

FREEDOM OF INFORMATION LAW REQUEST

Pursuant to Article 6 of the Public Officer's Law, I, Mr. Donnell Baines (hereinafter referred to herein as the "Requestor") do hereby make this formal request to the "Records Access Officer" of the New York County District Attorney's Office (hereinafter referred to herein as the "Agency"), to be furnished with photocopies of the hereinmentioned "reasonably described" documents, records, and/or materials, in compliance with sections 87 and 89 of the Public Officer's Law, which consists of but is not limited to the following:

- 1) Any and all Subpoenas issued by this "Agency", or any officer thereof, or any person(s) working for or on the behalf of this "Agency", which were directed to any person(s) or corporations or agencies or other entities, which were issued in relation to the matter of People of the State of New York V. Donnell Baines, under either Docket Number: 2010NY52540; Docket Number: 2009NY52540; Indictment Number: 5299/2010; or, Indictment Number: 35302010;
- 2) Any and all Subpoenas issued by this "Agency", or any officer thereof, or any person(s) working for or on behalf of this "Agency", which were directed to any person(s) or corporations or agencies or any other entities, which were issued in relation to the investigation or prosecution of Donnell Baines (D.O.B. 11/14/1973), or, of any investigation of Mr. Baines' residence, which was located at 1475 2nd Avenue APT. #5h, New York N.Y., 10075, between the dates of January 1st 2010 and January 1st, 2013;

03-08-13 A10:42 RCVD

3) The names, addresses, and transcript of statements of all witnesses or potential witnesses interviewed by this "Agency" or, by the New York City Police Department in relation to the prosecution and/or investigation as well as in relation to the matter of People of the State of New York V. Donnell Baines, including any D.D.5's, A.D.A. notes, and such the like.

Subpoenas issued by this "Agency" are agency records covered by Freedom of Information Law (See, Comm on Open Gov't FOIL-A0-12027).

Also, Pub. Off. Law §87(2)(E) ceases to apply after enforcement investigation and ensuing judicial proceedings have run their course (See, Leshner V. Hynes (2012) 19 N.Y.3d 57, 945 N.Y.S.2d 214, 968 N.E.2d 451). Therefore, as the investigation/prosecution in the matter of The People of the State of New York V. Donnell Baines has been completed, any and all subpoenas issued by this "Agency" in reference thereto cannot be withheld by this "Agency".

Also, neither the "Requestor" nor his assigned attorney has received from this "Agency" copies of all the subpoenas issued in the matter of The People of the State of New York V. Donnell Baines.

Also, even if this "Agency" claims that the "Requestor" or his assigned attorney did in fact receive the requested copies of subpoenas issued in the matter of The People of the State of New York V. Donnell Baines, both the "Requestor", as well as his assigned attorney no longer possess this information, and this "Agency" must furnish these requested copies (See, Williams V. Erie County D.S. [1998, 4th Dept.] 255 A.D.2d 863, 682 N.Y.S.2d 376).

The "Requestor" requests that if this "Agency" is able to scan the aforementioned records, documents, and/or materials in order to transmit them via Email, and doing so will not involve any extra effort additional to alternative methods of responding, then this "Agency" is required to do so (See, Comm on Open Gov't FOIL-AO-16572), and in this "Agency's" response to this request it should inform this "Requestor" of such.

If this method of responding or delivering the requested is not available, then this "Requestor" is prepared to pay the requisite fees (in U.S. Dollars or Money Order) for photocopying (.25¢) and postage, and in this "Agency's" response to this request it may inform this "Requestor" of the number of pages in this total request, the amount for the requested pages photocopying, and the precise amount of postage (if this "Agency" includes such a charge).

Furthermore, the "Requestor" does not by these requests wish to be furnished with or to receive any duplicate documents, pages, records, and/or materials, and as such, if any paragraphs herein (#1-#12) requests documents, pages, records, and/or materials that have been or could be considered to be requested in any other paragraph herein, the "requestor" requests that such duplicates be omitted from the total request.

Wherefore, it is requested that this Freedom of Information Law Request be responded to within the established time prescribed by Law-- to wit (5) business days from the date of this "Agency's" receipt of this request.

This "Agency" MUST respond to this request for information within (5) business days in one of the following forms:

A) This "Agency" can GRANT access;

B) This "Agency" can DENY access, and if so, denial should be in writing, stating with specificity and particularity the reason(s) for denial (See, Matter of Burton V. Slade, 166 A.D.2d 352 [1990]), and, this "Agency" MUST supply this "Requestor" with the name and address of this "Agency's" Appeals Officer; or,

C) This "Agency" may acknowledge its receipt of this request in writing if, more than (5) business days is necessary to review or locate the records sought, and the estimated date for either granting or denying this request is also given in the acknowledgement reflecting those factors. (NOTE\*\* Estimated date for granting or denying a request must be reasonable in view of the fact that all of records, documents, pages, and/or materials requested are clearly available and readily retrievable, and none are excepted from Freedom of Information Law.)

If neither response to this request nor an acknowledgement of its receipt is received by this "Requestor" within (5) business days from the date of this "Agency's" receipt of this request, or, if this "Agency" delays responding for an unreasonable amount of time after it acknowledges receipt of this request, the "Requestor" will consider this request "constructively denied" (See, Comm on Open Gov't FOIL-AO-12438), and the "Requestor" will appeal to this "Agency's" Appeal Officer.

If access to the requested information is granted the "Requestor" requests that the records be mailed to the following address:

\*Mr. Donnell Baines  
207 - 01 94th Avenue  
Queensvillage, N.Y., 11428

Therefore, "Requestor" respectfully requests, pursuant to Public Officer's Law, to be furnished with access and/or photocopies of the aforementioned records, documents, pages, and/or materials.

DATED: February 27<sup>th</sup> 2013.

East Elmhurst, N.Y., 11370.

Respectfully Submitted,

Donnell Baines  
Donnell Baines (Requestor).

On the 27 day of February, 2013, before me, the undersigned, personally appeared Donnell Baines, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Marybeth Campfield  
NOTARY PUBLIC.

Marybeth Campfield  
Notary Public, State of New York  
No. 02CA6171492  
Qualified in Nass Cty, Comm Exp 7/23/15

FOI Administrator

June 21, 2013

Mr. Donnell Baines  
DIN 13A2136, Downstate C.F., Box F, Red Schoolhouse Rd  
Fishkill, NY 12524

Re: Freedom of Information Reference No. 13830

Dear Mr. Baines:

This is a response to your May 31, 2013 revised request, which has been processed under the Port Authority's Freedom of Information Code, (the "Code"), for copies of subpoenas between July 15, 2010, to November 5, 2010 at the Port Authority Bus Terminal located at 42nd Street and 8th Avenue, New York, NY issued by the New York County District Attorney's Office related to the matter of The People of the State of New York v. Donnell Baines.

Please be advised that we have searched our files and found no records responsive to the request.

Please refer to the above FOI reference number in any future correspondence relating to your request.

Very truly yours,



Daniel D. Duffy  
FOI Administrator