



Wylie Stecklow, Esq.
Carnegie Hall Tower
152 W. 57th Street, 8th Floor
New York, New York 10019
Phone: (212) 566-8000
ECF@wylielaw.com

March 2, 2023

VIA ECF

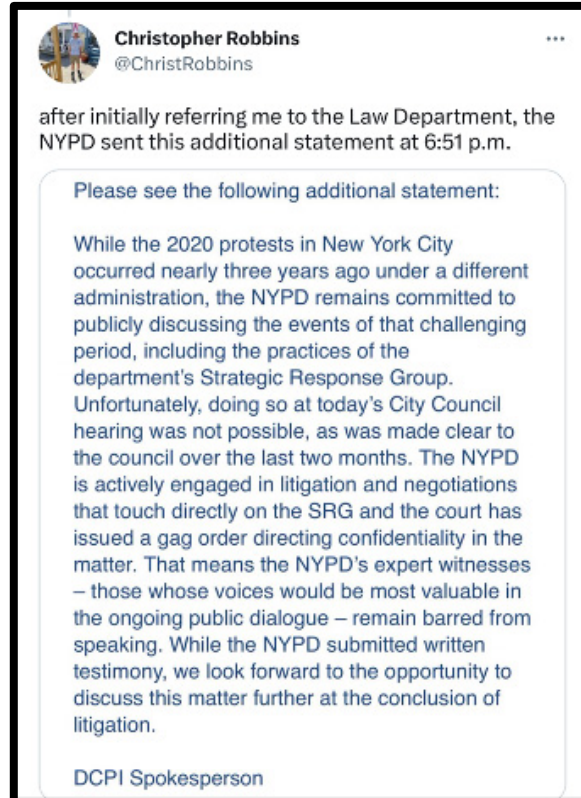
Honorable Chief Judge Colleen McMahon
Southern District of New York
New York, N.Y. 10007

Re: *In Re New York City Policing Suring Summer 2020* 20-cv-08924 (CM)(GWG)

Dear Judge McMahon:

Please recall that I am co-counsel for the plaintiffs in two of the litigations consolidated under the above referenced caption. I write the Court today in reference to statements by the City to the media referring to a “GAG ORDER” in this case.

Specifically, I refer to the embedded image of journalist Christopher Robbins’ tweet from March 1, 2023, quoting a statement by the NYPD wherein it referred to a “Gag Order” in these ongoing consolidated litigations as an excuse for its failure to testify at a scheduled New York City Council meeting:



I have reviewed the consolidated case docket, as well as the dockets in *Sow and Gray*, and there is no “Gag Order.” Of course, prior restraint likes “Gag Orders” are drastic remedies considered inconsistent with the First Amendment. *In re New York Times Co. v. Regan*, 878 F.2d 67 (2d Cir. 1989); *United States v. Salameh*, 992 F.2d 445, 446 (2d Cir. 1993); *CBS Inc. v. Young*, 522 F.2d 234 (6th Cir. 1975).

For background, the City Council scheduled an oversight hearing on the NYPD Strategic Response Group (“SRG”) to take place in January 2023, and the NYPD twice refused to appear at the hearing which was rescheduled each time. Yesterday was the third rescheduled date and, rather than showing up, it issued the embedded statement above. NYPD Director of Legislative Affairs Michael Clarke was also quoted in the *Daily News* stating that “due to litigation over the 2020 George Floyd protests now pending in federal court, the Police Department was “not able to answer any questions at this time.” (See attached as Exhibit 1).

It certainly cannot be that the NYPD’s statements justifying its refusal to appear before the City Council were in reference to the settlement / mediation order in this case, as that order only precludes discussion of settlement negotiations, and does not support a refusal of the NYPD—or indeed any party—to make statements concerning the SRG or any of the facts underlying these cases. (See attached as Exhibit 2).

Before docketing this letter we contacted the City asking them to identify the referenced “Gag Order” or publicly correct their statement. We have not heard back by the 12 p.m. deadline by which we sought a response.

The need for this public testimony by the NYPD is consistent with the famous quote from Justice Brandeis, “*Publicity is justly commended as a remedy for social and industrial diseases. Sunlight is said to be the best of disinfectants; electric light the most efficient policeman.*” By this letter, the Gray Plaintiffs are respectfully requesting that the City of New York identify the supposed “Gag Order” it referenced in responding to media inquiries concerning the NYPD’s failure to testify publicly at a City Council Hearing on March 1, 2023, or for the Court to clarify that no such “Gag Order” exists on any of these consolidated dockets.

Respectfully submitted,



Wylie M. Stecklow

DAVIS WRIGHT TREMAINE LLP

Robert D. Balin
Abigail B. Everdell
Kathleen Farley
Nimra Azmi
Alexandra Settlemayer
1251 Avenue of the Americas, 21st Floor
New York, NY 10020

**NATIONAL PRESS PHOTOGRAPHERS
ASSOCIATION**

Mickey H. Osterreicher
Alicia Calzada
70 Niagara Street
Buffalo, NY 14202
Phone: (716) 983 7800
lawyer@nppa.org

Phone: (212) 489-8230
Fax: (212) 489-8340
robbalin@dwt.com