

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

----- x

JAMES LOGUE,

Petitioner,

-against-

THE NEW YORK CITY POLICE DEPARTMENT, and  
WILLIAM BRATTON, in his official capacity as  
Commissioner of the New York City Police Department,

Respondents.

**AFFIDAVIT OF MICHAEL  
FITZPATRICK IN SUPPORT  
OF RESPONDENTS'  
VERIFIED ANSWER**

Index No. 153965/2016  
I.A.S. Part 13  
(Mendez, J.)

----- x

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

**MICHAEL FITZPATRICK**, being duly sworn, deposes and says:

1. I have been employed by the New York City Police Department ("NYPD") since 2010 and I currently hold the rank of Agency Attorney. I am assigned to the Police Department's Legal Bureau in the Legal Matters Unit for Intelligence Affairs.

2. I am fully familiar with the facts and circumstances stated herein. This affidavit is based on my personal knowledge, as well as upon information and belief based on information provided by other employees of the NYPD and on records of the NYPD maintained in the ordinary course of business, which I believe to be true and accurate. I submit this affidavit in support of Respondents' Verified Answer to the Petition, and to describe the NYPD's search for records responsive to Petitioner's request under the Freedom of Information Law ("FOIL").

3. In this proceeding, Petitioner appeals NYPD's denial of his FOIL request for "all records pertaining to officers' filming and photographing in Grand Central Station from

November 2014 through January 2015,” including several subcategories of items sought, marked “1” through “6.” A copy of Petitioner’s FOIL request is annexed hereto as Exhibit 1.

4. This office has now made a diligent search for records responsive to Petitioner’s FOIL request. Specifically, we have searched within the Technical Assistance and Response Unit (“TARU”), the Counterterrorism Bureau, the Lower Manhattan Security Initiative Unit, and the Intelligence Bureau. These are the only NYPD units where responsive records would reasonably be located.

5. Pursuant to a diligent search, we did not locate any records responsive to Petitioner’s request for subcategories “2,” “3,” “3,”<sup>1</sup> “5,” or “6.”

6. In response to subcategory “1,” we located multimedia records.

7. Additionally, in response to subcategory “4,” we located three sets of records.

8. The first set of records responsive to subcategory “4” consists entirely of communications between and among NYPD undercover officers and their handlers. We have withheld these records.

9. The second set of records responsive to subcategory “4” consists of a single record, which is a communication from an NYPD officer working in an undercover capacity and his base. We have withheld this record.

10. The third set of records responsive to subcategory “4” are communications from Metropolitan Transit Authority (“MTA”) personnel to NYPD personnel. Petitioner has already received a large quantity of documents from MTA and MetroNorth in response to an identical FOIL request he had previously made to those agencies. See Petition, at ¶14. I thus

---

<sup>1</sup> The FOIL request includes two subcategories numbered “3.”

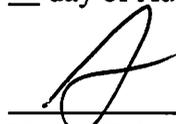
compared the set of documents Petitioner apparently received from these agencies with NYPD's own files and, with respect to communications from MTA personnel, have found NYPD's responsive records to be virtually the same set of files. I located two additional records, which apparently had not been previously disclosed by the MTA to Petitioner. Accordingly, those two records were disclosed to Petitioner, through his attorney, by email on August 22, 2016. Thus, all communications from MTA personnel to NYPD personnel that are responsive to Petitioner's request, and which are in NYPD's possession, have now been disclosed to Petitioner, whether by MTA or by NYPD.

11. Accordingly, the only responsive records NYPD has withheld are (i) the multimedia records, which are responsive to subcategory "1;" (ii) the communications between and among NYPD undercover officers and their handlers, which are responsive to subcategory "4;" and (iii) the single communication from the NYPD officer acting in an undercover capacity with his base, which is responsive to subcategory "4."

12. I now certify that NYPD has made a thorough and diligent search for records responsive to Petitioner's FOIL request, and did not locate any records responsive to Petitioner's request for subcategories "2," "3," "3," "5," or "6."

  
MICHAEL FITZPATRICK

Sworn to before me this  
22 day of August, 2016

  
\_\_\_\_\_  
Notary Public

**STEVEN J. COLON**  
Notary Public, State of New York  
No. 02CO6140735  
Qualified in Westchester County  
Commission Expires Feb. 6, 2018

15-PL-1004

James Logue  
23-66 26th St, Apt. BB  
Astoria, New York 11105

January 25, 2015

Records Access Officer  
New York City Police Department  
F.O.I.L. Unit – Legal Bureau  
One Police Plaza, Room 110-C  
New York, New York 10038

To whom it may concern:

On multiple occasions while protesting in Grand Central Station over the last two months, I have witnessed law enforcement officials not only watching protesters with binoculars but also filming and/or photographing us from the second floor balcony. To corroborate this, I have attached a photograph showing multiple law enforcement officials with a camera trained on protesters on January 19, 2015.

I hereby request under the Freedom of Information Law (FOIL) all records pertaining to officers' filming and photographing in Grand Central Station from November 2014 through January 2015, including, but not limited to:

1. all pictures, videos, audio recordings, data, and metadata related to Grand Central Station protests that were collected or received by your agency;
2. records describing the information collected, the dates of collection, and the official purpose of the collection;
3. copies of files documenting the use of property within Grand Central Station related to monitoring of the protests;
3. records describing the surveillance equipment used by officers within Grand Central Station;
4. copies of all communications sent or received by your agency between November 2014 and January 2015 pertaining to protests in Grand Central Station.
5. the names of governmental organizations and private security companies who collaborated in the collection of the information;
6. the names of all organizations public and private with whom the information was shared.

As the surveillance of protests is a matter of public interest, I request the waiver of all fees associated with producing this information. In the event that fees cannot be waived, I would be grateful if you would inform me of the total charges in advance of fulfilling my request.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your prompt response.

Sincerely,



James Logue