

Petitioners' Exhibit 2

October 27, 2021 Affidavit of Donovan Richards

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

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In the Matter of GWEN CARR, et al.,

Petitioners,

- against -

AFFIDAVIT OF
DONOVAN J. RICHARDS JR.

BILL DE BLASIO, Mayor of the City of New York, et al.

Respondents.

-----X

STATE OF NEW YORK)

: SS.:

COUNTY OF NEW YORK)

I, **Donovan J. Richards Jr.**, a natural person over the age of 18, being duly sworn, states under penalty of perjury, that:

1. I serve as the Borough President of Queens in New York City. I have served in this capacity since December 2, 2020. Immediately prior, from February 2013 to December 2, 2020, I represented District 31 in the New York City Council (the “City Council”), the City’s legislative branch. During my tenure as a Council Member, I was Chair of the Committee on Public Safety from January 2018 to December 2020.

2. In addition to the City Council’s legislative authority, the City Council is empowered to oversee and investigate the functions of City agencies. Specifically, pursuant to New York City Charter Section 29(a)(1), the Council “may investigate any matters within its jurisdiction relating to the property, affairs, or government of the city[.]” Pursuant to New York City Charter Section

29(a)(2), the City Council “shall review on a regular and continuous basis the activities of the agencies of the city[.]” As Chair of the Committee on Public Safety, I presided over the City Council Committee responsible for oversight and investigation of City law enforcement agencies.

3. A central component of the Council’s oversight and investigation authority is the convening of public hearings, during which City officials and other stakeholders testify before City Council committees. As Chair of the Committee on Public Safety, I convened and chaired oversight hearings on, among other issues, the New York Police Department’s (“NYPD”) disciplinary system, the NYPD’s marijuana enforcement strategies, the NYPD’s Special Victims Division, the opioid crisis, and school safety.

4. In addition to overseeing formal hearings held by the Committee on Public Safety, in my role as Chair, I requested information from various New York City law enforcement personnel, including officials at the NYPD, the Department of Investigations (“DOI”), and the Civilian Complaint Review Board (“CCRB”). These hearings and requests for information included discussions in preparation for and following up on hearings of the Committee on Public Safety.

5. The NYPD’s disciplinary system was an issue of particular concern to me. In early 2018, I initiated meetings with DOI and the NYPD seeking disclosure of details about NYPD disciplinary procedures and practices.

6. In response to my inquiries, the NYPD proposed the formation of an independent panel to conduct a review of the NYPD’s disciplinary system. In June 2018, Police Commissioner James O’Neill appointed a panel chaired by former United States Attorney Mary Jo White whose

other members were Judge Barbara Jones (ret.) and former United States Attorney Robert Capers. In January 2019, the panel produced a report entitled “The Report of the Independent Panel on the Disciplinary System of the New York City Police Department.” The report noted how opaque the NYPD’s disciplinary system is, described some aspects of the disciplinary process in detail to provide transparency, and made recommendations for reform.

7. Based upon my duties in as Chair of the Public Safety Committee, including the initiation of inquiries that led to the formation of the independent panel, I became familiar with several features of the NYPD disciplinary system:

- The NYPD Internal Affairs Bureau’s (“IAB”) scope of authority may be limited to an initial disciplinary investigation.
- The senior officer in charge of the IAB may not have final authority concerning whether disciplinary actions are brought against officers or on questions of timing or the scope of what misconduct is included in disciplinary reviews, plea discussions, or proceedings.
- The Department Advocate’s Office (“DAO”) and the Deputy Commissioner in charge of DAO participate in determining whether and when Charges and Specifications (formal administrative disciplinary charges) will be served on an officer and can influence whether lesser discipline is considered instead (e.g., command discipline, training, etc.) In high-profile matters, NYPD personnel who are senior to the Deputy Commissioner in charge of the DAO, may determine whether and when formal administrative charges are brought, and such senior officers may direct IAB to broaden or narrow the scope of an IAB investigation. Senior NYPD personnel who may participate in relevant discussions and decisions before an administrative discipline trial takes place include the First Deputy Commissioner of the NYPD¹ and the Police Commissioner. In all matters, the Police Commissioner retains disciplinary authority, including the ability to require or block administrative charges being brought on an officer.

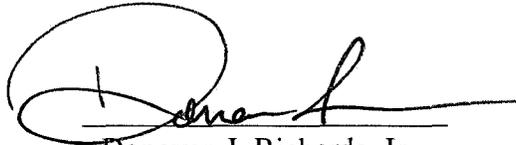
¹ Some of the First Deputy’s role in review and oversight of investigations related to major cases of force, resulting in death, is outlined in the Mary Jo White et al “Report of the Independent Panel on the Disciplinary System of the New York City Police Department”.

- The First Deputy Mayor oversees the NYPD. The Police Commissioner reports to the First Deputy Mayor, but the Police Commissioner may discuss matters directly with the Mayor, including issues related to the discipline of officers.
- In 2015, after the killing of Eric Garner, a new NYPD unit was formed that was tasked to report monthly to the NYPD First Deputy Commissioner on police conduct resulting in deaths, including reporting on open cases such as the killing of Eric Garner.
- In the case of Eric Garner, the NYPD Deputy Commissioner for Legal Affairs may have been involved in discussions and decisions relevant to the scope and timing of investigations and disciplinary actions.

8. As part of my oversight functions as Chair of the Public Safety Committee, I was publicly outspoken about instances of police use of excessive force, including the killing of Eric Garner. I regularly voiced my concerns in public about the officers' conduct at the scene of the killing of Mr. Garner and the City's failure to hold officers accountable for what I believed, based on my oversight experience, was misconduct.

9. I also regularly voiced my concerns to City officials who were decision-makers or were influential on NYPD disciplinary matters in high-profile cases, including Deputy Commissioner Kevin Richardson (who oversaw the DAO), First Deputy Commissioner Benjamin Tucker, the three Police Commissioners who have served in their roles since the death of Eric Garner, and Mayor Bill de Blasio. At the time of these discussions, these officials declined to comment on specifics concerning an open investigation surrounding the officer involved in the death of Eric Garner. However, they indicated knowledge of and input into the disciplinary process, but were not at liberty to disclose information about an open investigation.

10. Further, the discussions and decisions relating to the discipline of the officers involved in the killing of Eric Garner and related misconduct continued with City officials through and even after the 2019 firing of Officer Daniel Pantaleo.


Donovan J. Richards, Jr.

Sworn and subscribed to me this 27th day of OCTOBER, 2021


NOTARY PUBLIC

Nicholas Allan Swisher
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 02SW6336316
Qualified in Queens County
Commission Expires February 1, 2024