

# Gideon Orion Oliver

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\*Not for service

December 1, 2015

Mr. Jonathan David  
Records Access Appeals Officer  
New York City Police Department  
One Police Plaza – Room 1406  
New York, New York 10038

Re: Third Administrative Appeal – Constructive Denial  
12/12/14 FOIL Request – NYPD Long Range Acoustic Devices (LRADs)

Mr. David:

I represent clients who have been seeking access to information from the New York City Police Department (“NYPD”) since their December 12, 2014 request pursuant to the New York State Freedom of Information Law (“FOIL”), §§ 84-90 of the Public Officers Law, 21 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 Chapter 11, regarding NYPD uses of LRADs and other related matters (the “Request”).

Nearly a month has come and gone since November 13, 2015, the last estimated date for disclosure or other response from the NYPD, without disclosure or other required communication from the NYPD. Almost a year has passed since the Request was filed without any substantive response.

By letter dated October 14, 2015, I appealed the Department’s constructive denials of the Request.

You responded in an October 28, 2015 letter, and said that the Request had not been denied and that a response would be forthcoming on or before November 13, 2015. A copy of that letter is attached.

November 13, 2015 came and went with no communication from the Department.

This is to appeal the NYPD’s constructive denials of the Request, as well as the NYPD’s failure to comply with the FOIL’s requirements to receive and respond to FOIL requests electronically, for all of the reasons set forth in the previous administrative appeals, which I incorporate by reference.

Please provide your response to this appeal by e-mail promptly within the required time period.

I repeat and remind you of the litigation hold demand contained in the March 2, 2015 First Administrative Appeal directed to you.

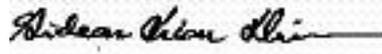
As set forth above, the NYPD's violations of the FOIL and its implementing regulations, including its constructive denial of the Request and other failures to grant access or to deny access in a writing with meaningful notice of appellate rights, along with its refusals to accept and respond to the Request electronically, have violated and continued to violate my clients' rights to access the information and/or their related rights.

These violations of their rights are serious and ongoing and the lack of access to the documents and information sought has caused and continues to cause irreparable harm.

Please provide the requested records in electronic format by e-mail.

Thank you for your attention to these matters.

Very truly yours,

A handwritten signature in black ink, appearing to read "Gideon Orion Oliver", written over a light gray rectangular background.

Gideon Orion Oliver

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