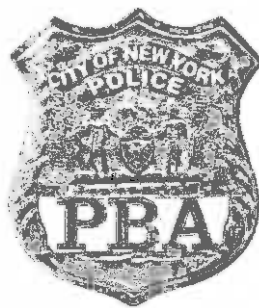


*Patrolmen's  
Benevolent  
Association*

Of The City Of New York, Incorporated



OFFICE OF THE PRESIDENT

April 11, 2018

**VIA EMAIL AND UNITED STATES MAIL**

Ms. Michele L. Weinstat  
Director of Enforcement  
New York City Conflicts of Interest Board  
2 Lafayette Street, Suite 1010  
New York, New York 10007

**Re: New Complaint—Leak of Confidential NYPD Information to BuzzFeed**

Dear Ms. Weinstat:

We write to file a complaint in connection with the recent leak of confidential information maintained by the New York City Police Department ("NYPD") to BuzzFeed News, which formed the basis for a March 5, 2018 article entitled "Busted: The NYPD's Secret Files" (enclosed as Exhibit A). As discussed below, the article expressly relies on "internal NYPD files" that the authors concede are "secret" and "confidential," and which could only be disclosed in blatant violation of both City Charter § 2604(b)(4) and New York Civil Rights Law § 50-a. Accordingly, we respectfully request that the Conflicts of Interest Board ("COIB") immediately commence an investigation and punish those responsible for this serious confidentiality breach.

**The "Secret Files" Article**

The BuzzFeed "Secret Files" article publishes the contents of NYPD "dismissal probation" files relating to at least 319 New York City police officers, which were generated over the course of five years from 2011-2015. Lest there be any doubt that the leaked files constitute "confidential information," the article states:

BuzzFeed News' reporting is based on hundreds of pages of internal police files that, like all disciplinary records, the department keeps secret, citing a controversial state law on "personnel records." The files were provided by a source who requested anonymity.

There can be no dispute that this leak is a violation of City Charter § 2604(b)(4), which mandates that, *inter alia*, “[n]o public servant shall disclose any confidential information concerning the property, affairs or government of the city which is obtained as a result of the official duties of such public servant and which is not otherwise available to the public.” Indeed, this is confirmed by the COIB’s “Plain Language Guide to Chapter 68,” which provides the following analysis:

**Example:** You work at a social services agency. One of your friends suspects his neighbor of domestic abuse. He asks you to check confidential City databases to see if there are any complaints about the neighbor in order to confirm his suspicion.

***Even though this may seem harmless, it is a violation. Confidential information can only be used for official City work. It cannot be disclosed to anyone else, no matter how they wish to use it.***

The leak of confidential information to BuzzFeed News is far more egregious than the example cited by the COIB, which involved data relating to a *single* individual being improperly disclosed to a *single* person. Here, the confidential files of *hundreds* of New York City police officers were improperly disclosed—through BuzzFeed—to *tens of thousands* of people around the world.<sup>1</sup> Indeed, the COIB has consistently imposed severe sanctions in cases involving far less serious violations. For example, in *COIB v. Sazonov*, a City employee disclosed confidential information regarding a NYC police officer’s years of service to that particular officer (in other words, the recipient already knew the confidential data). COIB Case No. 2015-621 (2015). The COIB investigated and imposed a financial penalty of approximately \$5,000 for this disclosure relating to a single police officer—*not 319 police officers*—and the City employee was demoted.<sup>2</sup>

Moreover, the BuzzFeed leak is particularly troubling because—in addition to running afoul of City Charter § 2604(b)(4)—it also plainly violated New York State law, which protects the civil rights of police officers. Specifically, Civil Rights Law § 50-a expressly precludes the disclosure of “all personnel records used to evaluate performance toward continued employment or promotion,” which the NYPD has confirmed these “dismissal probation” files undoubtedly are. Thus, the leaker violated both City and State law when these confidential materials were provided to BuzzFeed News.

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<sup>1</sup> The article elicited comments from as far afield as Germany, the United Kingdom, Ireland, Canada, and throughout the United States, including California, Washington, Texas, Illinois, Tennessee, North Carolina, Georgia, and New Hampshire, among others.

<sup>2</sup> *Id.* The COIB has regularly issued significant fines where the disclosure of confidential information related to just one person. *See, e.g., COIB v. Sh. Edwards*, COIB Case No. 2011-724 (2012) (\$12,000 penalty warranted where confidential information regarding single inmate was disclosed); *COIB v. McNair*, OATH Index No. 1114/11, COIB Case No. 2009-700 (Order July 21, 2011) (imposing \$7,500 fine where City employee threatened to post confidential documents regarding single individual on the internet); *COIB v. Oates*, COIB Case No. 2010-432 (2010) (City employee agreed to resign, pay fine, and be barred from future employment for disclosing confidential information regarding single person); *see also COIB v. B. King*, COIB Case No. 2009-576 (2009) (\$6,000 penalty imposed where City employee disclosed confidential information regarding four individuals).

## Significant Action Is Necessary Given The Risk Of Harm To NYC Police Officers

The need for a thorough investigation and significant punishment for this illegal conduct is further warranted by the grave risk such disclosure poses to the physical safety of New York City police officers. For example, BuzzFeed News used the leaked files to locate a specific police officer's home address in the Bronx and took pictures of him standing outside of his house, which it then proceeded to publish for the world to see, providing invaluable information to anyone who would seek to do harm to this police officer.

Unfortunately, recent events have only confirmed that individuals can and do seek to exploit such information, with potentially fatal consequences. In February, a civilian in Brooklyn was killed by a package bomb that was intended for a police officer. According to the Department of Justice, the alleged murderer "built the explosive device . . . as part of his broader effort to retaliate violently against several police officers who were part of an NYPD unit that had arrested him . . . *[he] methodically sought revenge against the officers [and] conducted internet searches and made telephone calls to determine the locations of the officers' residences.*"<sup>3</sup> Thus, this is not a typical violation of City Charter § 2604(b)(4)—it is one that directly puts the physical safety of New York City police officers at risk and should be handled with the seriousness and care it deserves.

\* \* \*

In light of the foregoing, we respectfully request that the COIB work with the DOI to investigate this serious violation of Chapter 68 and impose the maximum punishment allowed by law. In addition, we would appreciate the COIB keeping us informed of any developments in this case. We thank you for your attention to this important matter.

Very truly yours,



Patrick J. Lynch

Enclosure

cc:

Mr. Richard Briffault, Chair, Conflicts of Interest Board (*by mail*)

Ms. Carolyn Miller, Executive Director, Conflicts of Interest Board (*by email and mail*)

Mr. Mark G. Peters, Commissioner, Department of Investigation (*by mail*)

Mr. James P. O'Neill, Commissioner, New York City Police Department (*by hand*)

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<sup>3</sup> See Ex. B (Department of Justice Press Release, *Brooklyn Man Arrested for Using a Weapon of Mass Destruction* (February 28, 2018)) (emphasis added).