day in the service of the people of New York City.” Rocco Parascandola, *NYPD cops’ body camera footage is public: state appeals court ruling*, NY Daily News (Feb. 19, 2019), <https://www.nydailynews.com/new-york/nyc-crime/ny-metro-50a-courts-body-cameras-police-20190219-story.html>.

The NYPD and Persons with Mental Illness

34. The Final Report cautions that “[i]ndividuals with mental illness, who have physical disabilities, or who are developmentally disabled are at risk of being subjected to heightened police scrutiny and force based on completely mistaken assumptions.” Final Report, *supra* ¶ 26 at 253.

35. The NYPD’s interaction with persons with mental illness is on the rise. In fact, 911 calls reporting “emotionally disturbed persons” have “nearly doubled over the last decade, rising every year and in every precinct.” Greg B. Smith, *NYPD’s Mental-Illness Response Breakdown*, NY Mag (March 21, 2019), <http://nymag.com/intelligencer/2019/03/special-report-nypds-mental-illness-response-breakdown.html>.

36. With the rise of calls to the NYPD involving “emotionally disturbed persons” has come a rise in fatal police shootings of people with mental illness: 14 individuals with mental illness were killed by the police between March 2016 and March 2019 alone. *Id.*

37. Although the NYPD has implemented a program to provide crisis intervention training to officers to help them de-escalate interactions with people with mental illness, the

training has not come close to reaching all NYPD officers as intended: “The latest plan would train only 16,000 [out of more than 35,000] cops already in service by 2021 After that, only incoming police academy classes will get training.” *Id.*

38. In the majority of the 14 deaths between 2016 and 2019, “cops on the scene were not trained in how to deal with the often erratic and unpredictable behavior of people experiencing a mental health crisis.” *Id.* In fact, in one instance “the cop who fired the fatal bullet was the only responding officer who didn’t undergo crisis intervention training.” *Id.*

39. On June 12, 2019, in a convergence of the BWC program and the NYPD’s interaction with persons with mental illness, Justice Perry of the Supreme Court of New York County held that FOIL compelled the release of virtually all of the BWC footage of the fatal police shooting of Mr. Richards, many portions of which had been redacted on the basis of several FOIL exemption claims.² In ordering the NYPD to remove all of its redactions to the requested BWC footage, except those that NYLPI did not contest, the Court recognized “the public’s interest to be informed on how the NYPD interacts with emotionally disturbed individuals” and found that the purpose of BWCs “is to promote transparency, accountability, and public trust-building and to provide a contemporaneous, objective record of encounters between the public and the police.” *New York Lawyers for Pub. Interest v. NYPD*, No. 156731/2018, 2019 WL 2554624, at *4 (Sup. Ct. N.Y. Cnty. June 12, 2019).

Petitioner’s FOIL Request and Respondents’ Denials

40. NYLPI filed a FOIL request on October 2, 2018, with the NYPD FOIL Unit, for unedited audio and video files from the BWCs worn by the officers involved in the September

² The NYPD did not claim during the Article 78 proceeding that requested BWC footage of Mr. Richards’ shooting was subject to Public Officers Law § 87(2)(e)(i), which the NYPD principally relies upon to withhold records here. *See infra* ¶¶ 44, 46.

17, 2018 deadly shooting (“NYLPI’s Request”). A true and correct copy of this letter is attached as Exhibit A. NYLPI sought access to BWC audio and video files as well as 911 audio files:

Unedited audio and video files from all body cameras worn by the uniformed officers who were involved in the fatal encounter with Susan Muller in Queens on September 17, 2018, which are related to that fatal encounter, from the time each officer first arrived at the site of the fatal encounter until the time they departed the site.

Unedited audio files from all 911 calls placed by Susan Muller from September 16, 2018 through September 17, 2018.

41. The NYPD responded to NYLPI’s FOIL request with an acknowledgement of receipt on October 4, 2018, indicating that it would respond to the FOIL request by February 22, 2019. The NYPD’s acknowledgement did not include a reason for the need for the lengthy extension to the legal deadline. A true and correct copy of the acknowledgement letter is attached as Exhibit B.

42. The NYPD finally responded to NYLPI’s request on March 5, 2019, 11 days after the February 22, 2019 date it had set. In the response, the NYPD issued a blanket denial to NYLPI’s request (“NYPD’s Denial”). The NYPD merely cited a list of FOIL exemptions, without explaining how the exemptions applied to the requested audio and video files. The NYPD set forth the following FOIL exemptions:

- Public Officers Law § 87(2)(f) (such records/information would endanger the life or safety of any person.);
- Public Officers Law § 87(2)(e) and Public Officers Law § 87(2)(a) (such records consist of Police Officer’s personnel records and are therefore exempt from disclosure under the provisions of Civil Rights Law Section 50-a);
- Public Officers Law § 87(2)(b) (such information, if disclosed, would constitute an unwarranted invasion of personal privacy);
- Public Officers Law § 87(2)(e)(i) (such records/information, if disclosed would interfere with law enforcement investigations or judicial proceedings);
- Public Officers Law § 87(2)(g)(iii) (such records/information are inter-agency or intra-agency materials which are not final agency policy or determinations);

- Public Officers Law § 87(2)(a)/PHB Section 18 (medical history), and § 87(2)(a)/PHB Section 2803 (confidentiality of medical records).

A true and correct copy of the NYPD's Denial is attached as Exhibit C.

43. On April 3, 2019, NYLPI appealed the NYPD's Denial, sending a letter to the NYPD's Records Access Appeals Officer (the "Appeal"). The Appeal letter explained that the NYPD had not provided sufficient justification for withholding records, did not provide a specific justification for each claimed FOIL exemption, and did not satisfy the statutory requirements for denying NYLPI's FOIL request. A true and correct copy of this letter is attached as Exhibit D.

44. On April 15, 2019, the Records Access Appeals Officer denied the Appeal. The NYPD primarily relied upon Public Officers Law § 87(2)(e)(i), stating that "disclosure of the records would interfere with a pending criminal investigation" as "the NYPD's internal investigation into the incident remains active and ongoing." The NYPD further stated: "[t]o the extent that the requested records may become available for public disclosure following the completion of the investigation, certain portions of the records are exempt from disclosure" based on most of the exemptions cited in the initial denial: § 87(2)(b); § 87(2)(f); § 87(2)(a)/N.Y. Public Health Law § 2803-c(3)(f); and § 87(2)(g). The letter also claimed for the first time that § 87(2)(e)(iv) (non-routine criminal investigative techniques or procedures) and N.Y. Public Health Law § 2805-g(3) applied to the requested records. Other than the NYPD's claim to the law enforcement exemption, the NYPD merely recited the statutory language of all the other claimed exemptions, without explaining its reasons for claiming them or describing which portions of records were subject to each exemption. A true and correct copy of this letter is attached as Exhibit E.

45. Following the NYPD's denial of the Appeal, NYLPI sought reconsideration of its denial and requested that the NYPD fully explain the reasons for denying NYLPI's Appeal, as required by Public Officers Law § 89(4)(a). The letter explained that the NYPD's claim under Public Officers Law § 87(2)(e)(i), and mere listing of other exemptions, was insufficient. The letter also explained that the NYPD did not comply with FOIL's timeline mandates, as the NYPD provided no explanation for extending the 20-day response deadline by over four months and did not send a denial until more than a week after the date certain it had set. A true and correct copy of this letter is attached as Exhibit F.

46. The NYPD responded to NYLPI's request for reconsideration with an email stating that "we do not plan on reconsidering that decision" and "[d]ue to several pending investigations, the records are exempt from disclosure in their entirety." A true and correct copy of this email is attached as Exhibit G.

47. Petitioner timely commenced this Article 78 proceeding, within four months of the NYPD's final determination of Petitioner's appeal, *see* C.P.L.R. § 217, to force the NYPD to comply with its obligations under FOIL and provide Petitioner with records responsive to the Request.

VENUE AND JURISDICTION

48. 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.

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

50. This Court has jurisdiction over the matter because the NYPD's denial of NYLPI'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

51. Petitioner repeats and realleges each and every allegation contained in the preceding paragraphs as if fully set forth herein.

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

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

54. 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.

55. Respondents did not provide any audio or video files and have failed to properly invoke exemptions under FOIL.

56. Respondents have not met their burden to provide specific and particularized justifications for withholding the requested records.

57. None of the exemptions from FOIL that have been cited by Respondents, nor any other FOIL exemptions, apply to the material Petitioner has requested.

58. Petitioner has exhausted its administrative remedies and has no other remedy at law.

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

60. Because the NYPD had no reasonable basis for withholding the audio and video files requested by NYLPI on October 2, 2018, Petitioner is entitled to the video and audio files which are the subject of this action.

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 O'Neill to comply with their duty under FOIL to provide Petitioner access to the records requested by NYLPI in its October 2, 2018 FOIL request;
- b. ordering, in the alternative, an *in camera* review of the records requested by Petitioner in the event this would better inform the Court as to their contents;
- c. awarding Petitioner its reasonable attorney's fees and other litigation costs pursuant to Public Officers Law § 89(4)(c); and
- d. granting Petitioner such other and further relief as this Court deems necessary and equitable.

Respectfully Submitted,

Dated: August 15, 2019
New York, New York

/s/ Jed M. Schwartz

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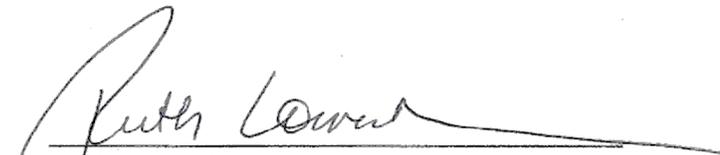
Attorneys for Petitioner

VERIFICATION

STATE OF NEW JERSEY)
) SS:
COUNTY OF ESSEX)

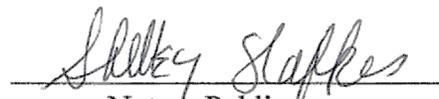
Ruth Lowenkron, being duly sworn, deposes and states under penalty of perjury:

1. I am the Director of the Disability Justice Program and an officer of the Petitioner New York Lawyers for the Public Interest 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.



Ruth Lowenkron

Sworn to and subscribed before me this
15 day of August, 2019



Notary Public

Attorney at Law
licensed in the State of N.J.