

**IN THE DISTRICT COURT OF WYANDOTTE COUNTY, KANSAS
29TH JUDICIAL DISTRICT**

ERIC ANDERTON,)
)
Plaintiff-Petitioner,)
)
v.)
)
)
UNIFIED GOVERNMENT OF)
WYANDOTTE COUNTY/KANSAS)
CITY, KANSAS,)
Custodian of Records)
)
and)
KANSAS CITY, KANSAS,)
POLICE DEPARTMENT,)
Custodian of Records for the Kansas)
City, Kansas Police Department,)

Defendants-Respondents,

**PETITION FOR WRIT OF MANDAMUS, DECLARTORY
JUDGEMENT, OR OTHER APPROPRIATE ORDER REQUIRING
PRODUCTION OF RECORDS UNDER THE KANSAS OPEN RECORDS
ACT**

Plaintiff-Petitioner Eric Anderton (“Mr. Anderton” or “Plaintiff”), by and through his counsel, hereby petitions the Court under the Kansas Open Records Act (“KORA”) for a writ of mandamus, pursuant to K.S.A. §§ 45-222(a) and 60-801, ordering the Unified Government of Wyandotte County/Kansas City, Kansas (“the City”), through its Police Department, the Kansas City, Kansas Police Department (“KCKPD”), to produce all requested records as specified herein.

INTRODUCTION

1. If KCKPD's public statements about the shooting of Jon Anderton were true, the agency would be eager to release the video footage of his death. Instead, KCKPD has refused to grant the public access to the video and is forcing the issue into the courts. If the video corroborates KCKPD's narrative, why is it undertaking extraordinary efforts to prevent the public from seeing it?

2. This case is about whether the public should be able to know if the police agency tasked with protecting and serving them is telling the truth. It is also about whether the public has a right to know the true circumstances surrounding the police killing of one the community's most vulnerable members.

3. On February 3, 2023, a KCKPD officer shot Kansas City, Kansas resident Jon Anderton in his back. In the days that followed, KCKPD put out a vague, misleading statement that Jon was armed with a gun—suggesting that he had been a threat to the officer who shot him—but refused to provide the public with any other details. Several months after the shooting, Jon's brother, Eric Anderton, was able to view the body-worn camera footage of the shooting. What he saw on the video did not match KCKPD's misleading narrative. Eric Anderton saw a KCKPD officer unload his gun into his elderly brother's back as he attempted to flee into the woods. No gun was visible in the video.

4. Mr. Anderton has filed this action because he believes the taxpayers funding KCKPD have a right to know the truth about what happened to his brother. Knowing the circumstances of Jon's death will help the public: (1) resolve conflicting narratives about what happened to Jon—and ultimately whether the shooting was justified; (2) uncover police deception;

(3) better understand their own risk of violence when interacting with KCKPD officers; (4) evaluate the need for changes to KCKPD's use-of-force training, department leadership, and other operations; and (5) evaluate the performance of the Wyandotte County District Attorney who determined the shooting was justified.

5. Transparency created by the video's release will also serve the public good by engendering trust and confidence in police operations. While public disclosure of the video is in the public interest, KCKPD has no reason to withhold the video from the public other than the illegitimate purpose of covering up its misconduct. Accordingly, this Court should grant the relief requested in the petition and release the body-worn camera footage of Jon Anderton's fatal shooting.

JURISDICTION

6. This Court has jurisdiction pursuant to Kansas Open Records Act, K.S.A. § 45-215 et. seq., and relief is sought pursuant to K.S.A. § 60-801.

7. Venue is proper because the public records are in Wyandotte County/Kansas City, Kansas. K.S.A. § 45-222(a) ("The district court of any county in which public records are located shall have jurisdiction to enforce the purposes of this act with respect to such records, by injunction, mandamus or other appropriate order, in an action brought by any person").

PARTIES

8. Plaintiff, Eric Anderton, is the brother of Jon Anderton. He resides in Iowa.

9. Defendant Unified Government of Wyandotte County/Kansas City, Kansas was established in 1997, following a vote to consolidate the governments of Wyandotte County and Kansas City, Kansas. It is a political subdivision of the State of Kansas.

10. Defendant Kansas City, Kansas, Police Department is an entity of the City of Kansas City, Kansas. Its headquarters is located at 700 Minnesota Avenue, Kansas City, Kansas, 66101.

FACTUAL BACKGROUND

The Killing of Jon Anderton

11. Jon Anderton was a 50-year-old unhoused man who struggled with addiction for much of his life. He had a daughter who lived in Iowa and siblings throughout the country who loved him. He lived in Kansas City, Kansas at the time of his death.

12. On February 3, 2023, one of his friends overdosed. Jon called 9-1-1 to get his friend medical attention. He waited until he saw EMTs arrive and then left the scene on his bicycle.

13. A KCKPD police officer arrived along with EMTs who responded to the call. The officer saw Jon leave the scene on his bicycle and pursued him. The officer turned on his sirens when he was behind Jon at which point Jon stopped riding and dismounted from his bike.

14. Once Jon was stopped, he kept both of his hands firmly gripped on the handlebars of his bike. The officer asked him questions including his name, address, and what he was doing at the house where his friend had overdosed.

15. Jon remained still throughout the questioning and calmly answered all of the officer's questions. When the officer asked Jon why he had left the house before police had arrived on the scene, Jon responded that he felt there was nothing further he could do to help.

16. The officer then told Jon he would have to arrest him. As the officer moved closer to Jon—presumably to arrest him—Jon started running with his hands still on the bike handlebars.

17. Unable to run while pushing the bike, Jon dropped the bike to the ground and proceeded to run towards a patch of trees on the side of the road. The officer pursued him on foot. As Jon ran, his pants started to fall beneath his waist because he was not wearing a belt. When he reached down to grab his pants that had fallen below his waist to pull them up while running, the officer fired approximately three shots into Jon's back and Jon fell to the ground. The officer continued to shoot several bullets after Jon was incapacitated on the ground.

18. Jon did not have a weapon in his hands or anywhere on his person at any point in the video.

KCKPD Distorts the Narrative Around Jon's Death

19. In the days following the shooting, KCKPD made obfuscating comments about the shooting, including that "some sort of exchange occurred" and that Jon "was armed."¹ Jon's family members, including Eric Anderton, were given little information about their brother's death.

20. Months later, Eric Anderton and one of his brothers were permitted to view footage of their brother's killing. Jon's sister living in California was not permitted to view the video because she was not able to travel to attend an in-person screening of the shooting.

21. Lack of continued access to the video made it difficult for the Anderton family to obtain legal representation. Their troubles in finding an attorney were compounded by the misleading police narrative that suggested Jon had threatened the officer who shot him.

KCKPD Denies Eric Anderton's Request to Release the Video Footage and Related Investigatory Records

¹ News Staff, *KCKPD identify man shot and killed by police responding to an overdose call*, KMBC 9 News (Feb. 5, 2023), <https://www.kmbc.com/article/kansas-city-kansas-police-shoot-kill-man-while-responding-to-overdose-call-kck/42762603>.

22. After seeing a discrepancy in how KCKPD presented Jon’s killing and what was depicted in the video, Eric Anderton wanted the public to see the video. Part of Mr. Anderton’s motivation was to defend his brother’s reputation and correct the misrepresentations that Jon was violent and dangerous. However, more than that, Mr. Anderton wanted the video to be released to ensure that what happened to Jon did not happen to anyone else. Mr. Anderton believes that people should know what actions can get them killed by a KCKPD police officer and whether KCKPD misleads the public after one of their officers takes a life. Accordingly, he submitted a public records request under K.S.A. § 45-220 on March 27, 2024. *See* Exhibit 1. Mr. Anderton’s request was denied on April 8, 2024. *See* Exhibit 2. KCKPD cited K.S.A. §§ 45-221(a)(10) and (30) as the reason the request was denied. *Id.*

KCKPD’s Extensive History of Covering Up Misconduct

23. KCKPD’s long and well-documented history of violence, corruption, and indifference to civilian complaints of misconduct² amplifies the need for transparency and public accountability here.

24. Documentation of KCKPD officers’ use of excessive force, and KCKPD’s repeated failures to thoroughly and faithfully investigate such incidents, dates as far back as the early 1990s. According to a 1993 memo issued by the Federal Bureau of Investigation (FBI), 200 KCKPD officers had been accused by civilians of using excessive force—primarily against Black civilians—and other forms misconduct, including the use of racist epithets.³ Yet, due to

² *See, e.g.,* Peggy Lowe and Lawrence Brooks IV, *The police killing of Amaree’ya Henderson is a major test for Kansas City, Kansas leaders*, KCUR (May 15, 2023), <https://www.kcur.org/news/2023-05-15/the-police-killing-of-amareeya-henderson-is-a-major-test-for-kansas-city-kansas-leaders>.

³ Steve Vockrodt and Peggy Lowe, *FBI has investigated Kansas City, Kansas, Police for decades, but prosecution of bad cops is rare*, KCUR (Nov. 9, 2021), <https://www.kcur.org/news/2021-11-09/fbi-has-investigated-kansas-city-kansas-police-for-decades-but-prosecution-of-bad-cops-is-rare>.

what the FBI characterized as “corruption within the [KCKPD] police department and general investigative incompetence,” KCKPD never adequately investigated these multiple allegations of routine, racially targeted excessive force. Moreover, as the FBI noted, “complaints made by citizens concerning violations of their civil rights [wa]s only the tip of the iceberg” of KCKPD’s misconduct.⁴

25. KCKPD’s misconduct and corruption captured national attention in the fall of 2022, when federal prosecutors charged Roger Golubski, a retired KCKPD detective, with raping multiple Black women and girls over the course of several years.⁵ Around the same time, evidence emerged that Golubski had coerced multiple witnesses into providing false testimony to convict innocent people of crimes committed by known gang leaders with whom Golubski ran an illegal sex trafficking operation.⁶

26. Despite Golubski’s particular notoriety, KCKPD’s pattern of civil rights violations did not begin nor end with him. For one, Golubski’s victims have lodged allegations of related misconduct against other KCKPD officers—a federal lawsuit filed by five Black women in 2023 names not only Golubski but also former KCKPD detectives Michael Kill, Clayton Bye, and Dennis Ware who allegedly “aided ‘the protection racket by fabricating false evidence and

⁴ *Id.*

⁵ Office of Public Affairs of the U.S. Department of Justice, *Former Kansas City, Kansas, Police Department Detective Indicted for Sexual Assaults* (Sep. 15, 2022), <https://www.justice.gov/opa/pr/former-kansas-city-kansas-police-department-detective-indicted-sexual-assaults>; David Nakamura, *Kansas City, Kans., weighs racial justice as ex-officer faces charges of abuse*, The Washington Post (Nov. 26, 2022), <https://www.washingtonpost.com/national-security/2022/11/25/kansas-city-cop-golubski/>; Peggy Lowe, *Black women say KCKPD detective Roger Golubski preyed on them for decades. Stacey Quinn was one*, KCUR (Oct. 26, 2022), <https://www.kcur.org/news/2022-10-26/black-women-say-kckpd-detective-roger-golubski-preyed-on-them-for-decades-stacey-quinn-was-one>.

⁶ Rick Tulskey, Shaila Dewan, and Andrew Rossback, *23 Years for Murder. He Didn’t Do it. What Went Wrong?*, The New York Times (Nov. 20, 2017), <https://www.nytimes.com/interactive/2017/11/20/us/innocent-murder-exoneration.html>; Eduardo Medina and April Rubin, *Ex-Detective in Kansas Helped Men Run Sex Trafficking Operation, U.S. Says*, The New York Times (Nov. 14, 2022), <https://www.nytimes.com/2022/11/14/us/kansas-police-indicted-sex-trafficking.html>.

testimony, enforcing ultimatums and threats on innocent civilians, and shaking down drug dealers to extort and collect ‘protection’ payments, including stolen goods.’”⁷

27. But more significantly, Golubski’s predatory behavior and manifold abuses were only possible because of KCKPD’s longstanding culture of racism and corruption. The same federal lawsuit filed last year against the former KCKPD detectives responsible for the alleged “protection racket” also names former KCKPD chiefs Terry Ziegler, Tom Dailey, Tom Dailey, and Ronald Miller, who each allegedly fostered an environment where KCKPD officers could harass and abuse the KCK community with impunity.⁸

28. Examples abound of KCKPD officers’ use of excessive force. In November 2005, for example, a group of KCKPD officers “broke up a Black teenager’s birthday party, allegedly beating and pepper spraying the teens while using racial and sexual slurs.”⁹

29. In May of 2014, KCKPD officers killed Craig J. McKinnis, after they stopped the vehicle in which McKinnis was riding as passenger. The officers, who claimed McKinnis resisted arrest after they determined he had an outstanding warrant, held a handcuffed McKinnis face-down on the ground despite McKinnis’s repeated pleas that he could not breathe. McKinnis died of asphyxiation.¹⁰

⁷ Peggy Lowe, *Kansas City, Kansas, empowered police to exploit and humiliate Black community, lawsuit says*, KCUR (Nov. 6, 2023), <https://www.kcur.org/news/2023-11-06/kansas-city-kansas-empowered-police-to-exploit-and-humiliate-black-community-lawsuit-says> (quoting the filed Complaint).

⁸ Andy Alcock, *Accusers of former KCK detective Roger Golubski file lawsuit against former KCK police chiefs, county*, KMBC 9 News (Nov. 6, 2023), <https://www.kmbc.com/article/accusers-of-former-kansas-city-kansas-detective-roger-golubski-file-lawsuit-against-former-kck-police-chiefs-county/45758492>. See also Peggy Lowe, *Deeper than Golubski: A culture of corruption defined the Kansas City, Kansas Police Department*, KCUR (Nov. 23, 2022), <https://www.kcur.org/news/2022-11-23/deeper-than-golubski-a-culture-of-corruption-defined-the-kansas-city-kansas-police-department>.

⁹ Peggy Lowe, *Kansas City, Kansas, mayor dumps police critic from law enforcement board*, KCUR (Feb. 20, 2023), <https://www.kcur.org/news/2023-02-20/kansas-city-kansas-mayor-dumps-police-critic-from-law-enforcement-board>.

¹⁰ Matt Campbell, *KCK police sued by family of man who died while being detained*, The Kansas City Star (Oct. 2, 2016), <https://www.kansascity.com/news/local/crime/article105562656.html>.

30. In May of 2020, KCKPD officers tased Joshua Brunson, an unarmed and mentally ill man, while he sat in the driver’s seat of an allegedly stolen vehicle.¹¹ When the shock of the taser caused Brunson to involuntarily move the vehicle forward, the officers shot a total of 20 shots, striking Brunson 4 times and nearly striking a bystander woman and her toddler.¹² Brunson lived, but was severely injured.¹³

31. In June of 2021, KCKPD officers slammed William Dickerson, an unarmed and handcuffed man, into the ground multiple times. The KCKPD officers who arrived at the hotel parking lot where Dickerson and others were grilling food were allegedly responding to a report of a person with a gun. The officers handcuffed Dickerson despite his insistence he was unarmed, forced him to urinate on himself, and slammed his face into the concrete twice, leading to Dickerson’s hospitalization.¹⁴

32. In April of 2023, KCKPD officers pulled Amaree’ya Henderson and his girlfriend over for an alleged traffic violation. Henderson, a 25-year-old man at the time of the traffic stop, was 18 years old when KCKPD officers accused him of “walking through, or too close to” a crime scene.¹⁵ The officers handcuffed Henderson and beat him, causing permanent damage to his wrist. Wary of KCKPD’s culture of violence, Henderson feared for his life when the KCKPD officers pulled him over in 2023. He FaceTimed his mother, who heard Henderson and his girlfriend ask multiple times why they had been pulled over. When an officer started to grab and

¹¹ See *Brunson v. Unified Government of Wyandotte County/Kansas City, Kansas, et al.*, No. 2:22-cv-02189-JWB-GEB (D. Kans.), Doc. No. 1 (Complaint) ¶¶ 13-23.

¹² *Id.* ¶¶ 23-26.

¹³ Bill Lukitsch, *Man shot four times by police in Kansas City, Kansas, sues cops, Unified Government*, The Kansas City Star (May 25, 2022), <https://www.kansascity.com/news/local/article261772837.html>.

¹⁴ Katie Moore, *KCK police slammed handcuffed man to ground after report of gun at hotel: Lawsuit*, The Kansas City Star (Jun. 12, 2023), <https://www.kansascity.com/news/local/article276319081.html>.

¹⁵ Anna Sporre and Glenn E. Rice, *25-year-old killed by KCK police had wanted to be cop. Then he was beaten, mother says*, The Kansas City Star (Apr. 28, 2023), <https://www.kansascity.com/news/local/crime/article274795506.html>.

punch at Henderson, Henderson started to back up his car in the hopes of moving the encounter to a more populated area where there might be witnesses. Henderson’s girlfriend instructed him to keep the car in park, and he complied. But one moment later, one of the officers shot Henderson twice, killing him. Henderson’s family viewed a redacted version of the body-worn camera footage and identified several inconsistencies between KCKPD’s version of the events and the footage.¹⁶ On information and belief, KCKPD has yet to release the footage to the public, despite multiple requests for its disclosure.

33. KCKPD, and the Unified Government more generally, continues to resist community efforts for transparency and reform. Just last year, Mayor Tyrone Garner removed Pastor Rick Behrens, an outspoken social justice advocate, from the Unified Government’s Law Enforcement Advisory Board.¹⁷ Behrens, whom the Mayor had appointed to the board in 2022, “had been working to make the board more active and move it away from being the ‘rubber stamp’ it had been since [its creation in] 2006.”¹⁸

34. Despite a recent regime change at KCKPD, with Karl Oakman becoming chief in May 2021, the Department has maintained its resistance to public accountability. Chief Oakman insists he has implemented serious changes yet refuses any audit by an external organization that could confirm as much. Despite community demands for a U.S. Department of Justice investigation of KCKPD, Chief Oakman claimed “a DOJ investigation would do far more harm than good.”¹⁹

¹⁶ Jackson Kurtz, *No criminal charges for KCK officer in shooting of Amaree’ya Henderson; family disagrees with decision*, KMBC 9 News (May 26, 2023), <https://www.kmbc.com/article/wyco-district-attorney-no-charges-will-be-filed-against-kck-police-officer-who-shot-killed-man/44017566>.

¹⁷ Peggy Lowe, *Kansas City, Kansas, mayor dumps police critic from law enforcement board*, *supra* note 9.

¹⁸ *Id.*

¹⁹ Luke Nozicka and Aarón Torres, *Jay-Z’s Team Roc renews calls for DOJ probe into Kansas City, Kansas, police misconduct*, *The Kansas City Star* (Jan. 18, 2022), <https://www.kansascity.com/news/local/crime/article257436627.html>.

LEGAL ARGUMENT

35. K.S.A. § 45-221(a)(10) provides that a criminal investigation record is subject to disclosure if the disclosure: “(A) Is in the public interest; (B) would not interfere with any prospective law enforcement action, criminal investigation or prosecution; (C) would not reveal the identity of any confidential source or undercover agent; (D) would not reveal confidential investigative techniques or procedures not known to the general public; (E) would not endanger the life or physical safety of any person; and (F) would not reveal the name, address, phone number or any other information that specifically and individually identifies the victim of any sexual offense described in article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto.”

A. Releasing Video Footage of the Killing of Jon Anderton is in the Public Interest.

36. A record is in the public interest if it “affects a right or expectancy of the community at large.” *Harris Enterprises Inc. v. Moore*, 241 Kan. 59, 66 (1987). Although not every instance of alleged police misconduct will necessarily meet the requirements of public disclosure, a state-sanctioned killing where the police narrative is inconsistent with what is observable in the video is a matter of indisputable public interest. In *Harris Enterprises*, the Kansas Supreme Court affirmed the public interest in resolving contested law enforcement public narratives, adopting the trial court’s finding that there was “a definable public interest arises to investigate that controversy and to seek a resolution” of “disputed or disagreed upon facts and circumstances arising out of the investigation.” *Id.*

37. Courts and commentators have acknowledged that public access to video footage of deadly police encounters can serve the public interest when it exposes falsehoods and

obfuscation in police narratives. Video footage has an unparalleled capability to uncover police misconduct and deceit.²⁰ See *United States v. Slager*, No. 2:16-cr-00378-DCN, 2018 U.S. Dist. LEXIS 6382, at *13 (D. S.C. Jan. 16, 2018) (testimony of former Charleston Police Officer Michael Slager, who claimed he fatally shot Michael Scott after Scott stole Slager’s taser, was proven false by a bystander’s video); *United States v. Simpson*, No. 16-cr-00005-CRB-1, 2021 U.S. Dist. LEXIS 94449, at *7-8 (N.D. Cal. May 18, 2021) (surveillance footage “was unequivocal in rebutting everything that the police officer testified to—at least as to all pertinent details”).

38. In this case, KCKPD painted a picture in official public statements that Jon was visibly armed and interacted with the officer in a manner that was threatening. Jon’s family members who had seen the video—including Eric Anderton—have alleged that KCKPD’s narrative is misleading. The public has a strong interest in resolving the conflicting representations about the circumstances of Jon’s death. Relatedly, the public has a strong interest in knowing whether KCKPD has in fact used vague public statements to mislead the community and cover up its officer’s misconduct.

39. While resolving contradicting narratives and transparency are intrinsically valuable public goods, public access to the video footage in this case would advance other vital public interests including preventing future incidents of police violence.

²⁰ See Albert Samaha, *Blue Lies Matter: How Video Finally Proved That Cops Lie*, BUZZFEED NEWS (Jan. 2017) (collecting several cases); Eric Levenson, *How Minneapolis Police first described the murder of George Floyd, and what we know now*, CNN, (Apr. 21, 2021), <https://www.cnn.com/2021/04/21/us/minneapolis-police-george-floyddeath/index.html> (last visited Nov. 6, 2021)(video contradicted the narrative initially released by the Minneapolis Police Department after former officer Derek Chauvin murdered George Floyd); Nouran Salahiel et. al., *First police report in Tyre Nichols case does not match video of deadly video*, CNN, (Feb. 1, 2023), <https://www.cnn.com/2023/01/31/us/tyre-nichols-investigation-tuesday/index.html> (last visited Apr. 14, 2024) (“the initial police report said Nichols ‘started to fight’ with officers and at one point grabbed one of their guns. But neither claim was substantiated by police videos released last week”).

40. KCKPD officers will continue to engage in misconduct and lie about it if they know there will be no public scrutiny of or consequences for their actions. Experts have opined that one of the reasons police continue to use excessive force and lie about it despite knowing there is video footage contradicting their account is because the department co-signs their narrative and the public never gets a chance to hold them accountable.²¹ Providing public access to this video will potentially deter both future shootings and future coverups by putting officers on notice that their actions will be subject to public scrutiny.

41. Public access to the video will also enable the public to identify deficiencies in KCKPD's handling of use-of-force incidents and advocate for changes. A number of courts have recognized that the public has an interest in viewing body-worn camera footage depicting an individual officer's use of force because it provides insights into broader departmental issues. *See, e.g., ACLU of Or., Inc. v. City of Eugene*, 360 Or. 269, 276–77 (2016) (upholding trial court's finding that public interest in monitoring public officials' performance of their duties was served by disclosure of information regarding a specific officer's use of a Taser); *Robinson v. City of Huntsville*, No. 5:21-cv-00704-AKK, 2021 U.S. Dist. LEXIS 210417, at *6-7 (N.D. Ala. Nov. 1, 2021) (“To state the obvious, alleged systemic issues in policing are at the forefront of the public consciousness, sparked by countless instances of excessive force by police officers in recent years. . . . [T]ransparency and accountability in how law enforcement officers police their communities . . . is crucial to maintaining trust in our criminal justice system and in our democratic society as a whole, especially because police use-of-force incidents are historically

²¹ Harmeet Kaur, *Videos often contradict what police say in reports. Here's why some officers continue to lie*, CNN, (June 6, 2020), <https://www.cnn.com/2020/06/06/us/police-reports-lying-videos-misconduct-trnd/index.html> (last visited Apr. 17, 2024) (quoting Professor Rachel Moran of the University of St. Thomas School of Law, who explained officers who lie about use-of-force incidents rarely face any repercussions because “There’s a strong culture of protecting each other. . . . Sometimes there’s also strong bias often against people making the complaints.”).

underreported or miscategorized by police departments. . . . [P]ublic access to [body-worn camera] videos . . . is imperative to foster dialogue about whether structural reforms in policing are needed”).

42. Obtaining public access to information on policing practices—including video footage of incidents—has been a critical tool of community campaigns seeking to reform and improve policing. For instance, community groups have relied on information obtained through public records requests to identify deficiencies in policies, failures in leadership, and the need for cultural changes.²²

43. The video will also assist the KCK community in evaluating the District Attorney’s Office’s performance and determine the need for changes in leadership. The DA’s office declined to pursue criminal charges against the police officer who killed Jon. The DA made that decision after watching the video, which shows the officer firing shots at Jon while he was prone on the ground. Communities have decided to vote out elected prosecutors when they refuse to use their office to hold police officers accountable.²³ The current DA ran on a platform of police

²² See Kiley Kosciński, *Activists want open data about how Pittsburgh police use ‘less-lethal’ weapons*, WITF (May 6, 2021), <https://www.witf.org/2021/05/06/activists-want-open-data-about-how-pittsburgh-police-use-less-lethal-weapons/> (describing Pittsburgh activists’ efforts to change use of less-lethal force policies); *What Will it Take to End Police Violence?*, COMMUNITIES UNITED AGAINST POLICE BRUTALITY (May 25, 2020), https://d3n8a8pro7vhmx.cloudfront.net/cuapb/pages/1/attachments/original/1591595256/WHAT_WILL_IT_TAKE_TO_END_POLICE_VIOLENCE_with_Appendices.pdf?1591595256 (Minnesota grassroots group use of public records request to identify problematic policies and draft proposed changes in wake of George Floyd’s murder); *Civil Rights and Faith Leaders Send Tulsa Mayor and City Council Chair Letter Demanding Police Reforms*, THURGOOD MARSHALL INSTITUTE (May 31, 2018), <https://www.naacpldf.org/press-release/civil-rights-faith-leaders-send-tulsa-mayor-city-council-chair-letter-demanding-police-reforms/> (Tulsa religious leaders and civil rights groups used the state freedom of information laws to develop comprehensive recommendations following Terrence Crutcher’s death); *Clearview, Cameras, and Karen: Newly Released Documents Expose Facial Recognition Technologies Used Across Massachusetts*, ACLU OF MASSACHUSETTS (2020), <https://data.aclum.org/2021/03/01/clearview-cameras-and-karen-newly-released-documents-expose-facial-recognition-technologies-used-across-massachusetts/> (describing public records request to advocate for facial recognition technology changes).

²³ See, e.g., Cleve R. Wootson Jr., *Voters Oust Prosecutor Accused of Favoring Ferguson Officer Who Killed Michael Brown*, WASH. POST (Aug. 8, 2018), <https://wapo.st/2M8orLH> [<https://perma.cc/T2SV-6G5Z>].

accountability.²⁴ The voters who put him in office should have the opportunity to determine whether he is fulfilling his campaign processes.

44. Access to raw evidence about why someone was killed by a police officer is essential for people to trust the police. Depriving a community already blighted by police misconduct of information about a police killing breeds distrust.²⁵ In the absence of information, many people will fill the void with their worst assumptions. There are several cascading harms that flow from community distrust in the police including an unwillingness to call the police even when in danger and general unwillingness to engage and participate with one's government.²⁶

45. Public access to the video of Jon's killing touches on the public's right to resolve disputed narratives, uncover police deceit, protect themselves from police violence, advocate for changes, and trust the people who are supposed to protect and serve them. There is a strong public interest in releasing the video.

B. Releasing the Video Footage Will Not Interfere with Any Prospective Law Enforcement Act, Criminal Investigation, or Prosecution.

46. There is no pending or prospective law enforcement act, criminal investigation, or prosecution relating to the killing of Jon. The District Attorney announced that he is not prosecuting the officer involved in Jon's killing.²⁷ Jon is no longer alive and therefore is not

²⁴See, e.g., Mark Dupree, *I am taking on the system in Wyandotte County, That's Why The System is Retaliating*, Kansas City Star (July 24, 2020), <https://www.kansascity.com/opinion/readers-opinion/guest-commentary/article244471422.html>.

²⁵ Cynthia Conti-Cook, *A New Balance: Weighing Harms of Hiding Police Misconduct Information from the Public*, 22 CUNY L. REV. 148, 159 (2019) ("The deflections, delays, and denials of responsibility for police violence cause more unrest and distrust.").

²⁶ *Id.* ("Many people avoid calling the police, even when in danger, wanting to avoid future encounters, especially after high-profile police violence.").

²⁷ Makenzie Koch, *Wyandotte County prosecutor rules deadly KCK police shooting was justified*, Fox 4 (Aug. 30, 2023), <https://fox4kc.com/news/wyandotte-county-prosecutor-rules-deadly-kck-police-shooting-was-justified/>.

facing any criminal charges or future prosecution. Nothing in the video would interfere with a future or ongoing prosecution or criminal investigation. Accordingly, this factor counsels in favor of disclosure.

C. Releasing the Video Footage Would Not Reveal the Identity of Any Confidential Source or Undercover Agent.

47. There is no confidential source or undercover agent involved in Jon's killing and the only two people depicted in the video are Jon and the officer. Nothing in the video footage would reveal the identity of a confidential source or undercover agent. Accordingly, this factor counsels in favor of disclosure.

D. Releasing the Video Footage Would Not Reveal Confidential Investigative Techniques or Procedures Unknown to the General Public.

48. *In camera* review of the video will reveal that there are no investigative techniques or procedures depicted in the video footage of Jon's killing. The officer involved engaged in standard questioning about Jon's identity and the reason he left the home where his friend had overdosed. The video would not reveal confidential investigative techniques or procedures unknown to the general public. Accordingly, this factor counsels in favor of disclosure.

E. Releasing the Video Footage Would Not Endanger the Life or Physical Safety of Any Person, Nor Would it Reveal Information About Victims of Sexual Violence.

49. Nothing in the video footage would endanger the life or physical safety of any person nor would it reveal information about the victims of sexual violence. To the extent that KCKPD believes that the release of the video would compromise the safety of the officer involved, the officer's image can be redacted or blurred. *See, e.g., Conrad v. Reno Police Dep't*, 530

P.3d 851, 857 (Nev. 2023) (affirming public disclosure of body-worn camera footage with officer's face redacted). Accordingly, this factor counsels in favor of disclosure.

50. After KCKPD publicly implied that his brother was a dangerous threat to police, Mr. Anderton seeks to publicly correct the record by releasing the video.

51. Given the strong public interest and absence of countervailing factors, Plaintiff satisfies the requirements of K.S.A. § 45-221(a)(10) supporting disclosure of the requested documents.

F. Redactions Would Cure Any Concerns About Privacy.

52. KCKPD also cited K.S.A. § 45-221(a)(30) as a reason for rejecting Mr. Anderton's request. K.S.A. § 45-221(a)(30) provides that records can be withheld if they "contain information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy."

53. It is possible that statutory provision was cited to support KCKPD's rejection of Mr. Anderton's request for investigatory records not at issue in this Petition. However, to the extent K.S.A. § 45-221(a)(30) is cited in support of shielding the video footage requested, the provision is inapplicable.

54. The officer's identity can be concealed with redaction or blurring so there is no plausible argument that his privacy will be invaded by disclosure.

55. To the extent the provision is invoked to protect Jon's privacy, KCKPD has already invaded his privacy and impugned his reputation by putting out the misleading statement about the circumstances of his death. The agency cannot hide behind a privacy justification after they were the ones to make damaging and misleading facts public. Moreover, the video can be redacted to blur out any sensitive images of Jon's body. *See Matter of N.Y. Lawyers for the Pub.*

Interest v. N.Y.C. Police Dep't, 2021 NY Slip Op 01557, ¶ 1, 192 A.D.3d 539, 540, 140 N.Y.S.3d 696, 696 (App. Div. 1st Dept., March 18, 2021) (holding that the “competing interests [in protecting the decedent’s dignity versus promoting better policing practices] can best be balanced by redacting the video to blur out sensitive footage of [the decedent’s] body and the scene of her shooting death”).

56. Accordingly, K.S.A. § 45-221(a)(30) does not provide a compelling basis for withholding the requested video footage.

PRAYER FOR RELIEF

For the foregoing reasons, Plaintiff respectfully requests the following relief:

- a. Issue a writ of mandamus and/or ordering the Unified Government of Wyandotte County/Kansas City, Kansas and/or Kansas City, Kansas Police Department to produce the requested documents, or, in the alternative set a hearing at which Plaintiff can present evidence in support of their request in this Petition;
- b. Award Plaintiff’s costs and reasonable attorneys’ fees, as provided by K.S.A. 45-222(d); and
- c. Order all other such relief that the Court deems just and proper.

NATIONAL POLICE ACCOUNTABILITY PROJECT

/s/ Lauren Bonds
Lauren Bonds, Esq.
Kansas Bar No 27807
Keisha James, Esq.*
Eliana Machevsky, Esq.*
1403 Southwest Blvd.
Kansas City, KS 66103
Telephone: (620) 664-8584

legal.npap@nlg.org
Keisha.npap@nlg.org
Fellow.npap@nlg.org

*pro hac vice motion pending
Attorneys for the Plaintiffs



National Police Accountability Project

A Project of the National Lawyers Guild

Exhibit 1

March 27, 2024

Via Email: scourtney@wycokck.org
Sheri Courtney Assistant Counsel
Unified Government of Wyandotte County/Kansas City, Kansas
701 North 7th Street, Suite 961 Kansas City, KS 66101

Good Afternoon Ms. Courtney,

The National Police Accountability Project is representing Eric Anderton. Pursuant to the Kansas Open Records Act (KORA), K.S.A. § 45-221, he requests:

1. All video footage of the shooting of John Anderton on February 3, 2023.
2. All video footage of any interaction between John Anderton and any law enforcement officer employed by the Unified Government on February 3, 2023.
3. Any and all reports prepared by any employee of the Unified Government regarding the February 3, 2023 shooting of John Anderton.

If there are fees associated with this KORA request, please inform me of the fees in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment, if available or CD-ROM or USB drive if not.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 3 business days, as the statute requires.

Sincerely,

Lauren Bonds
Executive Director
National Police Accountability Project
legal.npap@nlg.org

Sincerely,

A handwritten signature in blue ink, appearing to read 'Eric Anderton', is written over a thin horizontal line.



**LEGAL DEPARTMENT of the UNIFIED GOVERNMENT OF
WYANDOTTE COUNTY/KANSAS CITY, KANSAS**

**Ninth Floor-Municipal Office Building
701 North Seventh Street
Kansas City, Kansas 66101
Phone (913) 573-5060
Fax (913) 573-5243**

**Acting Chief Counsel
Angela J. Lawson**

**Deputy Chief Counsel
Wendy M. Green**

**Prosecutor
Jon Khalil**

April 8, 2024

Lauren Bonds
National Police Accountability Project
1403 Southwest Blvd.
Kansas City, KS 66103

RE: Kansas Open Records Act Request – Anderton

Dear Ms. Bonds:

This letter is in response to your March 27, 2024 request pursuant to the Kansas Open Records Act (KORA) on behalf of Eric Anderton. You requested:

1. All video footage of the shooting of John Anderton on February 3, 2023.
2. All video footage of any interaction between John Anderton and any law enforcement officer employed by the Unified Government on February 3, 2023.
3. Any and all reports prepared by any employee of the Unified Government regarding the February 3, 2023 shooting of John Anderton.

The front page of the offense report is available through the Next Request portal for a \$15.00 charge, however, it contains little information. The remainder of this request is denied pursuant to K.S.A. 45-221(a)(10) and (a)(30). I would note that Chief Oakman previously allowed you and John Anderton's siblings, Eric Anderton and Forrest Collins, to view the video footage. If you would like a copy of the front page of the offense report, please let me know or enter a message in Next Request under Request #24-1024.

Sincerely,

Sheri L. Courtney
Senior Counsel

**Assistant Counsel
Daniel E. Kuhn
Jeffrey J. Conway
SueZanne (Zee) Bishop
Joni Cole
Sheri L. Courtney
Ross Henry Stewart
Keath Rankin
Casey L. Meyer**