

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

POLICE BENEVOLENT ASSOCIATION OF THE
CITY OF NEW YORK, INC. and PATRICK HENDRY,
as President of the Police Benevolent Association of the
City of New York, Inc.,

Petitioners,

Index No.

-against-

CITY OF NEW YORK, NEW YORK CITY CIVILIAN
COMPLAINT REVIEW BOARD, SHERENE
CRAWFORD, in her official capacity as Interim Chair of
the New York City Civilian Complaint Review Board,
and JONATHAN DARCHE, in his official capacity as
Executive Director of the New York City Civilian
Complaint Review Board,

Respondents.

VERIFIED ARTICLE 78 PETITION

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Petitioners Police Benevolent Association of the City of New York, Inc. (“PBA”) and Patrick Hendry, as President of the PBA (collectively, “Petitioners”), for their Verified Petition against respondents City of New York (the “City”), New York City Civilian Complaint Review Board (“CCRB”), its Interim Chair, Sherene Crawford, in her official capacity, and its Executive Director, Jonathan Darche, in his official capacity (collectively, “Defendants”), respectfully allege as follows:

PRELIMINARY STATEMENT

1. Petitioners bring this Article 78 proceeding because Respondents are flouting the requirements of a statutory mandate and, in doing so, are jeopardizing New York City police officers’ wellbeing and safety. Effective immediately on September 4, 2024, Public Officers Law (“POL”) §87(6) requires every agency to develop a policy to notify public employees when the agency is responding to a Freedom of Information Law (“FOIL”) request for an employee’s disciplinary records. CCRB has failed to adopt a formal policy in accordance with procedural requirements. And its informal policy – which CCRB has kept secret until the PBA pressed CCRB on this issue – is woefully deficient of the statutory requirements, as CCRB continues to release masses of officer disciplinary records without any notice to the subject officers. CCRB’s ongoing violation of a statute designed to promote fairness for police officers and other public employees is yet another example in a pattern of CCRB ignoring and trampling upon officers’ rights.

2. CCRB is an all-civilian City agency that investigates certain categories of complaints against police officers employed by the New York City Police Department (“NYPD”). CCRB’s files include complaints, officer identities, dispositions, and disciplinary recommendations – disciplinary records squarely covered by POL §87(6) – yet CCRB persists in releasing such records with zero notification to the subject officers. Pursuant to CCRB’s

recently-communicated informal policy, CCRB provides notice *only* if a FOIL request specifically names an officer. But CCRB does not provide notice in the more common scenario where a FOIL request seeks officer disciplinary records without naming a specific officer in the FOIL request – such as when disciplinary records are sought by case number, allegation type, date range, precinct or incident location, *etc.* Many FOIL requests for disciplinary records seek the records by criteria other than officer name such as the foregoing examples (date range, allegation type, *etc.*). As such, CCRB is producing large volumes of officer disciplinary records without any notification to the subject officers, and its policy therefore flagrantly violates the statute.

3. Compounding the prejudice, the overwhelming majority of complaints filed with CCRB are false, meritless, or otherwise unsubstantiated, but CCRB still disseminates even these unsubstantiated disciplinary records – damaging the careers and reputations of innocent officers – without officer notice pursuant to its deficient policy. By withholding notice, CCRB deprives officers of any chance to contest improper disclosures, protect their professional standing, or prepare for the real safety risks that flow from public release of officer identifying information together with what are frequently baseless, inflammatory accusations of wrongdoing.

4. CCRB’s statutory violation is straightforward and urgent. POL §87(6) imposes a nondiscretionary duty: all agencies “shall” develop a policy for notification when a public employee’s disciplinary records are the subject of a FOIL request. And the statute took effect immediately over twenty months ago. CCRB is an agency subject to §87(6). It has not adopted, let alone complied with, a policy to provide notification to all police officers whose disciplinary records are sought by FOIL requests, and it continues to produce officers’ disciplinary records without notification, in dereliction of the statute.

5. CCRB's policy is also invalid for an independent reason: it is procedurally defective because CCRB did not comply with the applicable notice, comment, and hearing requirements of the City Administrative Procedure Act ("CAPA"). CAPA's rulemaking requirements expressly apply to an agency statement or communication of general applicability that "implements or applies law or policy" (CAPA §1041(5)), and thus CCRB was required to follow CAPA when it adopted a policy in implementation of POL §87(6). CCRB unlawfully bypassed CAPA's requirements designed to ensure that agency policy is subject to review by the Law Department and vetted by stakeholders and the public. By secretly adopting its informal policy, CCRB performed an end-run around these safeguards, resulting in a policy that is both procedurally and substantively defective.

6. Accordingly, the Court should: declare CCRB in violation of POL §87(6) and/or CAPA; order CCRB to immediately adopt, in accordance with rulemaking requirements, and comply with a POL §87(6) notification policy that complies with the statute by providing notice to all police officers whose records are the subject of a FOIL request, whether or not the request identifies the officer by name; and issue an injunction halting further disclosures of police officer disciplinary records until CCRB adopts the statutorily-required policy and provides the mandatory notice. Given CCRB's continuing receipt of thousands of FOIL requests each year and its ongoing production of police officer disciplinary records without notice, the harm to officers is imminent and ongoing, necessitating the expedited procedures of Article 78.

PARTIES

7. Petitioner PBA is the designated collective bargaining agent for the more than 21,000 officers employed by the NYPD in the rank of police officer.

8. The PBA negotiates and advocates on its members' behalf with the City in matters of policy, terms and conditions of employment, and all matters relating to its members'

general welfare, including, without limitation, matters relating to CCRB and that agency's policies, Charter, and rules, and other policies, rules, regulations, and laws that impact its members. The core function of the PBA is to advocate for, protect, and advance the rights and interests of its members. The PBA has successfully brought prior litigations on behalf of its members challenging CCRB policies and rules. As a result of CCRB's failure to adopt and comply with a sufficient notification policy as required by POL §87(6), since the passage of that statute CCRB has received FOIL requests for disciplinary records of the PBA's members and CCRB has produced disciplinary records in response to such FOIL requests without providing any notice to the subject officers, and CCRB is continuing to receive FOIL requests for disciplinary records of the PBA's members and, absent the relief requested herein, will continue to produce disciplinary records in response to such FOIL requests without providing any notice to the subject officers. Thus, the PBA's members have suffered and will continue to suffer concrete and particularized injuries by CCRB's failure to immediately adopt and comply with a policy to provide notice to all police officers whose disciplinary records are the subject of a FOIL request as required by §87(6).

9. Petitioner Patrick Hendry is the duly elected President of the PBA and is a police officer in the NYPD.

10. Respondent City is a municipal corporation duly organized and existing by and under the laws of the State of New York.

11. Respondent CCRB is an agency of the City, the authority of which is set forth in New York City Charter, Ch. 18-A, §§440-441. CCRB's principal place of business is located at 100 Church Street, New York, New York 10007.

12. Respondent Sherene Crawford is the Interim Chair of CCRB and is named in her official capacity. CCRB's Chair is the leader of the Board and is responsible for overseeing CCRB's operations together with the Executive Director.

13. Respondent Jonathan Darche is the Executive Director of CCRB and is named in his official capacity. The Executive Director is appointed by the Board, and acts as the Chief Executive Officer of CCRB, responsible for managing the day-to-day operations of the agency and overseeing its more than 200 employees.

JURISDICTION AND VENUE

14. This Court has subject matter jurisdiction pursuant to CPLR Article 78, because Petitioners challenge CCRB's violation of POL §87(6) by failing to adopt and comply with a compliant notification policy under that statute and, as such, Respondents have "failed to perform a duty enjoined upon [them] by law" pursuant to CPLR 7803(1) and/or have made, and are making, determinations that are "in violation of lawful procedure, . . . affected by an error of law or . . . arbitrary and capricious" pursuant to CPLR 7803(3).

15. This Court has personal jurisdiction over Respondents, and venue lies in New York County, pursuant to CPLR 506(b) and 7804(b), because Respondents' principal offices are in New York County.

BACKGROUND

Overview of CCRB

16. In 1993, the New York City Council adopted Charter §440, establishing CCRB as an all-civilian Board to investigate certain complaints by the public against NYPD officers.

17. Charter §440(a) sets forth CCRB's purpose "that the investigation of complaints concerning misconduct by officers of the department towards members of the public be

complete, thorough and impartial,” and that “[t]hese inquiries must be conducted fairly and independently, and in a manner in which the public and the police department have confidence.”

18. CCRB consists of 15 members (the “Board”), five appointed by the City Council, five appointed by the Mayor, three designated by the Police Commissioner, and one appointed by the Public Advocate.

19. CCRB has an Executive Director who is responsible for managing the day-to-day operations of the agency, and it has over 200 other employees, including investigators.

20. CCRB’s jurisdiction is defined by Charter §440(c)(1), as follows:

The board shall have the power to receive, investigate, hear, make findings and recommend action upon complaints by members of the public or complaints initiated by the board against members of the police department that allege misconduct involving excessive use of force, abuse of authority including bias-based policing and racial profiling, discourtesy, or use of offensive language, including, but not limited to, slurs relating to race, ethnicity, religion, gender, sexual orientation and disability. The board shall also have the power to investigate, hear, make findings and recommend action regarding the truthfulness of any material official statement made by member of the police department who is the subject of a complaint received or initiated by the board, if such statement was made during the course of and in relation to the board’s resolution of such complaint.

21. After a complaint within its jurisdiction is brought and if CCRB completes an investigation, a panel of three Board members makes findings and recommendations (the “disposition”) that are submitted to the Police Commissioner for final determination.

22. The Charter vests the Police Commissioner with final authority in matters of police discipline. Charter §§434, 440(e).

FOIL Notification Requirement

23. New York’s FOIL statute, which provides a right – with certain exemptions – for members of the public to access governmental records, is set forth in POL §§84-90.

24. CCRB is an “Agency” within the meaning of POL §86(3), and therefore is subject to FOIL.

25. Prior to June 12, 2020, police officer disciplinary records, such as those created and maintained by CCRB, were subject to a statutory protection from disclosure, whether via a FOIL request or otherwise.

26. In particular, Civil Rights Law (“CRL”) §50-a, enacted in 1976, created a blanket protection against disclosure, including in response to FOIL requests, for disciplinary and other personnel records of police officers, firefighters, corrections officers, and peace officers across the State.

27. Section 50-a served the important purpose “of preventing the use of personnel records as a device for harassing or embarrassing police and correction officers.” *Prisoners’ Legal Servs. of N.Y. v. N.Y. State Dep’t of Corr. Servs.*, 73 N.Y.2d 26, 32 (1988). The statute sought “to prevent *any* ‘abusive exploitation of personally damaging information contained in officers’ personnel records.’” *N.Y. Civ. Liberties Union v. N.Y. City Police Dep’t*, 32 N.Y.3d 556, 564 (2018) (emphasis in original) (quoting *Daily Gazette Co. v. City of Schenectady*, 93 N.Y.2d 145, 154 (1999)). “[T]he described abuses of personnel information it was designed to prevent included harassment or reprisals against an officer or his/her family.” *Daily Gazette Co.*, 93 N.Y.2d at 155 (internal quotes omitted).

28. On June 12, 2020, the legislature repealed CRL §50-a, expressly in reliance on the continuing protections of other FOIL exemptions. L.2020, c.96, §1.

29. However, with the express purpose of attempting to restore some modicum of fairness to police officers and other public employees who had previously received the protections of CRL §50-a, pursuant to legislation (L.2024, c.302, §1) introduced in March 2023,

and effective September 4, 2024, the New York legislature amended FOIL by adding a new provision, POL §87(6), which states: “All agencies subject to the requirements of this article shall develop a policy regarding providing a notification to public employees in the event that the agency is responding to a request for such employee’s disciplinary records.”

30. The legislation adopting POL §87(6) passed the New York Senate with a vote of 59 in favor, 0 against (3 absent); passed the New York assembly with a vote of 144 in favor, 0 against (6 absent); and was signed by the Governor.

31. The legislation states that it took “effect immediately.” L.2024, c.302, §2.

32. CCRB is an agency subject to POL §87(6).

33. CCRB records, such as complaints against police officers, the names of the subject officers, and dispositions, among other records, are “disciplinary records” within the meaning of POL §87(6). *See* POL §86(6).

34. The PBA’s members – police officers – are public employees who have a notification right under POL §87(6).

CCRB’s Ongoing Failure to Comply with the FOIL Notification Requirement

35. CCRB has not adopted a compliant policy regarding providing a notification to police officers in the event that CCRB is responding to a FOIL request for a police officer’s disciplinary records.

36. On April 28, 2026, the PBA served Respondents with a written demand for CCRB to come into compliance with POL §87(6). A true and correct copy of the demand is attached hereto as Exhibit 1.

37. On May 5, 2026, CCRB responded by letter, a true and correct copy of which is attached hereto as Exhibit 2. CCRB stated that it apparently began following an informal policy

“beginning mid-2025.” Upon information and belief, CCRB’s informal policy was never publicly disclosed prior to CCRB’s May 5, 2026 letter. Upon information and belief, notwithstanding that CCRB held monthly public Board meetings throughout 2025 through the present, CCRB never mentioned its purported notification policy. Moreover, CCRB’s informal policy never went through the vetting and approval process for rulemaking under CAPA.

38. According to CCRB’s policy, it sends a letter to officers (to the same address where the CCRB sends the officer’s disposition letter following an investigation) only if a FOIL request for disciplinary records specifically names an officer.¹ CCRB does not provide any notification to officers when a FOIL request seeks their disciplinary records by other criteria, such as by case number, allegation type, date range, or precinct or incident location, *etc.*

39. Many FOIL requests for disciplinary records seek records by criteria other than officer name such as the examples mentioned above (date range, allegation type, *etc.*).

40. As such, since the effectiveness of POL §87(6), CCRB has received and responded to FOIL requests for police officer disciplinary records without providing any notification to the subject officers.

41. Pursuant to its noncompliant policy, CCRB continues to receive and respond to FOIL requests for police officer disciplinary records without providing any notification to the subject officers.

¹ Petitioners reserve all rights and remedies with respect to the inadequacy of the notices allegedly provided, but the policy is defective for the threshold reasons that it does not provide notification with respect to all FOIL requests where officer disciplinary records are requested and it violated CAPA rulemaking requirements.

CCRB's Failure to Comply with the FOIL Notification Requirement is Highly Prejudicial to Police Officers and Jeopardizes their Safety

42. By failing to notify police officers in many cases when CCRB receives a FOIL request for their disciplinary records, CCRB deprives officers of an opportunity to object to such disclosure, request redactions, seek court relief to prevent or address improper disclosure, or otherwise protect themselves. CCRB's noncompliance with POL §87(6) prevents officers from even being aware that their disciplinary records are being requested and disclosed. Absent CCRB's compliance with §87(6), officers have no way of knowing that CCRB has received a FOIL request for their disciplinary records or is producing records in response thereto.

43. The prejudice to police officers from CCRB's noncompliance with POL §87(6) is exacerbated in part because of the enormous volume of unsubstantiated complaints against officers that CCRB receives, which CCRB produces in response to FOIL requests in many instances without any notification to the subject officers.

44. The New York Court of Appeals has held: "The State's policy also evinces a sensitivity to the possibility of irreparable harm to a professional's reputation resulting from unfounded accusations – a possibility which is enhanced by the more relaxed nature of the procedures and evidentiary rules followed in disciplinary hearings in which hearsay evidence may be received. Indeed, our Court has recognized that professional reputation once lost, is not easily restored." *Johnson Newspaper Corp. v. Melino*, 77 N.Y.2d 1, 11 (1990) (internal quotes omitted).

45. The City imposes no consequences or accountability on a member of the public for submitting a false, meritless, or entirely fabricated complaint against an officer to CCRB.

46. CCRB does not require complaints against officers to be sworn.

47. Because the City fails to impose any consequences or accountability for false complaints against officers, members of the public submit false, meritless, or entirely fabricated complaints against officers to CCRB for improper purposes, such as an act of retaliation, to distract from their own criminal behavior, or to harass an officer simply for doing his or her job.

48. CCRB's own data shows that thousands of officers are being adversely impacted by complaints filed with CCRB that never result in any finding of wrongdoing by the officer.

49. For example, in 2025, out of a total of 5,716 closed complaints that CCRB deemed to be within its jurisdiction, **4,726** complaints (**83%**) resulted in no finding of wrongdoing by the officer (35 of which were mediated). Of the closed complaints, **639** were found to be Unfounded or Within NYPD Guidelines, meaning the complaint was entirely false or meritless. CCRB closed **2,703** (**47%**) of the complaints as Unable to Investigate, meaning CCRB did not even complete an investigation.² Cases that CCRB closes as Unable to Investigate include those where the complainant submitted an unsworn complaint and then was uncooperative with CCRB or unavailable. CCRB will only deem a complainant uncooperative where the complainant "does not respond to repeated attempts by the investigator to set up an interview or fails to show up for two scheduled interviews," and, at a minimum, "the investigator must send two letters and make five phone calls before a case is closed for this reason."³ Common sense and statistics dictate that a substantial proportion of those thousands of Unable to Investigate complaints were also false or meritless.

² CCRB, *Executive Director's Monthly Report* (Jan. 2026), at 18 (https://www.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/monthly_stats/2026/01142026-monthlystats.pdf).

³ CCRB, *Investigation Results* (<https://www.nyc.gov/site/ccrb/complaints/complaint-process/investigation-results.page>).

50. In 2024, out of a total of 6,379 closed complaints that CCRB deemed to be within its jurisdiction, **5,471** complaints (**86%**) resulted in no finding of wrongdoing by the officer (51 of which were mediated). Of the closed complaints, **942** were found to be Unfounded or Within NYPD Guidelines, meaning the complaint was entirely false or meritless. CCRB closed **2,866** (**45%**) of the complaints as Unable to Investigate, meaning CCRB did not even complete an investigation.⁴ Again, common sense and statistics dictate that a substantial proportion of those uninvestigated complaints were also false or meritless.

51. According to CCRB's most recent annual report statistical appendix, for the five-year period from 2014 through 2018, out of a total of 23,079 closed complaints that CCRB deemed to be within its jurisdiction, **21,421** (**93%**) resulted in no finding of wrongdoing by the officer (1,021 of which were mediated). Of the closed complaints, **1,891** were found to be Exonerated or Unfounded, the pre-2023 terminology that CCRB used for false and meritless complaints. CCRB closed **12,828** (**56%**) of the complaints without completing an investigation.⁵

52. To put the data in further context, NYPD officers have tens of millions of encounters with civilians each year. The number of substantiated CCRB complaints each year is miniscule relative to the number of police encounters.

53. The City has done nothing to curb the well-documented problem of false and meritless CCRB complaints against officers. Instead, CCRB is now actively exacerbating and spreading the harm by failing to comply with the officer notification requirement of POL §87(6)

⁴ CCRB, *Executive Director's Monthly Report* (Jan. 2026), at 18 (https://www.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/monthly_stats/2026/01142026-monthlystats.pdf).

⁵ CCRB, *2018 Statistical Appendix*, at 61 (https://www.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/annual_bi-annual/2018_annual-appendix.pdf).

before publicly disseminating these false and meritless complaints in response to many FOIL requests.

54. CCRB's disclosure of police officer disciplinary records, including unsubstantiated complaints, in response to FOIL requests, without any notice to the subject officers in many instances, causes severe damage to the reputations and employment prospects of police officers. By failing to provide the officers with notice as required by POL §87(6), the officers have no ability to protect themselves against improper disclosures, such as in cases where CCRB has abused its discretion by failing to consider or apply FOIL exemptions. Moreover, absent the statutorily required notice, officers have no way of knowing whether CCRB may have provided their records to third parties that could have impact on the officers' careers and wellbeing – such as actual or prospective employers, financial institutions, educational institutions, landlords, *etc.* With notice of such disclosures, the officers would have an ability to provide context, explanation, or additional documentation. FOIL requests may also be submitted by criminals whom the officer has lawfully arrested. By failing to comply with POL §87(6), CCRB is depriving officers of the ability to plan and prepare for, respond to, and protect themselves against such disclosures that could seriously impact the officers' livelihoods.

55. CCRB's failure to provide notice to police officers as required by §87(6) also creates grave danger to the safety of officers. By failing to give officers notice that their records have been requested and are being produced, the officers can be caught completely off guard by individuals or groups who seek to do them harm through the use of such information, and the officers have no ability to plan and prepare to protect the safety of themselves and their families.

56. Police officers are targeted for violence based on perceived misconduct and for doing their jobs.

57. New York law recognizes that police officer safety is implicated by CCRB disclosure of disciplinary records – including such matter as a “summary of the number of allegations, complaints and outcomes brought against” a police officer – as the disclosure of such information could result in “harassment and reprisals.” *Luongo v. Records Access Officer*, 150 A.D.3d 13, 26 (1st Dep’t 2017). While that case involved a single police officer, here CCRB is publicly disseminating disciplinary records of officers en masse in response to FOIL requests, while keeping the subject officers in the dark in many cases.

58. The threat to officer safety is not hypothetical, as police officers have been targeted for murder and other violence based on perceived misconduct or other public information.

59. As the NYPD has acknowledged: “Officers have seen protests at their homes and death threats to themselves – and their families – even before the facts of an incident are fully known. . . . In the internet age, where personal information may be a Google search away, releasing personnel records in cases where there are allegations but the facts are not fully known . . . is a risk to officer safety.”⁶

60. Demonstrators have also used publicly disclosed, unsubstantiated complaints to agitate crowds and harass and embarrass officers who are simply doing their jobs to protect public safety during protests.⁷

⁶ NYPD, Statement of Oleg Chernyavsky, Assistant Deputy Commissioner, Legal Matters, NYPD to N.Y. State Senate Standing Comm. on Codes (Oct. 24, 2019) (https://www.nysenate.gov/sites/default/files/oct_24th_public_hearing_on_discovery_reform.pdf).

⁷ Dean Moses, *Exonerated but Exposed: Cops Recount “Horrorific” False Sexual Misconduct Allegations Amid PBA Lawsuit Against CCRB*, AMNY (Apr. 26, 2026) (<https://www.amny.com/news/cops-recount-false-sexual-misconduct-allegations/>).

61. In 2014, two innocent NYPD officers, Officers Wenjian Liu and Rafael Ramos, were murdered while they sat in their patrol car by an individual who purported to be seeking retaliation for police-involved incidents.⁸

62. In 2017, Officer Miosotis Familia was shot and killed at point-blank range while sitting in her patrol car because of the uniform she wore.⁹

63. In 2018, federal authorities arrested an individual who delivered an explosive device to what he believed was the residence of one of the NYPD officers who arrested him, after he methodically conducted internet searches and made telephone calls to determine the location of the arresting officers' residences. The device ended up killing the building owner.¹⁰

64. On New Year's Eve in 2022, NYPD officers were targeted by a machete-wielding man because of the uniforms they wore.¹¹

65. Similarly, courts have warned about the ease with which unstable individuals can use publicly-disclosed identifying information to seek vengeance in law enforcement matters. In *Bellamy v. N.Y. City Police Dep't*, 87 A.D.3d 874, 875 (1st Dep't 2014), *aff'd*, 20 N.Y.3d 1028 (2013), the Court held that documents with the identities of persons who spoke with police

⁸ Larry Celona *et al.*, *Gunman Executes 2 NYPD Cops in Garner "Revenge"*, N.Y. Post (Dec. 20, 2014, updated July 19, 2018) (<https://nypost.com/2014/12/20/2-nypd-cops-shot-execution-style-in-brooklyn/>).

⁹ Larry Celona and Shawn Cohen, *NYPD Officer Assassinated in Police Vehicle*, N.Y. Post (July 5, 2017, updated July 14, 2017) (<https://nypost.com/2017/07/05/nypd-officer-shot-on-duty-in-critical-condition/>).

¹⁰ U.S. Dep't of Justice, Press Release, *Brooklyn Man Arrested for Using a Weapon of Mass Destruction* (Feb. 28, 2018) (<https://www.justice.gov/usao-edny/pr/brooklyn-man-arrested-using-weapon-mass-destruction>).

¹¹ Joe Marino *et al.*, *Machete Attack Suspect Trevor Brickford Targeted NYPD as "Enemy of the State": Sources*, N.Y. Post (Jan. 1, 2023, updated Jan. 2, 2023) (<https://nypost.com/2023/01/01/suspect-in-machete-attack-on-nypd-targeted-cops-as-enemy-of-the-state-sources/>).

during an investigation were exempt from disclosure, because “[a]fter learning the names, all one would need is an Internet connection to determine where they live and work.”

66. The same reasoning applies here, where information contained in disciplinary records can be used with other publicly-available information to easily identify the home addresses, and identities of family members, of police officers. As one citizen stated in testimony before the New York Senate in connection with the repeal of CRL §50-a: “You name a police officer to me right now, and I will find their address, their phone number, and their relatives. I will find them all through Google.”¹²

67. If officers had notice that their records were being requested and disclosed, officers could plan for and prepare to address any safety risks that such disclosure may generate, request mitigating redactions, or seek to prevent the disclosure altogether through objection or court action.

68. Notwithstanding CCRB’s Charter mandate to be fair and impartial to both the public *and police officers* (Charter §440(a)), and notwithstanding that the express purpose of the legislature’s adoption of FOIL §87(6) was to restore a measure of fairness to police officers and other public employees following the repeal of CRL §50-a, CCRB continues to fail to comply with §87(6)’s notification requirement by following a policy pursuant to which CCRB provides no notice to the subject officers in many cases where their disciplinary records are sought by FOIL requests.

¹² Testimony, Senate Standing Committee on Codes Public Hearing (Oct. 24, 2019) (https://www.nysenate.gov/calendar/public_hearings/october-24-2019/public-hearing-policing-s3695-repeals-provisions-0), at 2:56:35.

FIRST CAUSE OF ACTION

(Request for Relief under Article 78 of the CPLR – Deficient POL §87(6) Notification Policy)

69. Petitioners incorporate by reference the allegations set forth in all of the preceding paragraphs of this Petition as if fully set forth herein.

70. POL §87(6) requires: “All agencies subject to the requirements of this article shall develop a policy regarding providing a notification to public employees in the event that the agency is responding to a request for such employee’s disciplinary records.”

71. POL §87(6) became effective immediately on September 4, 2024.

72. CCRB is an agency subject to POL §87(6).

73. CCRB records, such as complaints against police officers, the names of the subject officers, and dispositions, among other records, are “disciplinary records” within the meaning of POL §87(6).

74. The PBA’s members – police officers – are public employees that have a notification right under POL §87(6).

75. CCRB has failed to comply, and continues to fail to comply, with POL §87(6).

76. On May 5, 2026, CCRB disclosed for the first time that it has an informal policy with respect to POL §87(6), but that policy fails to comply with the statute’s requirements.

77. Pursuant to CCRB’s policy, it sends a letter to officers *only* if a FOIL request for disciplinary records specifically names an officer.

78. Pursuant to CCRB’s policy, CCRB does not provide any notification to officers when a FOIL request seeks their disciplinary records by other criteria, such as by case number, allegation type, date range, or precinct or incident location, *etc.*

79. Many FOIL requests for disciplinary records that CCRB receives seek records by criteria other than name such as the examples mentioned above (date range, allegation type, *etc.*).

80. Accordingly, CCRB has failed to comply with POL §87(6)'s requirement to adopt a policy regarding providing notification to police officers in the event it is responding to a FOIL request for their disciplinary records. CCRB's deficient policy does not provide for the requisite notice in many instances where officer disciplinary records are sought. Nothing in the statutory language allows CCRB to pick and choose giving notice to some officers but not others.

81. Additionally, since the adoption of POL §87(6), CCRB has failed, and continues to fail, to give notice to police officers in many instances when it receives FOIL requests for their disciplinary records. CCRB has produced, and continues to produce, officer disciplinary records in response to FOIL requests in many instances without any notification to the subject officers.

82. CCRB has violated, and continues to violate, the requirements of POL §87(6) to adopt a sufficient notification policy and comply with that notification policy, and therefore Respondents have failed to perform, and are continuing to fail to perform, a duty enjoined upon them by law, and they have made, and continue to make, determinations in violation of lawful procedure and that are affected by an error of law.

83. Section 87(6) took effective immediately on September 4, 2024, and imposed a mandatory requirement that all agencies, including CCRB, "shall" comply with the statute, and thus CCRB was required to develop and comply with a notification policy immediately upon the statute's September 4, 2024, effective date. CCRB's informal policy, which it claims to have begun following sometime in mid-2025 but did not disclose until May 5, 2026, does not comply with the statute because it provides for no notice to officers whose disciplinary records are sought by FOIL requests that do not specify the officers by name.

84. Alternatively, CCRB has acted, and continues to act, arbitrarily and capriciously by adopting a policy that fails to give notice to police officers in many cases where their disciplinary records are sought by FOIL requests on the arbitrary basis of how the FOIL request is worded.

85. Unlike CCRB, other agencies across the state have formally adopted and published POL §87(6) notification policies, and those policies do not purport to withhold notice to public employees simply for the arbitrary reason that the FOIL request does not mention them by name. A sampling of policies adopted by other agencies include: New York Unified Court System (Rules of the Chief Administrator of the Courts, 22 NYCRR §124.5(c)); Town of Tuxedo (https://www.tuxedogov.org/AgendaCenter/ViewFile/Minutes/_02262025-30); Village of Pomona (<https://pomonavillage.com/wp-content/uploads/2024/10/BOT92324MIN.pdf>); City of Geneva (<https://www.cityofgenevany.gov/DocumentCenter/View/2601/Employee-Notification-112025>); Village of Croton-on-Hudson (https://www.crotononhudsonny.gov/sites/g/files/vyhlf441/f/uploads/foil_policy_as_of_dec_2025f.pdf); Tioga County (<https://tiogacountyny.com/media/5runaz2a/legal-safety-s-january-committee-meeting-agenda.pdf>); Erie County Water Authority (https://www.ecwa.org/files/pdf/annualprocurementreports/item_11_adoption_of_policy_no_98_notice_to_employee.pdf); Morrisville Public Library (<https://morrisvillepubliclibrary.org/about-us/library-policy-manual-index/policies-of-the-morrisville-public-library/freedom-of-information-foil-policy/>).

86. There is no rational basis for CCRB to fail to provide notice to police officers whose disciplinary records are the subject of a FOIL request simply because the request seeks such records by criteria other than name. CCRB's deficient policy renders POL §87(6)

meaningless and promotes the inequitable result of lack of notice that the legislature expressly sought to remedy with the passage of that statute. Pursuant to CCRB's policy, FOIL requesters and CCRB can circumvent the notification requirement in every case simply by requesting disciplinary records by criteria other than officer name.

87. CCRB's policy is arbitrary and capricious by carving out huge swaths of FOIL requests that seek officer disciplinary records from the notification requirement. The jobs of police officers – interacting with the public and enforcing the laws on a daily basis – place police officers particularly at risk of harassment and retaliation due to, or exacerbated by, disclosure of their disciplinary records. Moreover, CCRB, as an agency, has a unique, enormous problem of false and meritless complaints being filed against police officers. Therefore, notification to police officers that their disciplinary records – often records of unsubstantiated complaints – are being disclosed is particularly important to protect the safety, reputations, and livelihoods of police officers. Indeed, police officers were one of the categories of public employees that the legislature expressly called out as deserving notification under POL §87(6) following the repeal of CRL §50-a. There is no legitimate, rational basis for CCRB to create unequal application of State law where some public employees across the State receive the statutory notification protection regardless of the manner of FOIL request while police officers are denied the same right by CCRB simply because their disciplinary records are sought by criteria other than officer name.

88. CCRB's ongoing failure to adopt and comply with a sufficient POL §87(6) notification policy for police officers demonstrates that the rights, safety, and wellbeing of police officers are not only not a priority for CCRB, but are disregarded and trampled by CCRB.

89. CCRB receives hundreds, if not thousands, of FOIL requests for officer disciplinary records every year, many of which do not identify the subject officers by name, and CCRB continues to produce records in response to such requests without notification to the subject officers, and thus officers face imminent harm if CCRB does not immediately come into compliance with POL §87(6).

90. Accordingly, the Court should declare that CCRB is in violation of POL §87(6) and/or that its policy is arbitrary and capricious; order CCRB to adopt, in accordance with CAPA rulemaking requirements, and comply with a §87(6) notification policy that complies with the statute by providing notice to all police officers whose records are the subject of a FOIL request, whether or not the request identifies the officer by name; and enjoin CCRB from producing police officer disciplinary records in response to FOIL requests until CCRB properly adopts such a policy and provides the requisite notifications to the subject officers.

SECOND CAUSE OF ACTION

(Request for Relief under Article 78 of the CPLR – Violation of CAPA Rulemaking Requirements)

91. Petitioners incorporate by reference the allegations set forth in all of the preceding paragraphs of this Petition as if fully set forth herein.

92. CCRB's notification policy under POL §87(6), which CCRB disclosed for the first time on May 5, 2026, is invalid because CCRB did not follow the publication, public comment, and hearing procedures under Section 1043 of CAPA.

93. CCRB's notification policy is a "rule" within the meaning of CAPA.

94. CCRB's notification policy constitutes "the whole or part of any statement or communication of general applicability that (i) implements or applies law or policies, or (ii)

prescribes the procedural requirements of any agency.” CAPA §1041(5). It also “prescribes the procedural requirements of an agency.” *Id.*

95. Moreover, CCRB’s notification policy constitutes a fixed, general principle that CCRB applies across-the-board for all members of the public submitting FOIL requests and police officers whose records are the subjects of the FOIL requests for purposes of CCRB determining whether or not it gives notice to the subject officers.

96. Moreover, CCRB’s notification policy has substantive and legal affect for police officers and the public by determining when police officers receive notice that their disciplinary records are the subject of a FOIL request. That notice, in turn, would give police officers opportunities to object, request redactions, seek court intervention, or otherwise protect their interests. If such notice were not an important, substantive matter, the legislature would not have gone through the tremendous effort of mandating it by statute with the enactment of POL §87(6).

97. Other agencies across the State have followed a formal, public process to adopt POL §87(6) notification policies. *See, e.g.*, Town of Tuxedo (https://www.tuxedogov.org/AgendaCenter/ViewFile/Minutes/_02262025-30); Village of Pomona (<https://pomonavillage.com/wp-content/uploads/2024/10/BOT92324MIN.pdf>); Tioga County (<https://tiogacountyny.com/media/5runaz2a/legal-safety-s-january-committee-meeting-agenda.pdf>); Erie County Water Authority (https://www.ecwa.org/files/pdf/annualprocurementreports/item_11_adoption_of_policy_no_98_notice_to_employee.pdf).

98. CCRB failed to comply with CAPA’s rulemaking requirements with respect to its POL §87(6) notification policy. CAPA §1043 requires an agency to, among other things: (i) publish a notice of the proposed rule in the City Record; (ii) obtain certifications from the City

Law Department and Mayor's Office that the proposed rule is lawful and appropriate; (iii) provide the public an opportunity to comment on the proposed rule; and (iv) hold a public hearing at least thirty days from the date of publication of the proposed rule. CCRB failed to comply with any of the foregoing requirements with respect to its notification policy.

99. CCRB creates and maintains disciplinary records for the largest police force in the country. The New York legislature, with the passage of POL §87(6) – a first-of-its-kind statute in this State following the very controversial repeal of CRL §50-a – required CCRB to adopt a policy for notification to police officers when their disciplinary records are the subject of a FOIL request. New York law does not permit CCRB to adopt such an important, statutorily-required policy in the shadows without any public notification and vetting process, and without any formal written policy at all for that matter. Indeed, the result of CCRB's noncompliance with CAPA is a policy that blatantly violates POL §87(6) and deprives officers in most cases of the very notification right that the legislature intended to create.

100. Accordingly, the Court should declare that CCRB's POL §87(6) notification policy violated CAPA rulemaking requirements; strike CCRB's policy on that basis; order CCRB to immediately adopt, in accordance with CAPA rulemaking requirements, and comply with a §87(6) notification policy that complies with the statute by providing notice to all police officers whose records are the subject of a FOIL request, whether or not the request identifies the officer by name; and enjoin CCRB from producing police officer disciplinary records in response to FOIL requests until CCRB properly adopts such a policy and provides the requisite notifications to the subject officers.

RELIEF REQUESTED

WHEREFORE, Petitioners request that this Court enter an Order and Judgment:

(a) Declaring that Respondents violated POL §87(6) by failing to adopt and comply with a sufficient POL §87(6) notification policy for police officers, and/or that Respondents acted arbitrarily and capriciously by failing to adopt and comply with a sufficient POL §87(6) notification policy for police officers, because Respondents' policy fails to provide for notice to police officers when their disciplinary records are sought by a FOIL request that does not specify the officer by name;

(b) Alternatively, declaring that Respondents violated CAPA by failing to adopt a policy under POL §87(6) in accordance with CAPA rulemaking requirements, and striking Respondents' policy on that basis;

(c) Ordering Respondents to immediately adopt, in accordance with CAPA rulemaking requirements, and comply with a POL §87(6) notification policy that complies with the statute by providing notice to all police officers whose records are the subject of a FOIL request, whether or not the request identifies the officer by name;

(d) Temporarily, preliminarily, and permanently enjoining Respondents from producing police officer disciplinary records in response to FOIL requests until Respondents adopt a compliant POL §87(6) notification policy for police officers and provide the requisite notifications to the subject officers; and

(e) Granting such other and further relief as the Court deems just and proper.

Dated: New York, New York
May 8, 2026

Respectfully submitted,

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Attorneys for Petitioners

VERIFICATION

I, DAVID W. MORRIS, an attorney duly admitted to practice before the Courts of the State of New York, this 8th day of May, 2026, affirms under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, except as to matters alleged on information and belief and as to those matters I believe it to be true, and I understand that this document may be filed in an action or proceeding in a court of law. He is a Senior Associate General Counsel for the Police Benevolent Association of the City of New York, Inc., ("PBA"), Petitioner in the within proceeding. That the foregoing Petition is true based on his own knowledge the source of which is set forth below except as to the matters therein stated to be alleged upon information and belief, and as to those matters he believes them to be true. Deponent further says that the reason why this verification is not made by the Petitioner is that it is a corporation. The source of my information and the grounds for my belief are based on personal knowledge, documents provided to me, and conversations with certain individuals familiar with the facts and circumstances of this matter.

Dated: New York, New York
May 8, 2026



DAVID W. MORRIS