

EXHIBIT C



New York Civil Liberties Union
125 Broad Street, 19th Fl.
New York, NY 10004
(212) 607-3300
www.nyclu.org

June 3, 2021

Via Electronic Mail

Sgt. Jordan Mazur
Records Access Appeals Officer
New York City Police Department
One Police Plaza, Room 1406
New York, NY 10038

Re: FOIL Request #2021-056-06673

Dear Sergeant Mazur:

On behalf of the New York Civil Liberties Union, I write to appeal under the Freedom of Information Law (Article 6 of the Public Officers Law) the NYPD's denial of the NYCLU's request dated April 30, 2021, for documents relating to databases maintained by or on behalf of the NYPD. The NYPD denied the request for the sole basis that the "request is too broad in nature and does not describe a specific document." See Exhibit B, NYPD Email Denying Request dated May 5, 2021.

As you are aware, FOIL requires that requests for records be "reasonably described *so that [a] respondent agency may locate the records in question.*" *M. Farbman & Sons, Inc. v. New York City Health & Hospitals Corp.*, 62 N.Y.2d 75, 82–83, 464 N.E.2d 437, 440 (1984) (emphasis added). A responding agency, however, bears the burden of establishing that the request is insufficient for purposes of locating and identifying the documents sought. See *id.*

The NYPD's conclusory one-sentence denial fails to meet this burden.

In any event, the NYCLU's April 30th request provides sufficient information to allow the NYPD to identify and locate responsive documents. For example, the request specifically describes that the NYCLU seeks "[d]ocuments sufficient to identify all databases maintained by or on behalf of the Department that include information about" two principal types of information: complaints or misconduct and discipline. See Exhibit A, NYCLU FOIL Request dated April 30, 2021. The request further includes descriptions of the type of information the database might include, as well as a definition of database, namely "any tabulated, electronic records." See Exhibit A. Indeed, the descriptions of the records sought in our request should have allowed the NYPD to identify, locate, and provide responsive documents related to the narrow set of disciplinary proceedings published on the NYPD's website, as well as any other single or set of databases on which it relies. See NYPD Online, Trial Decision Library, <https://nypdonline.org/link/15> (last visited on June 3, 2021).

We reiterate our request for documents (as described in our April 30th request) related to this database and any other database on which it relies, including misconduct complaints and disciplinary action not limited to trial decisions and not limited to the last few years, as well as the underlying

information for all years for which the database(s) span and for all levels of discipline.

We therefore appeal the NYPD's response and request that the department produce any responsive documents promptly. If you have any questions about this, you may contact me at jbarber@nyclu.org.

Sincerely,



Guadalupe V. Aguirre
Staff Attorney



Jesse Barber
Research Analyst

Exhibit A



New York Civil Liberties Union
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New York, NY 10004
(212) 607-3300
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April 30, 2021

Via Electronic Mail

New York City Police Department
Lt. Richard Mantellino
Legal Bureau – FOIL Unit
One Police Plaza, Room 110-C
New York, NY 10038
(646) 610-5296

Re: Freedom of Information Law Request

Dear Records Access Officer:

The New York Civil Liberties Union (“NYCLU”) submits this request for records pursuant to the New York Freedom of Information Law, N.Y. Pub. Off. Law § 85, et seq., for access to and copies of the records collected by the New York City Police Department (“the Department”) regarding the requests as described below.

1. Documents sufficient to identify all databases maintained by or on behalf of the Department that include information about (a) complaints or reports of misconduct against Department employees, or (b) discipline of Department employees in response to a complaint or set of complaints.
2. For each database identified in request 1 (above), please provide any documents that include the following:
 - a. A description of the database’s structure or format;
 - b. A description of the each field or column in the database;
 - c. An explanation of all abbreviations or acronyms in the database.
3. Any databases maintained by or on behalf of the Department that include information about complaints or reports of misconduct against Department employees, including the following data regarding each complaint or report of misconduct:
 - a. The name, position, and duty station of the Department employee;
 - b. The type of complaint (e.g. use of force, discourtesy, racial profiling or bias, etc.);
 - c. The date and location of the alleged incident that is the subject of the complaint or report;
 - d. Whether the complaint or report of misconduct was investigated;
 - e. The division of the Department or the name of the entity that investigated the complaint or report;
 - f. What the outcome of the investigation was (e.g. substantiated/found to be true and not compliant with policy; exonerated/found to be true and compliant with policy;

- unfounded/found to be untrue; unsubstantiated/insufficient evidence to determine truth or falsity or compliance with policy); and
- g. For each substantiated complaint, whether the investigation resulted in the initiation of a disciplinary process, any disciplinary settlement, or the imposition of discipline.
4. Any databases maintained by or on behalf of the Department that include information about discipline of Department employees in response to a complaint or set of complaints, including the following data regarding each instance in which a disciplinary process was initiated other than for a technical infraction that did not involve a member of the public:
- a. The name, position, and duty station of the Department employee;
 - b. The type of disciplinary charges (e.g. use of force, discourtesy, racial profiling or bias, etc.);
 - c. The date and location of the alleged incident that is the subject of the disciplinary charges;
 - d. The outcome of the disciplinary charges (e.g. sustained, not sustained, settled); and
 - e. The discipline, if any, imposed (e.g. termination, suspension, loss of pay or vacation days, admonition).

For purposes of clarification, a “database” refers to any tabulated, electronic records.

To the extent that records are available in electronic format (ideally in an electronic spreadsheet or comma-separated format (Excel or CSV)), we request that they be provided in that format.

If any records are unavailable within five business days of receipt of the request, and responsive records exist, we seek a description of such records and a timeline of when access to the records will be provided. If you determine that certain parts of this request may be more easily produced than others, we are amenable to discussing a production schedule for records that will take longer to produce.

Please furnish records to:

Jesse Barber
New York Civil Liberties Union
125 Broad Street, 19th Fl.
New York, NY 10004
(510) 520-1695
jbarber@nyclu.org

Please do not hesitate to contact me at jbarber@nyclu.org if you have any questions about this request. Thank you for your prompt attention to this matter.

Respectfully,
Jesse Barber

Exhibit B

From: donotreply@records.nyc.gov
To: [Jesse Barber](#)
Subject: [OpenRecords] Request FOIL-2021-056-06673 Closed
Date: Wednesday, May 5, 2021 2:35:27 PM

The New York City Police Department (NYPD) has **denied** your FOIL request [FOIL-2021-056-06673](#) for the following reasons:

- In regard to the document(s) which you requested, I must deny access to the records on the basis that your request is too broad in nature and does not describe a specific document.

Please visit [FOIL-2021-056-06673](#) to view additional information and take any necessary action. You may appeal the decision to deny access to material that was redacted in part or withheld in entirety by contacting the agency's FOIL Appeals Officer: foilappeals@nypd.org within 30 days.