

Cheatham v City of New York
2026 NY Slip Op 31723(U)
April 27, 2026
Supreme Court, New York County
Docket Number: Index No. 164876/2025
Judge: Ilana J. Marcus
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. ILANA J. MARCUS PART 05M
Justice
INDEX NO. 164876/2025
MOTION DATE 11/19/2025
MOTION SEQ. NO. 001

THOMASINA CHEATHAM, proposed administrator of the
Estate of SANIYAH CHEATHAM,

Petitioner,

- v -

THE CITY OF NEW YORK AND THE NEW YORK CITY
POLICE DEPARTMENT,

DECISION + ORDER ON
MOTION

Respondents.

The following e-filed documents, listed by NYSCEF document number (Motion 001) 1, 2, 4-6, 10-17,
were read on this motion/cross motion to/for PRE ACTION DISCOVERY / PROTECTIVE ORDER .

Upon the foregoing documents and oral argument held on February 24, 2026,
Petitioner moves pursuant to CPLR 3102(c) for pre-action discovery and
preservation of evidence arising from the death of Saniyah Cheatham ("Ms.
Cheatham") while in New York City Police Department ("NYPD") custody at the
41st Precinct. Respondents oppose the petition except as to preservation of video
evidence and cross-move for a protective order pursuant to CPLR 3103(a). For the
following reasons, the petition is granted in part and the cross-motion is granted
only to the extent of directing that disclosure be subject to an appropriately tailored
protective order.

Petitioner, the mother and proposed administrator of the Estate of Saniyah
Cheatham, alleges that on July 4, 2025, Ms. Cheatham was unlawfully stopped and
seized by NYPD officers and thereafter detained at the 41st Precinct in the Bronx,
New York. Petitioner further alleges that, while in custody, Ms. Cheatham
experienced acute mental-health distress and stated that she would attempt suicide
if left alone in a cell. According to the petition, NYPD personnel nevertheless placed
her alone in a holding cell with a sweater, failed to follow required safety protocols,
failed to monitor her adequately, and failed to intervene or render medical
assistance, resulting in her death by self-inflicted hanging on July 5, 2025.

Petitioner seeks to assert claims under 42 USC § 1983 predicated upon
alleged violations of the Fourth and Fourteenth Amendments, together with related

state-law causes of action arising from Ms. Cheatham's death while in NYPD custody.

The petition seeks pre-action disclosure of, among other things, the identities of officers and supervisors involved in Ms. Cheatham's stop, detention, transport, custody, and death; video recordings; body-worn camera footage; arrest, transport, command, and prisoner records; NYPD investigation records; certain medical records; and preservation of physical and forensic evidence.

Respondents contend that petitioner already possesses sufficient information to frame a complaint; that the requests are overbroad, burdensome, vague, and seek materials that may be privileged or confidential; and that CPLR 3102(c) authorizes only limited and extraordinary relief. Respondents do not oppose preservation of video evidence.

In reply, petitioner argues that this is precisely the sort of case in which broader pre-action discovery is warranted. The only direct witness capable of recounting the material events – Ms. Cheatham – is dead; petitioner was not there and the relevant facts remain squarely within respondents' control.

CPLR 3102(c) provides that, “[b]efore an action is commenced, disclosure to aid in bringing an action, to preserve information or to aid in arbitration, may be obtained, but only by court order.” Pre-action disclosure is not a device to determine whether a cause of action exists, but it is available where a petitioner demonstrates a meritorious cause of action and that the information sought is material and necessary to the actionable wrong, including where disclosure will aid in framing a complaint and identifying prospective defendants (*see Uddin v New York City Tr. Auth.*, 27 AD3d 265 [1st Dept 2006]; *Bliss v Jaffin*, 176 AD2d 106 [1st Dept 1991]; *Delgrange v RealReal, Inc.*, 182 AD3d 421 [1st Dept 2020]).

The First Department has repeatedly recognized that the inquiry under CPLR 3102(c) is a discretionary one, focused on whether the requested material is “material and necessary” to potentially viable claims and would assist the petitioner in framing the complaint and identifying proper defendants (*see Sims v Metropolitan Transp. Auth.*, 123 AD3d 496 [1st Dept 2014]; *Uddin*, 27 AD3d at 266; *Delgrange*, 182 AD3d at 422). Nevertheless, pre-action disclosure may not be used as a mere fishing expedition into another's affairs (*see In re Gleich*, 111 AD2d 130 [1st Dept 1985]; *Matter of Holzman v Manhattan & Bronx Surface Tr. Operating Auth.*, 271 AD2d 346 [1st Dept 2000]).

Particularly instructive here is the recent First Department decision in *Sokolova v City of New York*, 224 AD3d 522 (1st Dept 2024), *affg* 77 Misc 3d 879 (Sup Ct, NY County 2022). In *Sokolova*, the trial court granted pre-action disclosure

to the proposed guardian of an inmate who had suffered a catastrophic brain injury and could not communicate the facts of the incident (*see Sokolova*, 77 Misc 3d at 883-885). The First Department affirmed, holding that there was no reason to alter the trial court's discretionary determination in light of the special circumstances alleged, where an inmate who was attacked suffered a brain injury that rendered him unable to communicate the details of the incident (*see Sokolova*, 224 AD3d at 523). The court further determined that the information sought was "material and necessary" for potentially viable constitutional and negligence claims (*id.*). Additionally, the materials would assist in framing a complaint and identifying prospective defendants (*id.*).

These principles are consistent with Court of Appeals precedent recognizing that custodial authorities owe a duty of reasonable care to safeguard persons in their custody, including from reasonably foreseeable self-harm. In *Sanchez v State of New York*, the Court of Appeals held that having assumed physical custody of inmates, the State owes a duty "to safeguard inmates, even from attacks by fellow inmates, if such attacks are reasonably foreseeable" (*id.*, 99 NY2d 247 [2002]). In *Gordon v City of New York*, 70 NY2d 839 (1987), the Court of Appeals determined that where officials know or should know that a prisoner has suicidal tendencies or may physically harm herself, a duty arises to exercise reasonable care to prevent such harm.

CPLR 3102(c) expressly authorizes preservation of information before suit. Courts have granted preservation relief where there is a possibility that evidence may be lost, including video, documents, and physical evidence (*see White v New York City Transit Auth.*, 198 AD3d 557 [1st Dept 2021]); *Bishop v Stevenson Commons Assocs., L.P.*, 74 AD3d 640 [1st Dept 2010]).

As to respondents' cross-motion for a protective order, CPLR 3103(a) authorizes the court to deny, limit, condition or regulate disclosure so as to prevent unreasonable annoyance, expense, embarrassment, disadvantage, or other prejudice. Courts possess broad discretion to regulate disclosure (*see Jones v Maples*, 257 AD2d 53 [1st Dept 1999]). Where confidentiality or privacy concerns are legitimate, an appropriately tailored protective order may permit disclosure while safeguarding sensitive information (*see Delgrange*, 182 AD3d at 422).

In the instant matter, petitioner satisfies the requirements of CPLR 3102(c). The petition alleges a potentially meritorious claim that Ms. Cheatham was unlawfully seized, detained, placed alone in a cell despite suicidal statements, and inadequately monitored, leading to her death while in NYPD custody. Those allegations, if proven, are sufficient to support potentially viable federal and state claims (*see Gordon*, 70 NY2d at 840; *Sanchez*, 99 NY2d at 252).

Petitioner further demonstrated that she is at a substantial disadvantage in framing a complaint and identifying proper defendants. The relevant evidence—including officer identities, command and movement records, video recordings, body-worn camera footage, internal reports, and related materials—is uniquely within respondents’ possession and control. This matter brings therefore squarely falls within the reasoning of *Sokolova* (see 224 AD3d at 523). Here, petitioner seeks disclosure because the principal witness to the incident is unable to provide the facts necessary to identify who was involved, what decisions were made, whether supervisors were informed, who was responsible for monitoring Ms. Cheatham, and which defendants should be named in the complaint. These facts mirror the scenario in *Sokolova*, where the assaulted inmate sustained a brain injury that left him unable to communicate what had occurred (see *id.*)

Respondents are correct that pre-action disclosure is not a license for an unrestricted fishing expedition, and some of petitioner’s requests, as presently framed, are broad. However, respondents’ position is too narrow. The fact that petitioner knows the date, place, and general nature of the occurrence does not mean she possesses enough information to identify all proper individual defendants or to plead the factual basis of her constitutional and negligence claims with the requisite specificity. The First Department has approved pre-action disclosure where the information sought would materially assist in framing the complaint and identifying prospective defendants, and that is so here (see *Sims*, 123 AD3d at 496; *Delgrange*, 182 AD3d at 422; *Sokolova*, 224 AD3d at 523).

Respondents further argue pre-action disclosure is not warranted because petitioner has enough information to bring an action against “John Does” as a placeholder to preserve her claims against potential individual officers. While CPLR 1024 permits proceeding against unknown parties by designating so much of the names and identities as is known, pre-action disclosure is also a recognized device for ascertaining the identities of prospective defendants (see *Uddin*, 27 AD3d at 266; *Delgrange*, 182 AD3d at 422; *Sokolova*, 224 AD3d at 523). In a case such as this, where petitioner seeks to identify officers and supervisors directly involved in, or allegedly responsible for, the events leading to a custodial death, requiring petitioner simply to proceed against Doe defendants would unnecessarily delay the litigation and frustrate the purpose of CPLR 3102(c) (see *Sokolova*, 77 Misc 3d at 884, *affd*, 224 AD3d 522 [1st Dept 2024]).

The court recognizes respondents’ concern that some categories of material may implicate confidential and/or privileged material. However, those concerns do not warrant wholesale denial of the petition. Rather, they are properly addressed through a tailored protective order and by narrowing specific disclosure at this pre-action stage to materials that are material and necessary to framing the complaint, identifying prospective defendants, and preserving evidence.

Accordingly, the court will direct pre-action disclosure of the following categories, subject to a protective order:

(1) the full names and shield numbers of NYPD personnel and supervisors present or involved in Ms. Cheatham's stop, seizure, transport, processing, custody, monitoring, and death from July 4 to July 5, 2025;

(2) the full names and shield numbers of NYPD officers and supervisors responsible for Ms. Cheatham's custody, housing, observation, and monitoring while at the 41st Precinct;

(3) video recordings and body-worn camera footage depicting Ms. Cheatham's encounter with NYPD, transport, presence in the 41st Precinct, and the relevant holding-cell area;

(4) NYPD incident and investigation records directly relating to Ms. Cheatham's death in custody, including but not limited to, incident reports, unusual incident reports, injury-to-detainee reports, witness interview recordings, and related investigative materials;

(5) Any and all materials, media, documents, and/or electronically stored information directly relating to Ms. Cheatham's death in custody that was not captured by the above-listed items;

(6) the full names and shield numbers of any NYPD personnel suspended in connection with the incident, and their length of suspension; and

(7) preservation of all video, audio, documentary, electronically stored, physical, and forensic evidence relating to the incident.

To the extent petitioner seeks broader categories of disciplinary, medical, investigative, or third-party materials not yet shown to be necessary to framing the complaint or identifying defendants, those requests are denied without prejudice and preserved for ordinary disclosure devices after commencement of the action.

Accordingly, it is hereby

ADJUDGED that the petition and order to show cause seeking pre-action discovery is granted to the following extent:

ORDERED that within sixty (60) days of the date of this Order, the City shall produce the following items to petitioner:

- (1) the full names and shield numbers of NYPD personnel and supervisors present or involved in Ms. Cheatham's stop, seizure, transport, processing, custody, monitoring, and death from July 4 to July 5, 2025;
- (2) the full names and shield numbers of NYPD officers and supervisors responsible for Ms. Cheatham's custody, housing, observation, and monitoring while at the 41st Precinct;
- (3) video recordings and body-worn camera footage depicting Ms. Cheatham's encounter with NYPD, transport, presence in the 41st Precinct, and the relevant holding-cell area;
- (4) NYPD incident and investigation records directly relating to Ms. Cheatham's death in custody, including but not limited to, incident reports, unusual incident reports, injury-to-detainee reports, witness interview recordings, and related investigative materials;
- (5) Any and all materials, media, documents, and/or electronically stored information directly relating to Ms. Cheatham's death in custody that was not captured by the above-listed items;
- (6) the full names and shield numbers of any NYPD personnel suspended in connection with the incident, and their length of suspension; it is further

ORDERED that respondents shall preserve all video, body-worn camera footage, audio recordings, electronically stored information, documents, and physical and forensic evidence concerning Ms. Cheatham's stop, detention, custody, monitoring, and death on July 4-5, 2025; it is further

ORDERED that respondents' cross-motion for a protective order pursuant to CPLR 3103(a) is granted only to the extent that disclosure as set forth herein shall be governed by an appropriately tailored confidentiality and protective order addressing privileged and confidential material, and is otherwise denied; it is further

ORDERED that, if necessary, the parties shall meet and confer within 14 days to agree upon an appropriately tailored protective order addressing privileged and confidential material. If no agreement is reached, competing proposed orders shall be submitted to the court through NYSCEF and email to sfc-part5-clerk@nycourts.gov within 20 days of the date of this Order; it is further

ORDERED that failure to comply with this Order may result in sanctions; and it is further

ORDERED that all other relief is denied.

This constitutes the decision and order of the Court.

04/27/2026

DATE



ILANA J. MARCUS, A.J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE