



The Bronx DA Says No Records Exist — But Someone Approved Closing the Wendy Savino Case



Criminal Justice Chris

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In June 2024, the New York Police Department announced what it described as a long-awaited resolution to one of the lingering mysteries connected to the Son of Sam era: the 1976 shooting of Wendy Savino.

Nearly fifty years after the attack, police declared that David Berkowitz — already serving multiple life sentences for the Son of Sam murders — had been identified as the shooter. The case was closed through what is known as an “exceptional clearance,” a classification used when investigators believe they have identified the offender but cannot proceed with prosecution.

According to the NYPD, the decision was not made in isolation. Officials said the case was reviewed by the Bronx District Attorney’s Office, and that Assistant District Attorney Christine Scaccia agreed that if the facts were tied to a present-day investigation, an arrest would have been made.

That statement implies something important: prosecutors examined the evidence supporting the NYPD’s conclusion before agreeing to close the case.

But a recent Freedom of Information Law request suggests that the paper trail behind that decision may be missing.

In November 2025, I filed a request with the Bronx District Attorney's Office seeking records related to the Savino shooting and the identification of David Berkowitz as the perpetrator.

The request asked for several categories of documents:

- The complete exceptional clearance file for the Savino case, including investigative summaries, detective notes, and consultation records.
- Communications related to the public identification of Berkowitz as the shooter.
- Documentation related to the possible destruction of Berkowitz appellate materials.
- Any records explaining how the case could be exceptionally cleared while the office maintained that no Savino case file existed.

On March 2, 2026, the Bronx District Attorney's Office issued its determination.

The response granted the request in part — but the records produced were not investigative materials related to the Savino shooting.

Instead, the office located only 15 pages of administrative documents connected to a 2004 petition seeking court permission to destroy decades-old appellate files.

The office reported that it could not locate the records that would normally explain the Savino closure.

According to the determination letter, the office conducted a search but could not locate:

- The exceptional clearance file for the Savino shooting
- Investigative records connecting Berkowitz to the attack
- Communications identifying Berkowitz as the perpetrator
- Documentation explaining how the exceptional clearance decision was reached

In short, the office says it possesses no records documenting the evidence behind the decision to close the case.

The only materials provided concerned a 2004–2005 records destruction request filed by former Bronx District Attorney Robert T. Johnson. That petition sought permission from the Appellate Division to dispose of certain appellate case files more than twenty-five years old.

While those documents show how older records might have been eliminated, they do not explain the most recent decision in the case — the 2024 exceptional clearance.

Even if original investigative files from the 1970s were destroyed decades ago, the 2024 decision to close the Savino case should still have generated contemporary records.

When prosecutors review evidence and determine whether a case could be charged, it typically produces documentation such as:

- consultation notes
- internal memoranda

- email communications with investigators
- legal analysis explaining the decision

These records serve a basic function in the justice system: they create a paper trail showing who reviewed a case and why a particular decision was made.

Yet the Bronx District Attorney's Office now says it cannot locate any such documentation.

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The NYPD's announcement suggests that prosecutors examined the case and concluded that Berkowitz was responsible.

But if that review occurred, one question remains unresolved: Where are the records documenting it?

Without those records, the public and David Berkowitz are left with a puzzling situation. A major cold case connected to one of New York's most notorious crime sprees has been officially closed — yet the agency said to have reviewed the evidence says it cannot locate any files explaining how that determination was made.

For victims, investigators, and the public alike, the integrity of the criminal justice system depends not only on reaching conclusions, but also on preserving the documentation that explains them.

When those records are missing, the closure of a case may resolve it on paper — while leaving the underlying questions very much open.



OFFICE OF THE BRONX DISTRICT ATTORNEY

DARCEL D. CLARK
District Attorney

198 East 161 Street
Bronx, New York 10451

(718) 590-2000
(718) 590-6419 - Fax
<http://bronxda.nyc.gov>

March 2, 2026

VIA ELECTRONIC MAIL



Re: Determination Letter
Freedom of Information Law Request
Records Pertaining to the Wendy Savino Shooting and David Berkowitz Files



I am writing to inform you that your request for records, dated November 14, 2025 and submitted pursuant to New York Public Officers Law, Article 6, §84, et seq., the Freedom of Information Law ("FOIL"), has been granted in part and denied in part.

On November 14, 2025, you requested the following records from our Office pertaining to the investigation of the shooting of Wendy Savino, as well as matters pertaining to David Berkowitz:

1. "The complete Exceptional Clearance file for the Savino case, including EC worksheet, investigative summaries, DD5s, detective notes, consultation records, and any materials reviewed by ADA Scaccia.
2. All records or communications related to the public identification of David Berkowitz as the perpetrator.
3. Any documentation of the order authorizing the destruction of Berkowitz appellate materials, including records confirming that destruction did not occur.
4. A clear explanation of how an Exceptional Clearance could be issued and publicly announced while your office maintains that no Savino case files exist."

Responsive Records

We have found 15 pages of records responsive to your request.

GRANTED (15 pages)

- Order of the Appellate Division, First Judicial Department Dated September 6, 2005
- Petition Pursuant to Section 89 of the Judiciary Law, Supporting Affidavit and Exhibits Dated September 16, 2004
- New York City Department of Records and Information Services Records Disposal Application

Explanation of Redactions and Denials

We have redacted information pertaining to third parties from the disclosable records. These records are available only to the accused and/or their agent pursuant to CPL §160.50(1)(d).

We are constrained to deny your request for the following records because we could not locate the requested records after a diligent search:

1. "The complete Exceptional Clearance file for the Savino case, including EC worksheet, investigative summaries, DD5s, detective notes, consultation records, and any materials reviewed by ADA Scaccia.
2. All records or communications related to the public identification of David Berkowitz as the perpetrator.
3. Any documentation . . . including records confirming that destruction [of Berkowitz appellate materials] did not occur.
4. A clear explanation of how an Exceptional Clearance could be issued and publicly announced while your office maintains that no Savino case files exist."

An agency is not required to furnish records which it does not possess, nor is an agency required to create new records or compile data from documents in its possession to respond to a FOIL request. Matter of Rivette v. District Attorney of Rensselaer County, 272 A.D.2d 648, 649 (3d Dept. 2000); Matter of Brown v. New York City Police Department, 264 A.D.2d 558, 561-62 (1st Dept. 1999) (holding denial of FOIL request proper because it sought in part documents which are themselves exempt or do not exist); Matter of Adams v. Hirsch, 182 A.D.2d 583, 583 (1st Dept. 1992) (FOIL does not require an entity to prepare any record not possessed or maintained by such entity); Matter of Reubens v. Murray, 194 A.D.2d 492, 492 (1st Dept. 1993) (upholding denial of FOIL request for "aggregate data" not maintained by agency); Matter of He'ron v. Office of the Dist. Attorney, Bronx County, 96 A.D.3d 531, 531 (1st Dept. 2012); Matter of Lugo v. Galperin, 269 A.D.2d 338, 338-39 (1st Dept. 2000), lv. denied, 95 N.Y.2d 755 (2000) (ADA's

statement “that he conducted a diligent search of the DA’s file and did not find the requested documents . . . suffices to satisfy respondent’s FOIL obligations”).

Additionally, “[n]othing in [the Freedom of Information Law] shall be construed to require any entity to prepare any record not possessed or maintained by such entity.” Pub. Off. L. §89(3); see Matter of Lugo v. Galperin, 269 A.D.2d 338, 338-39 (1st Dept. 2000), lv. denied, 95 N.Y.2d 755 (2000) (ADA’s statement “that he conducted a diligent search of the DA’s file and did not find the requested documents . . . suffices to satisfy respondent’s FOIL obligations”). This determination letter is accompanied by a records certification detailing our attempts to locate these records.

If you wish to seek disclosure of these records, or an explanation of the New York City Police Department’s (NYPD) policies pertaining to exceptional clearance, you may submit a FOIL request directly to the NYPD through the New York City Open Records Portal at <https://a860-openrecords.nyc.gov/request/new>.

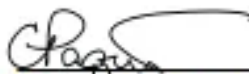
Fee

For disclosure of physical records, this Office customarily charges a fee of \$0.25 per page; \$0.50 per color copy; \$5.00 per audio recording; and \$15.00 per video recording. There is no provision in the Public Officers Law for a waiver of this fee. See Whitehead v. Morgenthau, 146 Misc.2d 806, 807-08 (N.Y. Cty. 1990). The cost of physical copies of the records being produced to you is \$3.75 (15 pages x \$0.25). Please make full payment within the next 60 days. Alternatively, there is no charge if the records are delivered electronically by e-mail or on OneDrive. Please contact the undersigned if you would like the records delivered electronically.

Appeal

If you wish to appeal any portion of this FOIL determination, you must do so within 30 days of the date of this letter. Your appeal should be sent to: Peter Coddington, Records Access Appeals Officer, Bronx County District Attorney’s Office, 260 East 161st Street, 5th Floor, Bronx, NY 10451, coddingtonp@bronxda.nyc.gov.

Sincerely,



Cristin Paquette
Assistant District Attorney
Civil Litigation Bureau, FOIL Unit
Bronx County District Attorney’s Office

Enclosure: Records Certification

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION : FIRST DEPARTMENT

-----x
In The Matter of the Application Of,

ROBERT T. JOHNSON

District Attorney of Bronx County,
pursuant to Section 89 of the Judiciary Law,
for an Order directing that the District Attorney
be permitted to destroy or otherwise dispose of
or cause to be destroyed or otherwise dispose of
certain appellate files, records, or papers which
are more than twenty-five years old and are no
longer in current use,

PETITION

RECEIVED

SEP 16 2004

APPELLATE DIVISION, SUPREME
COURT, FIRST DEPARTMENT

Petitioner.

Petitioner Robert T. Johnson hereby affirms the following in support of his petition for an Order directing that the District Attorney be permitted to destroy or otherwise dispose of or cause to be destroyed or otherwise dispose of certain appellate files, records, or papers which are more than twenty-five years old and are no longer in current use:

1. That he is the District Attorney of Bronx County.
2. That Judiciary Law § 89(2) states:

Notwithstanding any other provisions of law, the justices of the appellate division of the supreme court in each judicial department may on application of the district attorney of any county within its judicial department, direct, by order, that the district attorney destroy, sell or otherwise dispose of or cause to be destroyed, sold or otherwise disposed of any records, books or papers in the care, custody or control of the district attorney which are more than twenty-five years old and are no longer in current use, the retention of which in the opinion of the justices of the appellate division would serve no legal, practical or useful purpose, except permanent records of criminal cases, printed and bound volumes of cases on appeal and original indictments. The

justices of the appellate division as a condition of such disposition may require the written consent of any state or local department or agency having an interest in such records, books or papers.

3. That based upon the attached affidavit of Lawrence Young, Deputy Administrative Chief for the Office of the District Attorney of Bronx County, dated September 7, 2004, an Order is sought for the destruction or disposition of the following appellate case files, records, or papers of the District Attorney: those generated in the years 1973 to 1978 inclusive, with the exception of those files referred to in paragraph 4 of this petition. Furthermore, as recited in said affidavit, these files, records, or papers will not be destroyed or otherwise disposed of until both the New York City Department of Records and Information Services (DORIS) and the Corporation Counsel give their written consent to any such disposition.

4. That based upon the attached affidavit of Grace Ievoli, Principal Administrative Associate in the Appeals Bureau of the District Attorney of Bronx County, dated September 7, 2004, the appellate case files, records or papers for cases generated in the years 1973 to 1978 are not in current use; however, certain appellate case files, records, or papers referred to in said affidavit have been preserved or accounted for as set forth in said affidavit. Those preserved and in the possession of the Appeals Bureau are listed in paragraph 6 of said affidavit, and they shall not be destroyed or otherwise disposed of.

Wherefore, an Order is sought directing that the District Attorney of Bronx County be permitted to destroy or otherwise dispose of, or cause to be destroyed or otherwise dispose of, the appellate files, records, or papers of that Office which are more than twenty-five years old and no

longer in current use, excepting those listed in paragraph 6 of the attached affidavit of Grace Ievoli and subject to obtaining the written consent of DORIS and Corporation Counsel.

Respectfully submitted,



ROBERT T. JOHNSON
District Attorney
Bronx County

Dated: Bronx, New York
September 16, 2004

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION : FIRST DEPARTMENT

-----X
In The Matter of the Application Of,

ROBERT T. JOHNSON

District Attorney of Bronx County,
pursuant to Section 89 of the Judiciary Law,
for an Order directing that the District Attorney
be permitted to destroy or otherwise dispose of
or cause to be destroyed or otherwise dispose of
certain appellate files, records, or papers which
are more than twenty-five years old and are no
longer in current use,

Affidavit in Support of Petition

Petitioner.
-----X

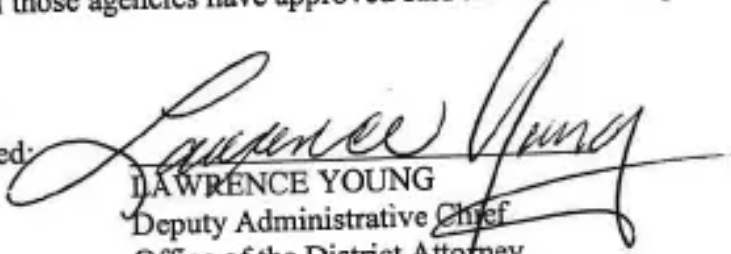
I, Lawrence Young, being duly sworn, affirm the following:

1. I am employed as the Deputy Administrative Chief in the Office of the Bronx District Attorney.
2. If this petition is granted, the Office of the District Attorney will request that the following appeals case files, records, or papers be destroyed or otherwise disposed of, namely, those generated in the following years: 1973, 1974, 1975, 1976, 1977 and 1978.
3. These appeals case files include all records, documents, motions, etc., from Notice of Appeal to Denial of Leave to Appeal or beyond, for felony cases appealed by defendants or by the People.
4. The appeals case files listed in paragraph 2 above are currently held by the New York City Department of Records and Information Services (DORIS).

5. Our current office and off-site record storage facilities are far beyond their carrying capacities. They are woefully overcrowded. Closed appellate files are stacked and stored throughout our office, and accessing these records is becoming exceedingly difficult. In addition, DORIS, the organization that has the responsibility for storing our old files (those from 6 to 25 years old), is refusing to accept any more files if they are not allowed to create space by destroying or otherwise disposing of appellate files that are more than 25 years old.

6. That before these appeals case files may be destroyed or otherwise disposed of, both DORIS and the Corporation Counsel must approve said disposition, and no appeals cases files will be destroyed or otherwise disposed of until those agencies have approved said action in writing.

Signed:


LAWRENCE YOUNG
Deputy Administrative Chief
Office of the District Attorney
Bronx County

Dated: Bronx, New York
September 16, 2004

Sworn to before me this
16th day of Sept 2004


Notary Public

GRACE IEVOLI
Notary Public, State of New York
03-490588
Qualified in Bronx County
Commission Expires April 22, 2007

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION : FIRST DEPARTMENT

-----x
In The Matter of the Application Of,

ROBERT T. JOHNSON

District Attorney of Bronx County,
pursuant to Section 89 of the Judiciary Law,
for an Order directing that the District Attorney
be permitted to destroy or otherwise dispose of
or cause to be destroyed or otherwise dispose of
certain appellate files, records, or papers which
are more than twenty-five years old and are no
longer in current use,

Affidavit in Support of Petition

Petitioner.
-----x

State of New York)
):SS
County of Bronx)

I, Grace Ievoli, being duly sworn, affirm the following:

1. I am employed as the Principal Administrative Associate in the Appeals Bureau of the District Attorney, Bronx County.
2. On June 24, 2004, I contacted Mr. Paul Korotkin, Assistant Director MIS/Research, New York State Department of Corrections, and requested a list of defendants from Bronx County sentenced to 25 years to life imprisonment prior to 1980.
3. On June 25, 2004, I received a list of 43 inmates sentenced to 25 years to life prior to 1980 (see Exhibit 1).
4. From that list of 43, according to records maintained by the Office of the District Attorney, which I believe to be true and accurate, the following 13 cases were not appealed:



Berkowitz, David

Ind. 1546/77

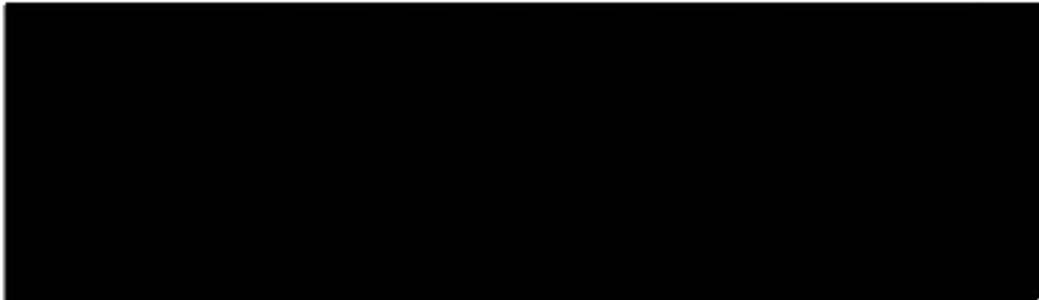
Murder 2^o



5. From that list of 43, according to Yelena Lipovetsky, a Clerical Associate in the Bronx District Attorney's Office, in charge of ordering archive records, the following 14 appeals files could not be located:



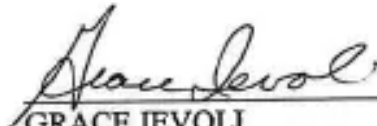
6. From that list of 43, the following 16 appeals folders were located, and they are currently stored in the file room of the Appeals Bureau of the Bronx County District Attorney's Office:





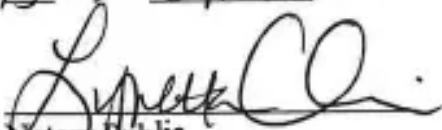
7. Currently, according to the records maintained by the Appeals Bureau, no matters are pending with respect to any appellate cases generated in the years 1973 to 1978. Furthermore, no person or agency has currently requested any of our appellate case files generated in the years 1973 to 1978.

Signed:


GRACE IEVOLI
Principal Administrative Associate
Office of the District Attorney
Bronx County

Dated: Bronx, New York
September 16, 2004

Sworn to before me this
15th day of September, 2004


Notary Public

LYNETTA ST. CLAIR
Notary Public - State of New York
No. 02970097128
Qualified in Kings County
My Commission Expires 02/14/2006
2006

Present - Hon. John T. Buckley, Presiding Justice
Peter Tom
Angela M. Mazzarelli
Richard T. Andrias
David B. Saxe, Justices.

In the Matter of the Application of

Robert T. Johnson
District Attorney of Bronx County
Petitioner,

For an order pursuant to Section 89 of the
Judiciary Law directing that the District
Attorney be permitted to destroy or otherwise
dispose of certain files, records or papers.

M - 4113

Upon reading and filing the petition of Robert T. Johnson, District Attorney of
Bronx County, dated September 16, 2004 seeking permission pursuant to Judiciary Law §89 to
destroy **appellate case files**, records or papers generated from 1973 through 1978, with certain
specified exceptions, and the affidavits of Lawrence Young, Deputy Administrative Chief in the
Office of the Bronx District Attorney and Grace Ievoli, Principal Administrative Associate in the
Appeals Bureau of the Office of the Bronx District Attorney, each dated September 16, 2004,
in support of the petition; and,

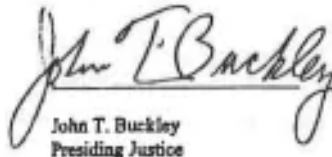
The New York City Department of Records and Information Services (DORIS) and the
Office of the Corporation Counsel of the City of New York by letter dated May 18, 2005 having
approved the request to destroy or otherwise dispose of these files, records or papers; and,

It appearing that, with the exception of the documents set forth in the annexed copy of
paragraph 6 of the affidavit of Grace Ievoli, the identified appellate case files, records or papers
are more than twenty-five years old and are no longer in current use; it is

ORDERED, that the identified **appellate case files**, records or papers, with the exception
of the documents relating to the actions listed in paragraph 6 of the affidavit of Grace Ievoli, be
destroyed pursuant to the provision of Judiciary Law §89; and it is further

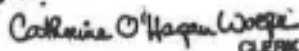
ORDERED, that the petitioner is authorized and empowered to take all necessary and
appropriate measures required for the destruction of the subject documents.

ENTER


John T. Buckley
Presiding Justice

APPELLATE DIVISION SUPREME COURT FIRST DEPARTMENT
STATE OF NEW YORK

I, CATHERINE O'HAGAN WOLFE, Clerk of the Appellate Division of the Supreme
Court First Judicial Department, do hereby certify that I have compared this copy with
the original thereof filed in said office on September 6, 2005 and that the same is
a correct transcript thereof, and of the whole thereof original
IN WITNESS WHEREOF I have hereunto set my hand and affixed the seal of this Court
on September 6, 2005.


Catherine O'Hagan Wolfe
CLERK