

March 16, 2021

BY E-MAIL AS A .PDF

Mr. Stephen Kitzinger
Ms. Carolyn Kruk
Assistant Corporation Counsels
Corporation Counsel of the City of New York
100 Church Street, Room 2-126
New York, New York 10007

Re: *Gwen Carr et al. v. Bill de Blasio et al.*, Index: No. 101332/2019
Potential discovery regarding summary inquiry related to Eric Garner's death

Dear Mr. Kitzinger and Ms. Kruk:

We write pursuant to the Court's February 23, 2021 Order ([NYSCEF Doc. No. 44](#)) in advance of the discovery conference scheduled for April 20, 2021 at 10:00AM, to outline some reasonable discovery requests related to areas of inquiry set forth in the Court's September 24, 2020 Order ([NYSCEF Doc. No. 22](#) (the "September Order")).

We provide this letter having reviewed all of the records of which we are aware and to which we have access – including, but not limited to, the decision of the Honorable Rosemarie Maldonado, Deputy Commissioner of Trials for the NYPD, in former NYPD Officer Daniel Pantaleo's administrative trial; the transcript of those proceedings; and records the NYPD and Civilian Complaint Review Board ("CCRB") have produced in response to our clients' Freedom of Information Law ("FOIL") requests. If you believe any of the records or information in this letter is duplicative of anything that is publicly available, or that has been produced to our clients, please identify any relevant records by Bates Number, or otherwise let us know where you think we can find it.

We have organized the following potential discovery according to area of inquiry authorized in the September Order.

- 1. The stop and arrest of Mr. Garner, and the force used by police officers other than Officer Pantaleo.**
 - a. Identify and produce recordings and transcripts of police radio or telephonic communications, or copies of electronic communications such as text and/or e-mail messages, from July 17, 2014 memorializing statements related to the conditions in the vicinity of 200 Bay Street in Staten Island that Lt. Christopher Bannon observed, which led him to direct that Police Officer Justin D'Amico be dispatched to the area.
 - b. Identify and produce records memorializing D'Amico's observations of Mr. Garner from approximately 200-300 feet away from 200 Bay Street, just prior to the time he and Pantaleo first approached Mr. Garner.
 - c. Identify and produce NYPD records regarding the stop and arrest of, and/or force used on, Mr. Garner, including the stop report; arrest report; complaint report; records

- regarding property seizure and vouchering; other arrest paperwork (including “scratch” versions); activity log/memo book entries; and unusual occurrence, unusual incident, “UF-49”, DD-5, “to/from,” and other such reports.
- d. Produce transcripts of the GO-15 and other NYPD’s Internal Affairs Bureau (“IAB”) interviews referred to in the September Order at 5 (stating that “16 civilian and 21 uniformed witnesses were interviewed”).¹
 - e. Produce preliminary and final autopsy reports prepared by the Office of the Chief Medical Examiner of the City of New York (“OCME”).
 - f. Identify each other NYPD member (aside from Pantaleo and D’Amico) who was present between the time Pantaleo and D’Amico first approached Mr. Garner and the time Emergency Medical Services (“EMS”) arrived at the scene.
 - g. Produce recordings and transcripts of internal NYPD radio and telephonic communications from July 17, 2014 related to the stop and of Mr. Garner, NYPD uses of force against Mr. Garner, and/or Mr. Garner’s physical or medical condition.
 - h. State whether Respondents de Blasio, O’Neill, or Richardson, or former NYPD Commissioner Bratton, or “anyone under [their] command” considered and/or “undertook any investigation” or disciplinary charge, proceeding, or action related to “whether there was probable cause for the arrest of Mr. Garner, or whether the extent of force used by the officers assisting ... Pantaleo was justified given the nature of the alleged offense.” (*See* September Order at 29.)
 - i. If so, identify and produce records revealing the nature, extent, and outcome of each such potential or actual investigation, disciplinary charge, proceeding, or other disciplinary action, and whether any disciplinary action was recommended or imposed, including: DD-5’s and other investigative reports; recordings, transcripts, and summaries of witness statements; forensic analyses; investigative records reflecting facts or factual findings; status updates; opening and closing statements; and internal NYPD correspondence related to the progress of the investigation.
 - ii. If so, for each such potential or actual investigation, disciplinary charge, proceeding, or other disciplinary action: (A) identify each Respondent or other person who was involved in deciding whether to initiate any such investigation, disciplinary charge, proceeding, or other disciplinary action; (B) state whether Respondents de Blasio, O’Neill, or Richardson, or former Commissioner Bratton, were aware of or involved in its initiation, progress, or conclusion and, if so, the nature of their awareness and/or involvement; and (C) identify and produce records reflecting the dates and substance of any oral, written, or digital communications, showing the timing, nature, and extent of Respondents de Blasio’s, O’Neill’s, or Richardson’s, or former Commissioner Bratton’s, awareness or involvement, including agenda, memoranda, e-mails, summaries,

¹ Upon information and belief, IAB interviewed, *inter alia*, NYPD members Kizzy Adonis; Christopher Bannon; Justin D’Amico; Craig Furlani; Williams Meems; Daniel Pantaleo; Mark Ramos; and Dhanan Saminath. Petitioners note that they seek transcripts of interviews with Kizzy Adonis and Daniel Pantaleo to the extent they bear upon the actions and/or inactions of others as it relates to the areas of inquiry the Court authorized.

and other correspondence related to briefings or other meetings, and other, similar records.

- i. Produce the NYPD and CCRB disciplinary histories for Bannon; D'Amico; Furlani; Meems; Ramos; Saminath; and other NYPD members who were present at the scene of Mr. Garner's stop and arrest and/or the uses of force on Mr. Garner.

2. The filing of official documents concerning Mr. Garner's arrest.

- a. Identify and produce official NYPD arrest paperwork created and/or filled out by D'Amico concerning Mr. Garner's stop and arrest and force used on Mr. Garner, including – but not limited to – the stop report; arrest report; complaint report; and property vouchers.
- b. Identify each other NYPD member who had a duty to supervise D'Amico related to creating that official NYPD arrest paperwork.
- c. Identify each other NYPD member who created and/or filled out official NYPD arrest documents related to Mr. Garner's stop and arrest, and/or force used on Mr. Garner.
- d. Produce the official NYPD arrest documents created and/or filled out by each such NYPD member.
- e. State whether any investigation or disciplinary charge, proceeding, or other disciplinary action was contemplated and/or undertaken with respect to “Officer D'Amico's filing of police reports after Mr. Garner's death that apparently contain false statements that no force was used and that the top charge was a felony” (September Order at 37); records completed by or statements made by Sgt. Saminath concerning Mr. Garner's arrest; and records completed by or statements made by Sgt. Adonis concerning Mr. Garner's arrest.
 - i. If so, produce the categories of information and records regarding each such investigation or disciplinary action described in 1(h)(i) and (ii) above.

3. The leaking of Mr. Garner's alleged arrest history and medical condition in the autopsy report.

- a. Produce records reflecting Mr. Garner's criminal history information as of July 17, 2014, indicating which records were then subject to sealing under New York Criminal Procedure Law Sections 160.50 and/or 160.55. (*See* September Order at 30.)
- b. Identify all NYPD, OCME, and City personnel who had access to OCME autopsy information and records related to Mr. Garner between July 18, 2014 and August 2, 2014.
- c. Identify all NYPD and City personnel who accessed Mr. Garner's sealed criminal history information between July 17, 2014 and August 5, 2014.
- d. State whether any investigation or disciplinary charge, proceeding, or other disciplinary action was contemplated and/or undertaken with respect to the leaking of Mr. Garner's sealed criminal history or private medical information.
- e. If so, produce the categories of information and records regarding each such investigation or disciplinary action described in 1(h)(i) and (ii) above.

4. The lack of medical care provided to Mr. Garner by NYPD members.

- a. Identify and produce NYPD reports, recordings and transcripts of police radio or telephonic communications, copies of electronic communications such as text and/or e-mail messages, from July 17, 2014, and other records memorializing statements or facts related to Mr. Garner's physical condition, the need for medical care for Mr. Garner, or medical care sought for or provided to Mr. Garner by NYPD members between the moment Pantaleo first touched Mr. Garner and the time EMS arrived.
- b. Produce NYPD official paperwork regarding medical care provided (if any), sought for, or provided to Mr. Garner by police officers, including NYPD AIDED paperwork.
- c. State whether any NYPD member provided medical care to Mr. Garner between the moment Pantaleo first touched Mr. Garner on July 17, 2014 and the time EMS arrived.
 - i. If so, identify any such NYPD member and describe the nature and extent of such medical care.
- d. State whether any investigation(s) or disciplinary charges, proceedings, or other disciplinary actions were contemplated and/or undertaken with respect to the alleged lack of medical care provided to Mr. Garner by NYPD members.
 - i. If so, produce the categories of information and records regarding each such investigation or disciplinary action described in 1(h)(i) and (ii) above.

We hope the above can serve as the starting point in productive conversations in advance of the April 20, 2021 conference. We stand ready to start that process at your earliest convenience.

Respectfully submitted,

/s/ Alvin Bragg

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cc: Hon. Erika M. Edwards, JSC (by e-mail as a .PDF)