

April 27, 2026

VIA EMAIL

Deputy Commissioner Department Advocate Tarek A. Rahman
New York City Police Department
1 Police Plaza
New York, NY 10038

**Re: NYPD v. Detective 2nd Grade David Terrell
CHIA No. 2026-986 / IAB Log No. 2026-11051**

Request for Dismissal with Prejudice, Rescission of Suspension, Full Back Pay, Restoration of Benefits, and Expungement

Dear Deputy Commissioner Rahman:

This office represents Detective 2nd Grade David Terrell in connection with the above-referenced Charges and Specifications. We respectfully demand that the Department dismiss the Charges and Specifications with prejudice, rescind Detective Terrell's thirty-day suspension without pay, restore all lost salary, overtime, benefits, accruals, seniority, assignments, and standing, and expunge all references to this matter from his personnel, disciplinary, command, Internal Affairs Bureau, and Department records.

This case should not proceed. It is legally defective, factually unsupported, and structurally unreliable.

At bottom, the Department seeks to discipline Detective Terrell for allegedly verifying the existence of a reported sexual assault inside One Police Plaza. That premise is indefensible. A sexual assault inside police headquarters is not a private curiosity, gossip, or an unrelated personal matter. It is a workplace-safety event, a sexual-harassment and hostile-work-environment concern, a potential criminal event, and a matter directly implicating the Department's obligations to its employees and other users of Department facilities.

The Department's own paperwork reflects that Salvatore "Sal" Greco publicly referenced an alleged sex crime at One Police Plaza, that Detective Terrell viewed a complaint report, that phone contact occurred between Detective Terrell and Mr. Greco, and that Detective Terrell later acknowledged confirming whether the complaint report existed after Mr. Greco advised him of the allegation.

Those facts do not establish misconduct. They establish the Department's central evidentiary problem.

This matter should be dismissed for three independent reasons. First, the Department has not proven dissemination. It identifies no specific confidential statement, no transmission, no message, no recipient confirmation, and no competent evidence that Detective Terrell provided Mr. Greco with non-public information. Second, the Department failed to interview Mr. Greco, the alleged recipient and central witness. That omission alone renders the investigation unreliable. Third, the Department mischaracterizes alleged verification of a reported sexual assault inside One Police Plaza as a "non-Department related" database inquiry, even though the subject matter plainly implicated workplace safety, sexual-harassment prevention, employee notice, whistleblower protection, and public concern.

The Department's case therefore rests on a false premise and an incomplete record. It is not a misconduct case supported by proof. It is an association-driven disciplinary theory constructed from timing, inference, and selective omission.

I. The Department's Charges Mischaracterize Department-Related Conduct as Misconduct

The access specification fails at the threshold because the subject matter was plainly Department-related. A reported sexual assault inside One Police Plaza directly concerns Department facilities, Department personnel, Department workplace safety, Department reporting obligations, and Department credibility.

The Department cannot credibly claim that verifying the existence of a sexual-assault complaint inside police headquarters was for a "non-Department related" purpose. The allegation concerned the Department's own workplace. It implicated whether employees and facility users were exposed to a serious safety and sexual-misconduct risk. It also implicated whether the Department complied with its legal obligations to record, evaluate, train, notify, and protect.

The access charge therefore rests on a false premise.

II. The Department Has Not Proven Dissemination

The dissemination specification is equally defective. The Department does not identify the specific confidential information Detective Terrell allegedly disclosed. It does not quote any communication. It does not identify a text message, email, transmission, recording, or witness statement proving disclosure. It does not establish that Mr. Greco learned any non-public information from Detective Terrell.

Instead, the Department relies on timing, contact, and assumption.

That is not proof. It is conjecture.

The omission is especially glaring because the Department did not interview Mr. Greco. If the Department's theory is that Detective Terrell disclosed confidential information to Mr. Greco, then Mr. Greco is the central witness. He is the alleged recipient. He is the person who publicly referenced the incident. He is the person who could confirm or deny whether Detective Terrell provided him any non-public information.

A legitimate investigation would have interviewed him. This one did not.

The failure to interview the alleged recipient of the purported disclosure is not merely a deficiency—it is dispositive of the Department's inability to prove dissemination.

III. The Investigation Reflects Evidentiary Inversion, Not Neutral Fact-Finding

The investigation reflects a classic evidentiary inversion: the Department appears to have started with a suspicion, narrowed the scope around that suspicion, avoided the witness most capable of testing it, and then treated the resulting incomplete record as proof.

That is not an investigation. It is a curated record.

A reliable investigation must identify what happened, locate the witnesses with material knowledge, test competing accounts, and reach a conclusion only after the record is developed. Where an investigation omits the primary witness and relies on inference, the absence of contradiction proves nothing because contradiction was never meaningfully sought.

Here, the Department's failure to interview Mr. Greco confirms that the investigation was not designed to test dissemination. It was designed to sustain a disciplinary theory against Detective Terrell.

IV. Federal Law: First Amendment Protection, Perceived Association, and the Absence of Actual Disruption

The Department's theory also raises serious First Amendment concerns. The Department's own framing identifies Mr. Greco as a "social media personality" known to the Department. That description is not neutral surplusage. It shows that the investigation was framed around Detective Terrell's perceived proximity to a public critic of Department management, public corruption, internal misconduct, and institutional accountability.

Under *Pickering v. Board of Education*, 391 U.S. 563, 568 (1968), a public employee's interest, as a citizen, in speaking or associating on matters of public concern must be balanced against the government employer's interest in efficient public service. That balance requires evidence of actual disruption, not generalized embarrassment, reputational discomfort, or speculative concerns about criticism. *Connick v. Myers*, 461 U.S. 138 (1983), makes public concern the threshold inquiry. Allegations involving police misconduct, public corruption, workplace danger inside police headquarters, and concealment of a sexual assault inside Department facilities are matters of public concern.

Garcetti v. Ceballos, 547 U.S. 410 (2006), does not save the Department's position. *Garcetti* limits protection for speech made pursuant to official duties, but *Lane v. Franks*, 573 U.S. 228 (2014), confirms that public employees may retain First Amendment protection when speaking as citizens on matters of public concern even where the speech concerns information learned through public employment. The Second Circuit applied that distinction directly to the NYPD in *Matthews v. City of New York*, 779 F.3d 167 (2d Cir. 2015), holding that an NYPD officer's complaints about an alleged quota system involved speech as a citizen on a matter of public concern.

Most importantly, *Heffernan v. City of Paterson*, 578 U.S. 266 (2016), confirms that a public employer may violate the First Amendment when it takes adverse action based on perceived protected activity or perceived association, even if the employer is mistaken. The constitutional defect is the employer's motive, not whether the employee actually engaged in the protected activity exactly as the employer believed.

Here, the Department has not identified any actual operational disruption caused by Detective Terrell. It has not identified any concrete harm. It has not proven dissemination. It has not interviewed the alleged recipient. It has instead treated perceived association with Mr. Greco and The Sal Greco Show as an evidentiary atmosphere. That is constitutionally impermissible. Association cannot substitute for proof. Perceived proximity to criticism cannot become a disciplinary predicate.

V. Federal and PESH Recordkeeping: The Department Cannot Treat Safety Information as Contraband

The Department's confidentiality theory also fails under the workplace-safety recordkeeping framework. OSHA's recordkeeping regulations require covered employers to maintain injury and illness records and provide employees, former employees, personal representatives, and authorized employee representatives access to those records, subject to regulatory limits. For New York public employers, those occupational-safety principles operate through the Public Employee Safety and Health ("PESH") structure.

The relevant records include the injury and illness log, annual summary, and incident report where the underlying event qualifies as recordable. A sexual assault or workplace-violence incident inside police headquarters may trigger recordkeeping, safety-review, training, or employee-awareness obligations depending on the facts, including whether the incident caused a recordable injury or illness.

The point is not that every investigative detail must be disclosed to every employee. Nor is the point that legitimate victim privacy, witness protection, medical confidentiality, or investigative integrity may be disregarded. The point is narrower and more important: workplace-safety information cannot be treated as institutional contraband merely because disclosure would embarrass the Department.

If a sexual assault or workplace-violence incident inside One Police Plaza triggered recordkeeping, safety, or employee-awareness duties, the Department cannot use

“confidentiality” to avoid those obligations and then punish an employee for allegedly confirming the underlying incident.

Confidentiality protects people and process. It does not protect institutional concealment.

VI. State Law: Workplace Safety, Sexual-Harassment Prevention, NYSHRL Protection, Whistleblower Protection, and Retaliation

The Department’s theory also conflicts with New York’s workplace-safety, sexual-harassment prevention, human-rights, and anti-retaliation framework.

New York Labor Law § 27-a establishes the public-sector safety foundation. The NYPD is a municipal employer; One Police Plaza is a workplace; and a reported sexual assault inside that workplace is a safety event that cannot be reduced to a private curiosity, gossip, or isolated personnel issue. Detective Terrell’s alleged verification of such an incident cannot be treated as unrelated to Department business.

New York Labor Law § 27-b and 12 N.Y.C.R.R. § 800.6 are more specific. They require public employers to evaluate workplace-violence risks and implement programs designed to prevent and minimize workplace-violence hazards. A reported sexual assault inside police headquarters is plainly within the category of workplace violence and workplace danger requiring risk evaluation, prevention, training, and employee awareness. The Department cannot satisfy those obligations by burying the matter inside Internal Affairs channels, failing to provide meaningful employee awareness, and then disciplining an employee for allegedly confirming whether the incident occurred.

New York Labor Law § 201-g separately requires sexual-harassment prevention policies, training, and employee notice. That statute is not satisfied by annual training language while real sexual-misconduct incidents inside headquarters are treated as institutional secrets. A reported sexual assault inside One Police Plaza directly implicates the Department’s obligation to maintain a workplace where employees understand prohibited conduct, reporting mechanisms, remedies, and protections.

The reported sexual assault also implicates the New York State Human Rights Law, N.Y. Exec. Law § 296. After the 2019 amendments, the NYSHRL must be construed liberally, consistent with the remedial purposes of the statute, and no longer requires harassment to meet the federal “severe or pervasive” threshold. The governing inquiry is whether the employee was subjected to inferior terms, conditions, or privileges of employment because of protected status, subject to the statute’s limited defenses. A sexual assault inside police headquarters is plainly within the universe of conduct capable of altering the conditions of employment under this standard. Where the Department conceals, minimizes, fails to disclose, or fails to remediate such an event—and then disciplines an employee for verifying its existence—it compounds the underlying violation and creates independent liability for retaliation and for maintaining a workplace structure that tolerates or obscures sex-based misconduct.

The NYSHRL also protects employees from retaliation for opposing unlawful discriminatory practices. Detective Terrell’s alleged verification concerned workplace sexual

misconduct. The Department cannot reclassify that concern as database misuse without confronting the protected character of the underlying subject matter. Suspending and charging an employee for conduct connected to a sexual-misconduct inquiry is not neutral discipline where the Department has failed to prove dissemination and failed to interview the alleged recipient.

New York Labor Law § 740 protects employees who disclose, threaten to disclose, object to, or refuse to participate in employer conduct they reasonably believe violates law, rule, or regulation, or presents a substantial and specific danger to public health or safety. Detective Terrell did not need to prove every underlying statutory violation before his conduct could fall within the protected zone. The relevant point is that the subject matter involved a reported sexual assault inside Department headquarters—a workplace-safety, sexual-harassment, and public-integrity event carrying obvious legal significance.

New York Labor Law § 215 further prohibits retaliation for exercising rights protected under the Labor Law. Where the Department suspends and charges an employee for conduct connected to workplace-safety inquiry, the Department converts Labor Law rights into disciplinary risk. That is the chilling structure retaliation law is designed to prevent.

Labor Law § 27-d and § 201-d reinforce the same point. Section 27-d reflects New York's policy favoring employee participation in workplace-safety governance. Section 201-d protects certain lawful off-duty activities, subject to statutory limits and exceptions. The Department has identified no actual operational disruption, no material conflict of interest, and no rule violation independent of its association-based suspicion. It cannot use "confidentiality," "judgment," or "non-Department related purpose" language to punish protected inquiry, lawful association, or opposition to concealed workplace sexual misconduct indirectly.

VII. Local Law: NYCHRL Sexual Harassment, Hostile Work Environment, and Retaliation

The New York City Human Rights Law, N.Y.C. Admin. Code § 8-107, provides broader protection than federal and state law. It must be construed liberally to accomplish its remedial purposes. *Albunio v. City of New York*, 16 N.Y.3d 472, 477–78 (2011).

Under *Williams v. New York City Housing Authority*, 61 A.D.3d 62, 71–76 (1st Dep't 2009), NYCHRL retaliation is not limited to ultimate employment actions; it includes conduct reasonably likely to deter a person from engaging in protected activity.

That standard is decisive here. A thirty-day unpaid suspension, formal charges, and an Internal Affairs investigation based on inferred association and alleged verification of a workplace sexual assault would plainly deter a reasonable employee from raising, verifying, discussing, or objecting to sexual misconduct inside Department facilities.

The City's Stop Sexual Harassment Act reinforces the point. The City requires employee-facing sexual-harassment rights notices and fact sheets, including anti-retaliation protections. A City agency cannot instruct employees that they may report and oppose sexual harassment while allowing the NYPD to discipline an employee for allegedly confirming that a sexual assault

occurred inside headquarters. That contradiction is not neutral discipline. It is evidence of retaliation.

VIII. The False-Statement Specification Cannot Survive the Collapse of the Predicate Charges

The false-statement specification is derivative. It depends on the Department's assumption that Detective Terrell's alleged access and alleged dissemination were wrongful. That premise fails.

The subject matter was Department-related. Dissemination is unproven. The central witness was not interviewed. The statutory framework gave employees a legitimate interest in workplace-safety and sexual-misconduct information. The Department's association-based focus raises First Amendment, NYSHRL, NYCHRL, Labor Law, and whistleblower concerns.

The Department cannot use a defective predicate to manufacture a false-statement charge. Nor can it transform an interrogation premised on an unlawful or retaliatory theory into a separate basis for discipline. Where the underlying theory collapses, the alleged inconsistency is not a legitimate substitute for proof.

IX. The Department's Case Reflects Closed-Loop Reasoning and Pretext

The investigation follows a closed-loop model. The Department identifies a disfavored association. That association triggers suspicion. Suspicion defines the scope. The scope excludes the central witness. The incomplete record is then treated as proof.

That is circular reasoning. It does not test the premise. It circulates around it. A competent investigation would have separated conduct from association, identified the specific information allegedly disclosed, interviewed Mr. Greco, tested whether he possessed independent knowledge, and examined whether the alleged verification concerned protected workplace-safety or anti-harassment activity.

This investigation did none of that. It produced a formal-looking file, but form is not proof. The Department generated process without developing the evidence necessary to sustain the charges.

X. Relief Demanded

Given the constitutional, statutory, and retaliatory issues implicated by this matter, the Department is placed on notice to preserve all records concerning this investigation and the underlying reported sexual assault, including access logs, audit trails, complaint reports, complaint-room records, telephone records, text messages, emails, investigative notes, draft charges, supervisory approvals, IAB communications, OEI communications, Legal Bureau communications, DCPI communications, Office of the Police Commissioner communications, and any communications referencing Detective Terrell, Mr. Greco, The Sal Greco Show, the undersigned, or this office.

For the foregoing reasons, Detective Terrell demands:

1. Dismissal of all Charges and Specifications with prejudice;
2. Immediate rescission of the thirty-day suspension without pay;
3. Full restoration of all salary, overtime, benefits, accruals, seniority, assignments, and standing;
4. Expungement of all references to this investigation, suspension, and charges from all Department records;
5. Written confirmation that no adverse action will be taken based on protected inquiry, protected association, workplace-safety concern, whistleblower activity, or alleged verification of the reported sexual assault; and
6. Written confirmation that the Department has preserved all records identified above.

XI. Conclusion

This case should end now.

The Department has not proven dissemination. It did not interview the alleged recipient. It has not identified actual operational disruption. It has not separated conduct from association. It has not addressed the workplace-safety, sexual-harassment, whistleblower, First Amendment, NYSHRL, or NYCHRL implications of disciplining an employee for allegedly verifying a sexual assault inside police headquarters.

A lawful investigation would have interviewed Mr. Greco. A fair investigation would have identified the specific confidential information allegedly disclosed. A neutral investigation would have tested whether the allegation involved protected inquiry, protected association, workplace-safety concern, or opposition to concealed sexual misconduct. This investigation did none of that.

The Charges and Specifications should be dismissed with prejudice because the Department has not proven dissemination, has not interviewed the central witness, has mischaracterized Department-related conduct as misconduct, and has pursued a disciplinary theory that conflicts with federal constitutional protections, state workplace-safety law, state human-rights law, and local anti-retaliation mandates. Detective Terrell's suspension should be rescinded, and he should be made whole immediately.

Respectfully submitted,

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