March 1, 2017 Ramarley Graham FOIL Administrative Appeal

Exhibit 1

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September 29, 2016

BY HAND AND EMAIL TO RICHARD.MANTELLINO@NYPD.ORG
Records Access Officer ("RAO")
NYPD FOIL Unit
1 Police Plaza, Room 110 C
New York, New York 10038

Re: *Freedom of Information Law Request - Ramarley Graham*

Dear Records Access Officer:

I make this request pursuant to the New York State Freedom of Information Law ("FOIL"), Article 6, Sections 84-90 of the Public Officers Law, and its implementing regulations, Chapter 21 of the New York Code of Rules and Regulations ("NYCRR") Part 1401, as well as the Uniform Rules and Regulations for All City Agencies Pertaining to the Administration of the Freedom of Information Law, Title 43, Rules of the City of New York ("RCNY"), Chapter 1 (the "Uniform Rules") on behalf of Constance Malcolm and Franclot Graham, Ramarley Graham's parents, Communities United for Police Reform (http://changethenypd.org/), and The Justice Committee (http://www.justicecommittee.org/).

The requesters seek disclosure of records regarding: NYPD Officer Richard Haste's shooting and killing of Ramarley Graham on February 2, 2012; the underlying circumstances; misconduct related to the shooting, investigations into the shooting, and statements made to or by the NYPD to the media and/or prosecutors; investigations, disciplinary actions, and prosecutions undertaken or contemplated regarding the shooting and related events (such as leaking confidential information to the media related to Mr. Graham and the shooting); the outcomes of any such investigations, disciplinary actions, or prosecutions; relevant NYPD procedures and practices; communications between the NYPD and City Hall and other agencies about Mr. Graham's shooting or related investigations, disciplinary actions, and prosecutions; and the other records described below.[1]

[1] The records sought are reasonably described below after the BACKGROUND section. If you disagree and find that the records requested are not reasonably described, please contact me as soon as possible to being the process of assisting me in identifying the requested records and, if necessary, in re-formulating the request "in a manner that will enable the agency to identify the records sought", including

Please respond to this request by e-mail. Please provide electronic versions of responsive documents. Please treat each individual request contained herein as severable from the others and provide responsive records on a rolling basis. Please notify me in advance if any associated fees are expected to exceed $100.

BACKGROUND

Shortly after 3:00 p.m. on the afternoon of February 2, 2012, New York City Police Department ("NYPD") Officer Richard Haste, Shield No. 20875, and other NYPD officers, forcefully entered the private residence at 749 East 229th Street in Bronx County, New York, and then forced their way into the private apartment on the 2nd Floor, where Patricia Hartley, her daughter, Constance Malcolm, and Ms. Malcolm's sons, 18-year-old Ramarley Graham and 6-year-old Chinnor Campbell, lived. Within moments after having forced his way into Mr. Graham's apartment, Haste shot and killed Mr. Graham. Mr. Graham was unarmed. His younger brother and grandmother were nearby when Haste shot and killed him. The police had no judicial warrant to enter or search the private residence. Upon information and belief, NYPD training and procedure in effect at the time prohibited such forced entries without a judicial warrant.

Earlier on February 2, 2012, Haste, Sgt. Scott Morris, Shield No. 953, and at least NYPD Officers Tyrone Horne, Shield No. 24885, and Andrew Jarvis, Shield No. 7776, were part of a Special Narcotics Enforcement Unit ("SNEU") team who had been deployed in the area of a local bodega located at East 228th Street and White Plains Road. Morris was supervising Horne and Jarvis – a SNEU observation team – and Morris, Haste, and an apparently female ("Jane Doe") officer were their back-up team.

At around 3:00 p.m., Mr. Graham entered the private, gated, residential house at 749 East 229th Street. That house includes his mother, Ms. Malcolm's, apartment, at which he was staying, located on the 2nd floor. The front door of the private, residential house locked behind Mr. Graham as he entered. Mr. Graham walked up the stairs and entered his mother's apartment. The front door to the apartment locked. His grandmother, Ms. Hartley, and younger brother, Mr. Campbell, were in the apartment.

Shortly after Mr. Graham entered the house, multiple NYPD officers, including Haste and Morris, ran up to the front door of the private residence, with guns drawn, and tried to force their way in. When they could not force their way into the front door, NYPD officers surrounded the house. Eventually, several of them entered, guns drawn, through the back door of the first floor tenant's apartment. They let other officers in through the front door.

Four or more minutes passed after Mr. Graham entered his mother's apartment. Without warning, police forced their way into the apartment. Haste entered first, with his gun drawn. Other officers, including Morris and Jane Doe, entered after Haste. They did not identify themselves, announce their purpose, or issue any warnings to Mr. Graham, Ms. Hartley, or Mr. Campbell.

Just after 3:00 p.m., Haste shot Mr. Graham in the chest. Mr. Graham was not armed. He died of the gunshot wound. Ms. Hartley, who was present when Haste shot Mr. Graham, cried out, "Why did you shoot him? Why you killed him?" in reaction to watching Haste shoot and kill her grandson. Haste pushed Ms. Hartley backward into a vase and warned her: "Get the fuck away before I have to shoot you too."

When Ms. Hartley then asked 6-year-old Mr. Campbell to get her phone, Haste and other officers attempted to prevent Mr. Campbell from giving Ms. Hartley her phone. When Ms. Hartley managed to get her phone, a male officer grabbed Ms. Hartley from behind, twisted her arm behind her back, and took her phone away. NYPD officers then grabbed Ms. Hartley by the neck, pushed her into a chair, held her down in the chair, cursed at her, and threatened her with handcuffing if she moved. NYPD officers eventually separated Ms. Hartley from Mr. Campbell and transported Ms. Hartley to the 47th Precinct stationhouse.

When Mr. Graham's mother, Ms. Malcolm, arrived in the area of her apartment on 728 East 229th Street from work at around 3:30 p.m. on February 2, 2012, police prevented her from going anywhere near her home. They refused to give Ms. Malcolm meaningful information and would not tell her what had happened to her son, Mr. Graham. Instead, police insisted on taking Ms. Malcolm to the 47th Precinct stationhouse, so she went. She arrived at around 3:40 p.m.

At the 47th Precinct stationhouse, Ms. Malcolm finally learned that the police had shot and killed her son, Mr. Graham, when she overheard an officer saying that he had come from "the homicide" and saw police bringing her mother, Ms. Hartley, up the precinct stairs. Ms. Hartley told Ms. Malcolm: "They killed Marley." Police then physically separated Ms. Hartley from Ms. Malcolm, eventually placing Ms. Hartley in a locked room, as Ms. Malcolm was screaming and crying, trying to reach her mother. An officer grabbed Ms. Malcolm by her arms, twisted Ms. Malcolm's arms behind her back, smalled her into the wall, and shoved her to the floor, as Ms. Malcolm screamed, "Let me go." None of the officers at the precinct told Ms. Malcolm that her son had been shot.

At 3:53 p.m., a Medical Examiner with the New York City Office of Chief Medical Examiner ("OCME") pronounced Mr. Graham dead at Montefoire Medical Center as a result of a "Gunshot Wound Of Chest With Perforation Of Aorta And Lung" he suffered as a result of having been "Shot by Police." The OCME classified the "Manner of Death" as a "Homicide."

Mr. Graham's father, Franclot Graham, went to the 47th Precinct stationhouse, and officers would not provide him with information about what had happened. When Ms. Malcolm was eventually released, she and Franclot Graham left the 47th Precinct stationhouse and went back to 749 East 229th Street, to try to learn more about why police had killed their son Ramarley and to find 6-year-old Chinnor Campbell. NYPD officers prevented them from entering Ms. Hartley's, Ms. Malcolm's, and Ms. Campbell's residence at 749 East 229th Street. Eventually, a NYPD Captain returned Mr. Campbell to Ms. Malcolm.

Ms. Hartley remained in NYPD custody against her will at the 47th Precinct stationhouse for over seven hours. While she was there, officers ignored her requests to leave and see her daughter, denied her access to her attorney, and aggressively interrogated her. Officers called her a "fucking liar" – among other things – and falsely said that Mr. Graham had thrown a gun out the window and accused her of covering up for him. They tried to get her to say things that were not true. They would not let her go until 10:00 p.m.

NYPD officers searched Ms. Hartley's apartment and the area of the building at 749 East 229th Street for two days – yet they recovered no gun. Police denied Ms. Malcolm, Ms. Hartley, and Mr. Campbell access to their apartment for over two days.

On February 2, 2012, *The New York Times* reported that then-NYPD Deputy Commissioner of Public Information ("DCPI") Paul Browne said[2]:

- Mr. Graham was shot "after running into his home as officers pursued him"
- "[I]t was unclear what had prompted the chase"
- "[D]uring the pursuit, Mr. Graham turned onto East 229th Street and entered his family's house"
- "A team of officers followed him inside"
- "The officer … struggled with Mr. Graham near the entrance to the bathroom…before shooting him."
- "It was unclear whether the gun, a 9-millimeter semiautomatic, was fired during the struggle or if the men had been separated when the shooting occurred"
- There was "'no evidence [Mr. Graham] was armed'"
- "A small amount of marijuana was found in the toilet"

On February 3, 2012, *The New York Times* reported that then-NYPD Commissioner Raymond Kelly said that the officer who had shot Mr. Graham, who was later revealed to be Haste, and his Sergeant, who was later revealed to be Morris, had been stripped of their guns and badges and were both on "modified" duty.[3] Kelly reportedly "expressed concerns about the circumstances of the shooting" and said: "'At this juncture, we see an unarmed person being shot. That always concerns us.'"

Also according to the February 3, 2012 *New York Times* article, Kelly said:

- "[T]he narcotics team had been staking out a bodega at East 228th Street and White Plains Road, after the police had received reports of drug sales out front"

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[2] *See* Baker, Al and Flegenheimer, Matt (Feb. 2, 2012). "Officer Fatally Shoots Teenager in the Bronx." *The New York Times*. Retrieved from http://www.nytimes.com/2012/02/03/nyregion/unarmed-teenager-fatally-shot-by-officer-chasing-him.html

[3] Baker, Al and Goldstein, Joseph (Feb. 3, 2012). "Kelly Expresses Concern Over Fatal Shooting in Bronx." *The New York Times*. Retrieved from http://www.nytimes.com/2012/02/04/nyregion/raymond-kelly-voices-concern-on-fatal-police-shooting-in-bronx.html

- "With two friends, Mr. Graham went into the bodega. But they left quickly, and as they did, team members who were observing the bodega radioed their colleagues that they believed one of the three – who they later learned was Mr. Graham – 'was armed'"
- "Two officers wearing raid jackets and bullet-resistant vests emerged from a van and yelled, 'Police! Stop! Don't move!'" (citing the account of an unidentified civilian witness)
- "But Mr. Graham made it to his home at 749 East 229th Street, and the front door locked, stymieing officers who were pursuing him with their guns drawn"
- "Eventually, a man alerted by the commotion let the sergeant in a back door and told him that Mr. Graham lived on the second floor. The officers then spread out: One stayed on the ground floor; the sergeant stayed on the stairs; and two lead officers went to the apartment and knocked. When no one answered, they 'broke open' the door."
- "Members of the [SNEU] … had pursued Mr. Graham based on a report that he was armed"
- They "broke open the door to the second-floor apartment"
- "[A] second officer…trailed the first officer into the apartment"
- "'Show me your Hands! Show me your hands!' the [first] officer yelled" (citing the second officer, described as a "partner" who had given an "account" within 24 hours)
- "The first officer, who was in the hallway outside the bathroom, yelled, 'Gun! Gun!'"
- "'The partner said he then heard a shot"
- "The investigators had yet to find evidence that Mr. Graham was armed"
- "'No gun was recovered'"
- "[A] bag of marijuana was found in the toilet"

The same February 3, 2012 *Times* article reported: "On Thursday night, the police said Mr. Graham had tussled with an officer, but on Friday, Mr. Kelly said there did not appear to be any evidence of a struggle. 'We don't' believe there was contact,' he said. The officer yelled, 'Gun! Gun!' and then fired." The article also cited a "police" account that "[a]s the first officer came through, Mr. Graham emerged from the back of the apartment on 728 East 229th Street running toward them, then veered into the bathroom".

Also on February 3, 2012, citing an unidentified "law enforcement official", *The Wall Street Journal* reported[4] that "Narcotics officers had arrested two other men whom they watched allegedly sell drugs just before 3 p.m. when they approached the teenager, Ramarley Graham" and he "ran into his nearby home at 749 E. 229th St." The *Journal* quoted Browne as having said that "Mr. Graham spun around when an officer confronted him, and the officer shot him in the chest after what Mr. Browne said was a struggle."

[4] Gardiner, Sean and Fox, Alison. (February 3, 2012). "Drug Suspect Is Killed In Bronx." *The Wall Street Journal*. Retrieved from http://www.wsj.com/articles/SB10001424052970203711104577199620095178212

Beyond that, citing an unidentified "law enforcement official", *The Wall Street Journal* reported that "Mr. Graham had eight prior arrests, including burglary, robbery, dealing marijuana and other offenses." That information was made known before the NYPD had even identified Haste as the officer who had shot him. Upon information and belief, Mr. Graham's alleged history of contacts with law enforcement, provided to the press by the NYPD, contained information about cases that were dismissed and/or sealed. NYPD officers should have been prohibited from disclosing such sealed information by New York State Criminal Procedure Law ("CPL") Sections 160.50 and/or 160.55 or other provisions of the law. When Mr. Graham's family complained to then-Commissioner Kelly about the illegal accessing and distribution of sealed information related to Mr. Graham's criminal history in 2012, upon information and belief, the NYPD took no steps to investigate the violations of Mr. Graham's privacy or the law.

According to a February 4, 2012 *New York Times* article[5], Morris "was in a stairwell between the first and second floors when the shot was fired." That *Times* article also reported that DCPI Browne "provided a timeline of Ms. Hartley's interviews with detectives with prosecutors" and that Steven Reed, a spokesman for the Bronx DA's Office, said that "Ms. Hartley 'made no complaint' to an assistant district attorney who was at the stationhouse. Had she made such a complaint, it would have been relayed to the police." And, also according to the *Times*, then-Public Advocate Bill de Blasio said: "Part of the healing process for the Graham family, and for the city as a whole, derives from a fair, speedy, and transparent investigation. That work should begin immediately."

As reported in a February 5, 2012 *Wall Street Journal* article[6], Kelly "outlined the events that led to the deadly shooting" and said:

- Mr. Graham "had been observed that afternoon fidgeting with the waistband of his pants in a way that prompted one narcotics officer to warn others in his unit that the teenager was possibly armed"
- "The four officers were monitoring a bodega on White Plains Road near East 229th [sic] Street, a site where they suspected drugs were sold"
- "Mr. Graham was among three men the officers watched enter the store; a short time later he was called into a nearby house by the other men"
- "When Mr. Graham emerged, … the officers observed what they believed was the butt-end of a gun peeking out of his pants"
- "The officers, now convinced he was armed, identified themselves and ordered Mr. Graham not to move, … but the teenager dashed into his home on East 229th Street"
- "[T]here wasn't a fight, struggle or any contact between the officer and [Mr. Graham] before the shot was fired"

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[5] Baker, Al and Stelloh, Tim. (Feb. 4, 2012). "Focus on Police Treatment of Witness After Shooting." *The New York Times*. Retrieved from http://www.nytimes.com/2012/02/05/nyregion/treatment-of-grandmother-after-fatal-police-shooting-is-criticized.html

[6] Gardiner, Sean, Fox, Alison, and Shallwani, Pervaiz. (Feb. 4, 2012). "Police Probed in Shooting Death of Teen." *The Wall Street Journal*. Retrieved at http://www.wsj.com/articles/SB10001424052970203711104577201491403903220

- Haste shot Mr. Graham in the bathroom as he "was apparently trying to flush a bag of marijuana down the toilet"
- "Police … found a bag of marijuana in the toilet"

On February 9, 2012, *The New York Daily News* reported[7] that a "police source" had revealed that Haste "had no training in street level narcotics enforcement or plainclothes cop work" and that Kelly had "called for a citywide 'high level review of the Street Narcotics Enforcement Unit.'" Also on February 9, 2012, *The New York Times* reported[8] that Haste "had never attended the classroom training that officers assigned to street narcotics receive… which … was the equivalent of 19.5 hours in the classroom", that Kelly had ordered "an internal review of how officers conduct low-level narcotics operations", and that Browne had said that Kelly had ordered then-NYPD Chief of Department Joseph Esposito "to conduct an 'overall review' of such teams." The *Times* later reported that "[t]he review found that some narcotics team officers were working in plain clothes, in violation of a directive that they wear jackets identifying them as the police."[9]

On February 22, 2012, *The New York Times* reported[10] that Kelly had said:

- "On the afternoon of Feb. 2, the unit's observation team set up opposite a bodega near White Plains Road and East 228th Street in the Bronx"
- "Mr. Graham and two friends emerged from the [bodega near White Plains Road and East 228th Street] and walked north"
- "The observation team, which was in a car and following him, radioed to other members of the narcotics unit nearby its suspicion that Graham might be armed"
- "The next transmission presented the suspicion as a certainty. Between the bodega and his home, at 749 East 229th Street, Mr. Graham made one other stop, at a house nearby"
- "[T]he observation team radioed other members of the unit that the butt of a gun was visible in Mr. Graham's waistband as he emerged from the house"
- "[B]oth communications about a gun went out over a tactical frequency, which was most likely monitored only by the narcotics enforcement team, rather than over a wider frequency, which would have summoned other officers to the scene"
- "Officers from the unit's van jumped out and tried to stop Mr. Graham"

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[7] Parascandola, Rocco and Fisher, Janon. (Feb. 9, 2012). "Police Commissioner Raymond Kelly orders review after fatal shooting of unarmed teenager." *New York Daily News*. Retrieved at: http://www.nydailynews.com/new-york/police-commissioner-raymond-kelly-orders-review-fatal-shooting-unarmed-teenager-article-1.1019669

[8] Goldstein, Joseph. (Feb. 9, 2012). "After suspect's Killing, Kelly Orders Review of Drug Units." *The New York Times*. Retrieved from http://www.nytimes.com/2012/02/10/nyregion/after-suspect-dies-kelly-plans-review-of-drug-units.html?_r=0

[9] Goldstein, Joseph. (May 13, 2012). "Officers Testify Before Grand Jury in Shooting of Bronx Teenager." *The New York Times*. Retrieved from http://www.nytimes.com/2012/05/14/nyregion/grand-jury-investigating-bronx-shooting-death-hears-officers-testimony.html

[10] Goldstein, Joseph. (Feb. 22, 2012). "Police Unit Faces Scrutiny After Fatal Shooting in the Bronx". *The New York Times*. Retrieved from http://www.nytimes.com/2012/02/23/nyregion/police-unit-faces-scrutiny-after-ramarley-grahams-death-in-the-bronx.html

By May of 2012, the Bronx County DA had convened a grand jury that was hearing testimony in the case. On May 13, 2012, *The New York Times* reported[11] that at least three officers had already testified, and that family members were scheduled to appear "in the coming days", citing "several people briefed on the investigation." The *Times* also reported the following accounts:

- "Graham had come to the attention of the police as he and two friends emerged from a bodega"
- "[A]n observation team of two police officers drove up White Plains Road and onto East 229th Street following Mr. Graham and his two friends as they made a brief stop on the building on that block"
- "Mr. Graham emerged from the building alone, and one of the two officers in the observation car said over the police radio that he could see a firearm"
- "The other observation officer offered a less definitive response: he could see a black object in Mr. Graham's waistband" (citing "two people familiar with the account that the two officers gave to investigators")
- When Morris "asked the two officers to confirm the gun sighting, …This time, both officers said they were certain the object was a gun"
- "But the two officers did not follow Mr. Graham as he walked down East 229th Street to his home on the opposite side of the street…Instead, they went into the building from which he had emerged, in order to find his two friends and question them"
- "At the same time, a second group of officers from the narcotics team, including Officer Haste, drove down East 229th Street and spotted Mr. Graham as he crossed the street toward his home" (citing Graham family attorney Jeffrey Emdin, Esq., quoting Kelly)
- "[A]s the officers passed Mr. Graham, they saw what they believed to be a gun" (same)

At some time before June 11, 2012, the grand jury voted to indict Haste on first-and-second degree manslaughter charges. At Haste's June 13, 2012 arraignment on those charges, according to a *New York Times* article published the same day[12], he pleaded not guilty and was released after posting $50,000 bail. Also according to *The Times*, Haste's attorney, Stuart London, Esq., publicly represented that Haste had told the grand jury:

- "'I thought he was going to kill me, so I shot him'"

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[11] Goldstein, Joseph. (May 13, 2012). "Officers Testify Before Grand Jury in Shooting of Bronx Teenager." *The New York Times*. Retrieved from http://www.nytimes.com/2012/05/14/nyregion/grand-jury-investigating-bronx-shooting-death-hears-officers-testimony.html

[12] Barakat, Zena and Leonard, Randy. (June 13, 2012). "Officer Had 'No Choice' in Bronx Man's Shooting, His Lawyer Says in Court". *The New York Times*. Retrieved from http://www.nytimes.com/2012/06/14/nyregion/officer-pleads-not-guilty-in-ramarley-graham-shooting.html?_r=0

- "Haste had heard officers say, 'I see the weapon; it's on him,' and, 'I see the handle of a weapon'"
- "'When … Haste confronted [Mr. Graham, Haste] said: 'Show me your hands. Show me your hands'"
- "After he fired his weapon, […Haste] yelled: 'Gun! Gun!'"

On February 1, 2013, as the Bronx prosecution against Haste was ongoing, Mr. Graham's Estate, his parents, Ms. Hartley, and Mr. Campbell filed suit in New York State Supreme Court, Bronx County, against the City of New York, Kelly, Haste, Morris, and others, seeking monetary damages related to Mr. Graham's death. In March of 2013, the case was removed to the United States District Court for the Southern District of New York, where it was assigned to United States District Judge P. Kevin Castel. In court papers filed in May of 2013, lawyers for the City represented to the Court that there was "a pending [Internal Affairs Bureau or] IAB investigation against [Haste] which [would] not be resolved until after the completion of the criminal prosecution."

On May 15, 2013, Acting Justice Steven Barrett dismissed the indictment the Bronx grand jury had returned against Haste on the grounds that the prosecution had improperly instructed the grand jury in sum and substance that it did not have to consider communications from fellow police officers allegedly made to Haste, including some purportedly recorded police communications, saying or suggesting that Graham had a gun.

The Bronx DA presented evidence to a second grand jury related to Haste's shooting and killing of Mr. Graham in around August of 2013. On August 8, 2013, the second grand jury declined to indict Haste related to Mr. Graham's death. According to an article appearing in *The New York Times* on the same date[13], Haste had testified to the grand jury over five hours that he had "confronted [Mr. Graham] in the bathroom and shot him, after he mistakenly interpreted a gesture as Mr. Graham reaching for a gun," and that Haste had "repeatedly directed Mr. Graham to 'show me your hands.'"

Also according to *The Times* as reported on August 8, 2013, the second grand jury's decision not to indict Haste "was met with shock from the Bronx district attorney, …and it prompted calls for a federal civil rights investigation and an independent prosecutor" as a result of which, "[b]y late afternoon, the United States attorney's office in Manhattan [headed by Preet Bharara] said it would review the evidence to 'determine whether there were any violations of federal civil rights laws.'" *The Times* noted that Haste still faced a "federal inquiry [from the United States Department of Justice] and a disciplinary review" from the NYPD. Mr. Graham's parents had been demanding a United States Department of Justice ("DOJ") investigation through their attorneys in the civil suit since February of 2012.

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[13] Goldstein, Joseph. (Aug. 8, 2013). "Grand Jury Decides Not to Charge Officer Who Fatally Shot Unarmed Youth in Bronx." *The New York Times*. Retrieved from http://www.nytimes.com/2013/08/09/nyregion/grand-jury-declines-to-indict-officer-in-death-of-unarmed-youth.html.

A year passed after August 8, 2013, and Mr. Graham's family had heard nothing from the DOJ. On August 20, 2014, Constance Malcolm and Franclot Graham and allies delivered a petition containing around 33,000 signatures to the United States Attorney's Office for the Southern District of New York ("USAO-SDNY") and rallied outside U.S. Attorney Preet Bharara's offices demanding that the DOJ review the case. Also on August 20, 2014, after the action, the USAO-SDNY made a statement confirming that it was conducting an "independent review of the evidence."

On September 17, 2014, Mr. Graham's parents met with U.S. Attorney Bharara and staff, who confirmed that the USAO-SDNY was conducting an investigation into Mr. Graham's death. The Graham family and their allies kept up the pressure on the DOJ. On December 20, 2014, Mr. Graham's family and allies held another rally and direct action targeting the USAO-SDNY to demand that the DOJ take action against the police involved in Mr. Graham's death.

In January of 2015, the City and the NYPD officer defendants settled the civil suit then pending against them in the United States District Court for the Southern District of New York for a total of $3.9 million. Mr. Graham's family and allies still kept up the pressure on DOJ. On July 23, 2015, Mr. Graham's family and allies again rallied outside the USAO-SDNY calling for the DOJ to take action against Haste. On December 21, 2015, *The Huffington Post* reported[14] that Haste had received $25,000 in raises from the NYPD since shooting and killing Mr. Graham.

In January of 2016, then-NYPD Commissioner William Bratton told New York City Council Members at a Black, Latino, and Asian Caucus meeting who had inquired about the status of the NYPD's investigations into Mr. Graham's shooting that the DOJ "directly asked the police department to withhold the Internal Affairs findings, delaying any departmental trial or discipline officer Haste might face," *The Huffington Post* reported[15] on February 3, 2016. After the DOJ denied ever making such a request of the NYPD, this was later revealed to be false information conveyed by Commissioner Bratton to elected officials.

On February 2, 2016 – the four-year anniversary of Mr. Graham's death – the Graham Family attempted to deliver a letter to Mayor Bill de Blasio and his wife Chirlane McCray at City Hall, calling on Mayor de Blasio and Bratton to fire Haste and the other officers involved in the shooting and in attempting to cover it up, and then, after leaving the letter with City Hall staff, again rallied outside the USAO-SDNY, this time staging a vigil and overnight occupation that lasted until February 3, 2016.

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[14] Mathias, Christopher. (Dec. 21, 2015). "Cop Who Gunned Down Ramarley Graham Gets A Raise." *The Huffington Post*. Retrieved from http://www.huffingtonpost.com/entry/ramarley-graham-nypd-richard-haste_us_567455d4e4b0b958f6567aa0

[15] Mathias, Christopher. (Feb. 4, 2016). "Why Ramarley Graham's Parents Just Slept On The DOJ's Steps." *The Huffington Post*. Retrieved from http://www.huffingtonpost.com/entry/why-ramarley-grahams-parents-just-slept-on-the-dojs-steps_us_56b1ee3be4b08069c7a58195

On March 8, 2016, Mr. Graham's parents again met with U.S. Attorney Bharara, who revealed at that meeting that the DOJ would not be pursuing criminal charges. The USAO-SDNY confirmed as much in a statement later that day. *The New York Times* reported[16] that Mr. Bharara's office said that, after a "'thorough and independent investigation'" there had been "'insufficient evidence to meet the high burden of proof required for a federal criminal civil rights prosecution.'" *The Times* also referred to a statement from Haste that "Mr. Graham appeared to be pulling something from his waistband at the time of the shooting" as well as "[v]ideo evidence from a nearby business [allegedly showing] Mr. Graham adjusting the front of his pants as he walked northbound on White Plains Road near the bodega". *The Times* noted that Haste was then still "on modified assignment, or desk duty" according to the NYPD and that the NYPD said in a statement: "Now that the federal investigation into the Ramarley Graham case has concluded, the NYPD's internal disciplinary process will move forward."

On March 10, 2016, *The New York Times* confirmed[17] that the NYPD's "long-delayed internal case against" Haste would proceed, noting that "The department filed internal disciplinary charges in June 2012 against Officer Haste, … as well as against a sergeant from the unit and another officer." *The Times* quoted Bratton as saying: "Normally, when the federal agencies begin an investigation, usually a civil rights investigation, we take a step back until they finish their investigation,…And that's what we did [in Mr. Graham's case]."

Ms. Malcolm called Bratton a "bald-faced liar", *The Huffington Post* reported[18] on March 10, 2016, "claiming the commissioner lied about when the department could discipline the officers responsible" for Mr. Graham's death. Ms. Malcolm also said that Mr. Bharara had "told her that neither his office, nor anyone else at the Department of Justice, ever told the NYPD to postpone its Internal Affairs investigation into the fatal police shooting of Graham, nor to hold off on disciplining the officers involved." The NYPD Director of Communications reportedly "told *The Huffington Post* that if Bratton said the DOJ made the request, then the DOJ made the request."

According to a March 10, 2016 *Politico* article[19], at a City Hall rally on March 10, 2016, members of the New York City Council's Black, Latino, and Asian Caucus accused Bratton of misleading them "about the NYPD's inaction following the police

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[16] Santora, Marc and Weiser, Benjamin. (March 8, 2016). "Officer in Ramarley Graham Shooting Won't Face U.S. Charges." *The New York Times*. Retrieved from http://www.nytimes.com/2016/03/09/nyregion/officer-in-ramarley-graham-shooting-wont-face-us-charges.html

[17] Baker, Al and Southall, Ashley. (March 10, 2016). "Officer in Fatal Shooting of Ramarley Graham Faces Police Dept. Charges." *The New York Times*. Retrieved from http://www.nytimes.com/2016/03/11/nyregion/officer-in-fatal-shooting-of-ramarley-graham-faces-police-dept-charges.html

[18] Mathias, Christopher. (March 10, 2016). "NYPD Commissioner Bratton Is A 'Bald-Faced Liar,' Says Ramarley Graham's Mother". Retrieved from http://www.huffingtonpost.com/entry/nypd-commissioner-bratton-lied-ramarley-graham_us_56e18716e4b065e2e3d4e81e

[19] Paybarah, Azi. (March 10, 2016). "City Lawmakers say Bratton misled them on Graham probe." *Politico*. Retrieved at http://www.politico.com/states/new-york/city-hall/story/2016/03/city-lawmakers-say-bratton-misled-them-on-graham-probe-032214

shooting death of Ramarley Graham" during the January 2016 meeting Bratton held with the Caucus. According to the March 10, 2016 *Huffington Post* article, 24 New York City Council members associated with the Black, Latino, and Asian Caucus "sent Bratton a letter asking him to fire the officers involved in Graham's death."

According to the March 10, 2016 *Politico* article, Bratton himself reportedly addressed the accusations at a press conference and said: "'The miscommunication I think you're referencing is, I think, in a previous hearing before the Council, I may have referenced that it was my understanding at that time that the U.S. Attorney may have asked us to put our investigation on hold. That was not the case in this instance, but as I already indicated, we on our own would step back so we don't step on a criminal investigation that they were conducting, a civil rights investigation." *Politico* also reported that, after Bratton made those statements, an NYPD spokesperson explained: "The department conducted an internal investigation after the shooting, and served the officer involved with charges before the statue of limitations on the matter expired. What was not conducted were the negotiations and a possible trial inside of the NYPD."

As seen, there are no state or federal criminal charges, or civil cases, pending against Haste or any of the other officers involved in Mr. Graham's shooting or any investigations related to it.

Nor can such criminal charges or civil cases be brought in the future.

On September 22, 2016 – more than four and a half years after Haste shot and killed Mr. Graham - *The Wall Street Journal* reported that the NYPD was "preparing to hold a disciplinary trial for" Haste, who had "been stripped of his badge and gun and placed on modified duty since the February 2012 shooting, working in a non-enforcement role…according to people familiar with the matter".[20]

It is unclear which charges Haste may face, when the trial may go forward, or whether any other charges or disciplinary actions have been or will be pursued against Morris or any other NYPD officers related to Haste's shooting and killing Mr. Graham, or related police misconduct after the shooting.

THE FOIL REQUESTS

The requesters seek disclosure of records regarding: NYPD Officer Richard Haste's shooting and killing of Ramarley Graham on February 2, 2012; the underlying circumstances; misconduct related to the shooting, investigations into the shooting, and statements made to or by the NYPD to the media and/or prosecutors; investigations, disciplinary actions, and prosecutions undertaken or contemplated regarding the shooting and related events (such as leaking confidential information to the media related to Mr. Graham and the shooting); the outcomes of any such investigations, disciplinary actions,

[20] Shallwani, Pervaiz and Dawsey, Josh. (Sept. 22, 2016). "NYPD Plans Trial for Officer Who Killed Unarmed Black Teen." *The Wall Street Journal*. Retrieved at http://www.wsj.com/articles/nypd-plans-trial-for-officer-who-killed-unarmed-black-teen-1474570615

or prosecutions; relevant NYPD procedures and practices; communications between the NYPD and City Hall and other agencies about Mr. Graham's shooting or related investigations, disciplinary actions, and prosecutions; and the other records described below, created between February of 2012 and the present, unless otherwise limited.

1. Records reflecting any "tips", complaints, observations, other reports, regarding purported drug sales, or other criminal conditions, at the bodega at East 228th Street and White Plains Road between March 1, 2011 and March 1, 2012, or law enforcement action taken in response thereto (including, but not limited to, surveillance, performing street stops, issuing summonses, making arrests, or taking other law enforcement action) including, but not limited to, any such "tips", complaints, observations, other reports, or law enforcement actions taken at or related to the bodega on February 2, 2012

2. Tactical or other plan(s) for February 2, 2012 related to the SNEU team to which Haste and Morris were assigned on February 2, 2012, including such plan(s) related to observing the bodega at East 228th Street and White Plains Road

3. 47th Precinct Roll Calls (PD 406-144 forms[21]) for all tours on February 2-3, 2012
4. Command Log(s) from the 47th Precinct from February 2-3, 2012

5. Unusual Occurrence Reports (PD 370-152/PD 370-151) created consistent with PG 212-09 ("Unusual Occurrence Reports"), UF-49s, Unusual Incident Reports, DD-5s, handwritten notes, and any other records, memorializing observations, statements, or other facts about:

    a. Purported drug sales, or other criminal conditions at the bodega at East 228th Street and White Plains Road between March 1, 2011 and March 1, 2012, and any law enforcement responses thereto
    b. Mr. Graham's conduct, or the conduct of Mr. Graham's two perceived friends, on February 2, 2012, prior to Haste's shooting Mr. Graham
    c. Mr. Graham's shooting on February 2, 2012, or the conduct of any NYPD officer leading up to or after the shooting, related to the shooting, Mr. Graham's injuries, medical care provided to Mr. Graham, searches for marijuana, a gun, or any other evidence related to the shooting, and any steps taken to ensure the integrity of the scene of the shooting
    d. Investigations, disciplinary actions, or prosecutions undertaken or contemplated related to Mr. Graham's shooting or misconduct related to Mr. Graham's shooting, including, but not limited to, unauthorized statements made by NYPD officers to the media related to Mr. Graham's shooting

6. Recordings of, and other records reflecting the contents of, NYPD communications[22] from February 2-3, 2012 among or initiated by 47th Precinct

[21] Throughout, such references are to numbered "PD" forms in the manner such forms are identified in the 2012 NYPD Patrol Guide (the "PG").

SNEU officers, or any other NYPD officers, regarding Mr. Graham, Mr. Graham's two perceived friends, Haste's shooting Mr. Graham, requests for medical assistance for Mr. Graham, searches regarding the shooting, related investigations, witness statements, or any other, related events on February 2-3, 2012

7. Recordings of 311 or 911 calls regarding Mr. Graham, Mr. Graham's two perceived friends, Haste's shooting Mr. Graham, requests for medical assistance related to Haste's shooting of Mr. Graham, searches related to the shooting, investigations into any of those events, or any other, related events on February 2, 2012
   SPRINT recordings including job runs related to Mr. Graham, his shooting, or any related events on February 2, 2012 and, any related SPRINT printouts or indices

8. Activity Log (PD112-145), Memo Book, Investigator's Daily Activity Report, Daily Activity Report (PD 439-156), or other, similar NYPD records documenting observations and/or events created pursuant to PG 212-08 ("Activity Logs") or other NYPD procedure covering February 2-3, 2012 by Haste, Morris, Horne, Jarvis, "Jane Doe," and any other NYPD officers who:

   a. Allegedly observed Mr. Graham or the two perceived friends with whom he allegedly was prior to his death on February 2, 2012
   b. Responded to the scene of Mr. Graham's shooting within 2 hours of Haste's shooting Mr. Graham on February 2, 2012
   c. Interacted in any way with Mr. Graham, Ms. Hartley, Ms. Malcolm, Franclot Graham, or Mr. Campbell on February 2, 2012

9. Records related to the detentions or arrests of the two people perceived to be Mr. Graham's friends on February 2, 2012, including any related memo book entries, Stop, Question, and Frisk Reports, summonses, and/or Desk Appearance Ticket processing/arrest processing paperwork

10. Records memorializing or reflecting Haste's use of force on Mr. Graham, NYPD uses of force against Mr. Graham's family (including Ms. Hartley and Ms. Malcolm) on February 2, 2012, and any purported justifications for them, including, but not limited to, any such documents required to be created under PG 203-11 ("Use of Force") or other NYPD procedure

11. NYPD AIDED Report Worksheet(s) (PD 304-152b), and any other NYPD records related to or reflecting Mr. Graham's injuries, or medical treatment sought for or given to Mr. Graham, on February 2, 2012, prepared pursuant to PG 216-01

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[22] Please construe the term "communications" to include without limitation all police communications made no matter how they were transmitted, including communications made over SNEU "tactical" or other radio, and/or any "tactical", "division" and "citywide" or other radio or other communications channel(s).

("Aided Cases – General Procedure"), 216-02 ("Preparation Of Aided Report Worksheet") or other NYPD procedure

12. Any other records related to the ambulance or other emergency medical response to Mr. Graham's shooting on February 2, 2012, including records identifying the ambulance or other emergency medical responders on February 2, 2012, the time such ambulance or other emergency medical responders were called, and the time such ambulance or other emergency medical responders left the area, including, but not limited to, any relevant Ambulance Call Report or other, similar records

13. Crime Scene Unit or other records depicting or reflecting evidence from inside or outside Ms. Malcolm's apartment related to the shooting on February 2-5, 2012, including, but not limited to, photographs or video or other records depicting Mr. Graham, Haste's firearm, marijuana allegedly recovered from within the apartment, blood splatter, Mr. Graham's clothes, or any other evidence

14. Records reflecting steps taken by NYPD officers to preserve or document evidence related to the shooting inside or outside Ms. Malcolm's apartment, including, but not limited to, photographs or video depicting the scene of the shooting or any related evidence, and any such records reflecting compliance with PG 212-04 ("Crime Scene") and/or Interim Order 70 Issued November 13, 2009, or any other NYPD procedures, related to integrity and treatment of crime scenes

15. Records reflecting the treatment by NYPD officers and emergency medical responders of Mr. Graham's body after he was shot and before he was pronounced dead by the Office of the Chief Medical Examiner shortly before 4:00 p.m. on February 2, 2012 and the chain of custody of Mr. Graham's body, including, but not limited to, any Identification Tag (PD 317-091) or other records created consistent with PG Section 216-04 ("Dead Human Body General Procedure"), as well as any other records reflecting who interacted with Mr. Graham's body between 3:00 p.m. and 4:00 p.m., or in what manner

16. Records reflecting which steps NYPD officers took to notify Mr. Graham's family about his death or the circumstances surrounding his death, and when, including, but not limited to, any such records created consistent with PG 216-15 ("Notifications") regarding procedures to be followed "[w]hen it is necessary to notify relatives/friends of a deceased … person"

17. Records created consistent with PG Section 218-28 ("Safeguarding Property of Deceased Persons") or other NYPD procedure regarding the safeguarding, seizure, chain of custody, or testing of property related to Mr. Graham's shooting, including, but not limited to, Haste's firearm and the marijuana allegedly recovered from the apartment, including, but not limited to, any of the following records:

    a. Property Clerk Invoice Worksheet (PD 521-141A)
    b. Property Clerk Invoice (PD 521-141)

c. Evidence Transmittal Report (PD 521-158)
d. Request for Laboratory Examination Report – First Sheet (PD 521-165)
e. Request for Laboratory Examination Report – Second Sheet (PD 521-165A)
f. Request for Laboratory Examination Report – Third Sheet (PD 521-165B)

18. Firearm Discharge/Assault Report (PD 424-151) related to Haste's shooting Mr. Graham and any other reports or records related to or created as a result of Haste's discharge of his firearm on February 2, 2012, including, but not limited to, reports related to any ballistics, gun residue, blood splatter, forensic, or other testing, and all documents required to be created when an officer shoots their firearm and kills someone by PG 205-08 ("Trauma Counseling Program"), 206-17 ("Removal and Restoration of Firearms"), 212-29 ("Firearms Discharge by Uniformed Members of the Service"), 212-53 ("Command Responsibilities When A Person Dies Or Sustains A Serious Injury In Connection With Police Activity"), and Interim Order No. 52, issued September 30, 2007 ("Alcohol Testing for Uniformed Members Of The Service Involved In Firearms Discharges Resulting In Injury To Or Death Of A Person") or other NYPD procedure

19. Records created consistent with PG Section 218-23/Interim Order 7 Issued February 13, 2009 ("Processing Firearm and Firearm-Related Evidence") related to Haste's shooting of Mr. Graham, Haste's firearm, or its chain of custody, testing, or other treatment after Haste's shooting of Mr. Graham, including, but not limited to, any relevant forms listed in Request No. 17 above, or any other forms to be created according to NYPD procedure

20. Records created consistent with PG Section 218-04 ("Delivery Of Evidence To The Police Laboratory")/Interim Order 59 Issued December 12, 2007 or other NYPD procedure related to Haste's shooting of Mr. Graham and the treatment, testing, and chain of custody of any evidence related to it, including, but not limited to, marijuana allegedly recovered from the apartment, Haste's firearm, blood splatter, gunshot residue, Mr. Graham's clothing, or the safeguarding, seizure, chain of custody, or testing of any such evidence, including, but not limited to, any relevant forms listed in Request No. 17 above, or any other forms to be created according to NYPD procedure

21. Records, including video or audio recordings and handwritten notes, reflecting interviews/interrogations of or statements given by NYPD officers, including statements given pursuant to GO-15 or PG 206-13 ("Interrogation of Members of the Service") and all other statements, related to Mr. Graham's shooting or related events, and any related investigations, disciplinary proceedings, or prosecutions undertaken or contemplated, including, but not limited to, any such interviews/interrogations of or statements given by Haste, Morris, Horne, Jarvis, "Jane Doe", and any other NYPD officer, regarding Mr. Graham's shooting
22. Records, including video or audio recordings and handwritten notes, reflecting civilian interviews or statements given by non-NYPD officers related to Mr.

Graham's shooting or any related events, and any related investigations, including, but not limited to, any such interviews of Ms. Hartley and/or Ms. Malcolm by the Office of the District Attorney of Bronx County and/or NYPD's Internal Affairs Bureau ("IAB") or any other NYPD officers

23. Records, including video or audio recordings and handwritten notes, reflecting police observations of or interactions with members of Mr. Graham's family on February 2, 2012, including, but not limited to, any such interactions with Ms. Hartley, Ms. Malcolm, Mr. Campbell, or Franclot Graham

24. Records regarding investigations and disciplinary actions contemplated or taken (including any command disciplines or charges and specifications levied) related to Mr. Graham's shooting or other events related to Mr. Graham's shooting (such as leaking information about Mr. Graham, Mr. Graham's shooting, or related investigations or disciplinary proceedings, to the media), including, but not limited to, any such records created pursuant to PG Sections 206-01 ("Reporting Violations Observed By Supervisors"), 206-02 ("Command Discipline"), 206-03 ("Violations Subject To Command Discipline"), 206-04 ("Authorized Penalties Under Command Discipline"), 206-05 ("Preparation of Charges and Specifications"), 206-06 ("Service And Disposition Of Charges and Specifications"), 206-07 ("Cause For Suspension or Modified Assignment"), 206-08 ("Suspension From Duty Uniformed Member Of The Service"), 206-10 ("Modified Assignment"), 206-11 ("Member Of The Service Arrested"), 206-13 ("Interrogation Of Members Of The Service"), and 206-16 ("Review of Arrest Cases Involving Member of the Service as Defendant"), including, but not limited to, any related Charges and Specifications (PD 468-121) records, and records related to any related disciplinary processes (including such processes arising from any command disciplines or charges and specifications levied) and their dispositions

25. Records from the Office of the Chief Medical Examiner for the City of New York or the Fire Department of the City of New York related to Mr. Graham's shooting, injuries, medical treatment, body, or autopsy

26. To the extent not already subject to disclosure based on another request herein, any other records, including handwritten notes, video or audio recordings, including, but not limited to, any video from Video Interactive Patrol Enhancement Response ("VIPER") cameras or other sources, and/or photographs, documenting:

    a. Observations of the bodega at East 228th Street and White Plains Road on February 2, 2012
    b. Observations of White Plains Road between East 228th Street and East 229th Street on February 2, 2012
    c. Observations of the home at 728 East 229th Street on February 2-5, 2012
    d. Observations of Mr. Graham's two perceived friends on February 2, 2012

e. Police observations of and interactions with Mr. Graham, including, but not limited to, any observations related to

   i. Mr. Graham's waistband or pants on February 2, 2012
   ii. Whether Mr. Graham possessed a gun on February 2, 2012
   iii. Whether Mr. Graham possessed marijuana on February 2, 2012
   iv. Whether Mr. Graham presented any threat to police or anyone else on February 2, 2012
   v. Whether Haste, Morris, Horne, Jarvis, "Jane Doe", or any other SNEU officer was wearing a uniform identifying them as police on February 2, 2012, before Haste shot Mr. Graham
   vi. Whether police communicated with Mr. Graham verbally before forcing their way into the house in which Mr. Graham's apartment was located on February 2, 2012
   vii. Whether Mr. Graham ran from or attempted to evade police on February 2, 2012

f. Circumstances leading up to NYPD entry into 749 East 229th Street on February 2, 2012
g. Circumstances leading up to NYPD entry into Ms. Malcolm's apartment on February 2, 2012
h. Circumstances leading up to Mr. Graham's death, including, but not limited to, whether Mr. Graham struggled with Haste, and any statements made by Haste to Mr. Graham or any statements made by Mr. Graham to Haste before Haste shot Mr. Graham
i. The scene of Mr. Graham's shooting in February of 2012, including any crime scene photographs or video
j. Marijuana allegedly recovered from the scene of Mr. Graham's shooting
k. 749 East 229th Street, Mr. Graham, and anyone else, including NYPD officers, in the vicinity thereof, between February 2-5, 2012
l. The entrance to and the second floor detective area within the NYPD's 47th Precinct stationhouse on February 2, 2012 between 3:30 p.m. and 11:00 p.m. on February 2, 2012
m. Statements related to Mr. Graham's death and any related investigations, disciplinary actions, or prosecutions contemplated or undertaken, including, but not limited to, any such statements given by Ms. Hartley, Ms. Malcolm, Mr. Campbell, Haste, Morris, Horne, Jarvis, "Jane Doe", or any other person

27. Communications with the press by the NYPD, and statements to the press made by the NYPD, including the NYPD's Deputy Commissioner of Public Information ("DCPI") or DCPI officers, regarding Mr. Graham, Mr. Graham's shooting, and any related events, including, but not limited to, any related investigations, disciplinary actions, or prosecutions

28. Notes and other records relied on, or containing information relied on, by Kelly and Browne or any other NYPD personnel in February of 2012 in making the public statements to the press described in the February 2, 2012, February 3, 2012, February 4, 2012, and February 22, 2012 *New York Times* articles, and in the February 3, 2012 and February 5, 2012 *Wall Street Journal* article, described in the BACKGROUND section above

29. Notes and other records relied on, or containing information relied on, by Kelly and Browne in making any other public statements to the press described in the BACKGROUND section above in February of 2012 about Mr. Graham, Haste's shooting and killing of Mr. Graham, or any related investigations, disciplinary actions, or prosecutions undertaken or contemplated, including, but not limited to, statements about whether:

    a. Mr. Graham had a gun on February 2, 2012
    b. Mr. Graham possessed marijuana on February 2, 2012
    c. Police said anything to Mr. Graham on February 2, 2012 prior to Haste's shooting Mr. Graham, and if so, what, when, and where
    d. Haste, Morris, Horne, Jarvis, "Jane Doe", or any other SNEU officer was wearing a uniform identifying them as police before Haste shot Mr. Graham
    e. Mr. Graham fled from the police on February 2, 2012
    f. Mr. Graham struggled with police in Mr. Graham's apartment on February 2, 2012

30. Records reflecting the means by which NYPD officers may electronically access criminal history information sealed pursuant to CPL 160.50 or 160.55, including any manual or other document related to any NYPD electronic access systems
31. Records reflecting any NYPD searches of Mr. Graham's criminal history information sealed pursuant to CPL 160.50 or 160.55 between February 2-5, 2012, including records identifying the dates of any such searches and the identities of any NYPD officers who made any such searches

32. Records regarding any investigations into the release of Mr. Graham's criminal history information by an NYPD officer or officers to *The Wall Street Journal*, which was published by *The Wall Street Journal* on February 3, 2012
33. Records reflecting any investigations into the release of other information to the media described in the BACKGROUND section above related to Mr. Graham's case by NYPD officers other than Kelly or Browne

34. To the extent not already subject to disclosure based on another request made herein, records related to NYPD investigations arising from Mr. Graham's shooting or any events related to Mr. Graham's shooting (such as leaking information about Mr. Graham, Mr. Graham's shooting, or related investigations or disciplinary proceedings to the media), including, but not limited to, any such investigations by the NYPD's:

a. Crime Scene Unit
b. Firearms Discharge Unit
c. Internal Affairs Bureau
d. Detective Bureau
e. Homicide Bureau
f. Chief of Department – Investigation Review Section
g. Disciplinary Assessment Unit
h. Personnel Bureau
i. Department Advocate's Office
j. Police Laboratory

35. To the extent not already subject to disclosure based on another request made herein, records related to disciplinary actions (including, but not limited to, imposing command disciplines or bringing charges and specifications) contemplated or taken against Morris, Haste, or any other NYPD officer(s) related in any way to events concerning Mr. Graham's shooting

36. To the extent not already subject to disclosure based on another request made herein, records containing the names of or otherwise identifying:

    a. SNEU officers who were on duty on February 2, 2012 within the confines of the 47th Precinct, including, but not limited to, 47th Precinct SNEU officers
    b. The 47th Precinct SNEU officer who was Haste's "partner" on February 2, 2012
    c. The NYPD officers who were participating in what the February 3, 2012 *New York Times* article quoted Kelly as calling the "narcotics team [that] had been staking out [the] bodega at East 228th Street and White Plains Road" on February 2, 2012
    d. The "four officers" whom the February 5, 2012 *Wall Street Journal* article quoted Kelly as saying "were monitoring" the bodega on February 2, 2012
    e. The 47th Precinct's SNEU "back-up team" on February 2, 2012
    f. The "observation team of two police officers" who reportedly testified to the first Bronx grand jury that they followed Mr. Graham and his two perceived "friends as they made a brief stop on the building of the block" according to *The New York Times*; May 13, 2012 report
    g. The SNEU officers who detained or arrested the people referred to as "two friends" of Mr. Graham
    h. NYPD officers or other persons who observed Mr. Graham on February 2, 2012 before Haste shot Mr. Graham
    i. NYPD officers or other persons who entered Mr. Graham's apartment on February 2, 2012 before Haste shot Mr. Graham
    j. NYPD officers or other persons who entered Mr. Graham's apartment on February 2, 2012 after Haste shot Mr. Graham

k. NYPD officers or other persons who entered Mr. Graham's house or property surrounding the house, including the backyard, sides, or front of the house on February 2, 2012 before Haste shot Mr. Graham
l. NYPD officers or other persons who entered Mr. Graham's house or property surrounding the house, including the backyard, sides, or front of the house on February 2, 2012 within 2 hours after Haste shot Mr. Graham
m. NYPD officers or other persons (including any FDNY or other emergency medical responders) who provided medical care to Mr. Graham after he was shot
n. NYPD officers or other persons (including any FDNY or other emergency medical responders) who touched Mr. Graham or Mr. Graham's body after he was shot
o. NYPD officers who escorted Ms. Hartley from the area of the apartment on 728 East 229th Street to the 47th Precinct stationhouse on February 2, 2012
p. NYPD officers who detained, interrogated, interviewed, or used force on Ms. Hartley on February 2, 2012
q. NYPD officers who escorted Ms. Malcolm from the area of the apartment on 728 East 229th Street to the 47th Precinct stationhouse
r. NYPD officers who detained, interrogated, interviewed, or used force on Ms. Malcolm on February 2, 2012
s. NYPD officers who escorted Mr. Campbell from the area of the apartment on 728 East 229th Street on February 2, 2012
t. NYPD officers who detained, interrogated, interviewed, or used force on Mr. Campbell on February 2, 2012
u. NYPD officers, and any other persons, who were with Mr. Campbell after the time he was separated from Ms. Hartley in her apartment up until the time he was released to Ms. Malcolm on February 2, 2012

37. Records related to any Civilian Complaint Review Board ("CCRB") complaints or investigations related to Mr. Graham's shooting or any events related to Mr. Graham's shooting, including, but not limited to, any such records created pursuant to PG 211-14 ("Investigations By Civilian Complaint Review Board") and any related Request For Records And/Or Information Regarding CCRB Case (PD 149-164) forms
38. Records related to any CCRB Complaints against the 47th Precinct's SNEU Unit, Haste, Morris, or any other member of the 47th Precinct's SNEU Unit, between 2005 and 2013, including, but not limited to, any such records created pursuant to PG 211-14 ("Investigations By Civilian Complaint Review Board") and any related Request For Records And/Or Information Regarding CCRB Case (PD 149-164) forms

39. Documents reflecting NYPD policies in 2012, including Patrol Guide Provisions, Interim Orders, NYPD Legal Bureau Bulletins, Administrative Orders, FINEST messages, and other, similar documents regarding:

a. Entries to homes and/or apartments without prior, written, judicial authorization
b. What constitutes exigent circumstances, related to such entries without prior, written, judicial authorization
c. Police uses of force and any requirement to report uses of force
d. Police uses of deadly force and any requirement to report uses of deadly force
e. Police uses of firearms and any requirement to report uses of deadly force involving them
f. Establishing and maintaining the integrity of the scene of a crime and/or at a scene containing evidence of a police shooting
g. Preserving evidence at the scene of a crime and/or at a scene containing evidence of a police shooting
h. Searching an area such as Mr. Graham's apartment, the home in which the apartment is located, and the yard and area around the home for evidence related to a crime or shooting
i. Testing of firearms, blood splatter, clothing, or other evidence related to a police shooting scene
j. Investigations into police uses of firearms, deadly force, or police shootings of civilians, including those resulting in death
k. The circumstances under which information related to a shooting, investigation, NYPD disciplinary action, or related prosecution may be released to the media
l. Investigations into/disciplinary actions related to unauthorized disclosure of information related to a shooting, investigation, NYPD disciplinary action, or related prosecution to the media
m. The circumstances under which an NYPD officer is authorized to access criminal history information sealed pursuant to CPL 160.50 or 160.55
n. The circumstances under which an NYPD officer is authorized to disclose to the media criminal history information sealed pursuant to CPL 160.50 or 160.55
o. Investigations into/disciplinary actions related to unauthorized access of criminal history information sealed pursuant to CPL 160.50 or 160.55
p. Investigations into/disciplinary actions related to unauthorized disclosure of criminal history information sealed pursuant to CPL 160.50 or 160.55 to the media
q. Street narcotics/SNEU practices or tactics, including, but not limited to, the SNEU-related classroom training Haste was required to receive, but did not
r. NYPD Disciplinary Matters (*See, e.g.,* PG Sections 206-01 through 206-08, 206-10 through 206-11, 206-13, 206-16), including, but not limited to, NYPD internal investigations, command discipline, and charges and specifications

40. Records reflecting NYPD training in 2012, including the Recruit Training Manual, Police Student's Guide, and other such documents created and utilized

the NYPD's Police Academy or any other NYPD unit involved in training NYPD officers in 2012, regarding the topics identified in Request No. 39 above

41. Records related to any non-NYPD investigations or prosecutions arising from Mr. Graham's shooting or any events related to Mr. Graham's shooting by the DOJ/USAO, USAO-SDNY, Bronx County DA, or any other entity, including, but not limited to, records disclosed by NYPD to any such entity, and all related communications between or among the NYPD and the DOJ/USAO, USAO-SDNY, Bronx County DA, or any other entity, related to Mr. Graham's shooting or any related investigations or prosecutions

42. Records reflecting statements actually or allegedly made to the grand juries in the *People v. Richard Haste* prosecutions, including, but not limited to, minutes of the grand jury proceedings

43. Records reflecting communications between the NYPD and the Office of the Mayor between 2012 and the present regarding investigations, disciplinary actions, or prosecutions related to Mr. Graham's shooting
Records reflecting communications between the NYPD and the New York City Council between 2012 and the present regarding investigations, disciplinary actions, or prosecutions related to Mr. Graham's shooting

44. The "Firearms Discharge Manual, A Guide to the Preparation of a Shooting Incident Report" referred to in PG 212-29(14) and elsewhere in PG 212-29

45. The internal review of NYPD SNEU operations that Kelly ordered be conducted in February of 2012

I look forward to your first response to this request within five business days.

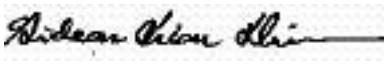
Should you deny any portion of this request based on a determination that you are legally exempt from the disclosure requirement with respect to a particular document, please provide me with a written explanation specifically citing the Public Officers Law § 87(2) category into which you allege that each document allegedly exempt from disclosure falls.

Please articulate particularized and specific justifications for withholding any documents from disclosure.

Additionally, please provide me with the name, email address, mailing address, and facsimile number of the person or body to whom I should direct an administrative appeal of any such potential denial.

Thank you for your prompt attention to this matter.

Yours,



Gideon Orion Oliver, for
Constance Malcolm
Franclot Graham
Communities United for Police Reform
The Justice Committee

cc: Executive Director
Committee on Open Government
New York State Department of State
41 State Street
Albany, New York 12231

March 1, 2017 Ramarley Graham FOIL Administrative Appeal

Exhibit 2

POLICE DEPARTMENT
LEGAL BUREAU
F.O.I.L Unit, Room 110C
One Police Plaza
New York, NY 10038

10/06/16

Gideon Orion Olicer
Gideon Orion Oliver Attorney at Law
277 Broadway
Suite 1501
New York, NY 10007

FOIL Req #: 2016-PL-11348
Your File #:
Re: Ramarley Graham

Dear Sir or Madam:

This is in response to your letter dated 09/29/16, which was received by this office on 09/29/16, in which you requested access to certain records under the New York State Freedom of Information Law (FOIL).

Your request has been assigned to Police Officer Halk (646-610-6430) of this office. Before a determination can be rendered, further review is necessary to assess the potential applicability of exemptions set forth in FOIL, and whether the records can be located. I estimate that this review will be completed, and a determination issued, within ninety business days of this letter.

This is not a denial of the records you requested. Should your request be denied in whole or in part, you will then be advised in writing of the reason for any denial, and the name and address of the Records Access Appeals Officer.

Very truly yours,

Richard Mantellino
Lieutenant
Records Access Officer

March 1, 2017 Ramarley Graham FOIL Administrative Appeal

Exhibit 3

POLICE DEPARTMENT
LEGAL BUREAU
F.O.I.L Unit, Room 110C
One Police Plaza
New York, NY 10038

01/31/17

Gideon Orion Olicer
Gideon Orion Oliver Attorney at Law
277 Broadway
Suite 1501
New York, NY 10007

FOIL Req #: 2016-PL-11348
Your File #:
Re: Ramarley Graham

Dear Sir or Madam:

This is in response to your letter dated 09/29/16, which was received by this office on 09/29/16, in which you requested access to certain records under the New York State Freedom of Information Law (FOIL).

In regard to the documents(s) which you requested, I must deny access to these records on the basis of Public Officers Law Section 87(2)(e)(i) as such records/information, if disclosed would interfere with law enforcement investigations or judicial proceedings.

You may appeal this decision or any portion thereof. Such an appeal must be made in writing within thirty (30) days of the date of this letter and must be forwarded to: Sergeant Jordan S. Mazur, Records Access Appeals Officer, New York City Police Department, One Police Plaza, Room 1406, New York, NY 10038. Please include copies of the FOIL request and this letter with your appeal.

Very truly yours,

Richard Mantellino
Lieutenant
Records Access Officer

March 1, 2017 Ramarley Graham FOIL Administrative Appeal
Appendix A

This Appendix collects links to a small portion of the coverage of Haste's administrative trial in three of New York City's major newspapers available online, organized by date of publication. Additionally, summaries of each appearance are available online, available here: http://www.riseup4ramarley.org/news/?category=court+summary

January 17, 2017

- ***New York Times*** - https://www.nytimes.com/2017/01/17/nyregion/ramarley-graham-nypd-richard-haste.html
- ***New York Daily News*** -http://www.nydailynews.com/new-york/nyc-crime/killed-ramarley-graham-2012-faces-nypd-justice-article-1.2948381
- ***New York Post -*** http://nypost.com/2017/01/17/cop-who-shot-ramarley-graham-botched-protocol-prosecutor/

January 18, 2017

- ***New York Daily News -*** http://www.nydailynews.com/new-york/nyc-crime/nypd-presses-case-killed-ramarley-graham-article-1.2949639

January 19, 2017

- ***New York Daily News -*** http://www.nydailynews.com/new-york/sergeant-charge-ramarley-cops-wrong-article-1.2950995
- ***New York Post -*** http://nypost.com/2017/01/19/cop-who-fatally-shot-ramarley-graham-to-testify-at-trial/
- ***New York Post -*** http://nypost.com/2017/01/19/cop-was-certain-ramarley-graham-had-a-gun-before-partner-shot-him/

January 20, 2017

- ***New York Times*** - https://www.nytimes.com/2017/01/20/nyregion/nypd-police-shooting-ramarley-graham.html
- ***New York Daily News -*** http://www.nydailynews.com/new-york/stands-decision-fatally-shoot-ramarley-graham-article-1.2951562

- ***New York Post -*** http://nypost.com/2017/01/20/cop-who-killed-ramarley-graham-tells-his-side-of-story/

January 21, 2017

- ***New York Daily News -*** http://www.nydailynews.com/new-york/stands-decision-fatally-shoot-ramarley-graham-article-1.2951562

January 23, 2017

- ***New York Daily News -*** http://www.nydailynews.com/new-york/nypd-stay-mum-trial-killed-ramarley-graham-article-1.2953796

- ***New York Post -*** http://nypost.com/2017/01/23/departmental-hearing-ends-for-cop-who-shot-ramarley-graham/

January 25, 2017

- ***New York Times*** - https://www.nytimes.com/2017/01/25/nyregion/ramarley-graham.html

- ***New York Daily News -*** http://www.nydailynews.com/new-york/ramarley-graham-family-learn-disciplinary-trial-outcome-article-1.2955247