

# EXHIBIT E



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

June 10, 2021

**Via Electronic Mail**

Lynelle Magnley-Liddie  
Records Appeal Officer  
New York City Department of Correction  
Legal Division  
75-20 Astoria Blvd  
East Elmhurst, New York 11370

Re: FOIL Request #2021-072-00063

Dear Records Appeal Officer:

On behalf of the New York Civil Liberties Union (NYCLU), I write to appeal under the Freedom of Information Law (Article 6 of the Public Officers Law) the New York City Department of Correction's (the "Department") constructive denial of an NYCLU request dated April 30, 2021, for databases containing information about personnel misconduct and discipline. *See* Exhibit A for a copy of the Freedom of Information Law request. In an email sent on May 5, 2021, NYCLU was notified that "[y]ou can expect a response on or about Monday, June 7, 2021." *See* Exhibit B for a copy of the email notification. In an email sent on June 3, 2021, NYCLU was informed that the Department "expects to be in a position to respond in approximately two (2) months but will advise you if any further delay is anticipated." *See* Exhibit C for a copy of the extension notification.

As you are aware, FOIL requires an agency to grant or deny a request within five business days of receiving a written request for a record or to acknowledge receipt of the request in writing and to state the approximate date when the request will be granted or denied. When an agency gives an approximate date that a decision will be made, the date must be "reasonable under the circumstances of the request." N.Y. PUB. OFF. LAW § 89(3)(a). Failure of an agency to comply with these provisions is deemed a constructive denial of the request.

Given that the request is sufficiently narrowed to existing *electronic* databases that the Department maintains or has access to, the approximate date of August 3, 2021, about three months after the May 5, 2021 date of acknowledgement, two months after the June 3, 2021 extension notification was sent, is not "reasonable under the circumstances of the request." We therefore appeal the Department's response and request that the department produce a response to the request promptly.

As required by FOIL, please respond within ten (10) business days of receipt of this appeal and provide access to the records sought or a full explanation of the reasons for further denial. N.Y. PUB. OFF. LAW § 89(4)(a); 10 N.Y.C.R.R. Section 50-1.9(c). As you are aware, FOIL provides that failure to determine an appeal within ten business days of the receipt of such appeal constitutes a denial of that appeal, which may be immediately challenged pursuant to Article 78 of the Civil

Practice Law and Rules. N.Y. PUB. OFF. LAW § 89(4).

If you have any questions about this, please feel free to email [jbarber@nyclu.org](mailto:jbarber@nyclu.org).

Sincerely,



Guadalupe V. Aguirre  
Staff Attorney



Jesse Barber  
Research Analyst

# Exhibit A



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

April 30, 2021

**Via Electronic Mail**

New York City Department of Correction  
Legal Division  
75-20 Astoria Blvd  
East Elmhurst, New York 11370

**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 Department of Correction (“the Agency”) regarding the requests as described below.

1. Documents sufficient to identify all databases maintained by or on behalf of the Agency that include information about (a) complaints or reports of misconduct against Agency employees, or (b) discipline of Agency 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 Agency that include information about complaints or reports of misconduct against Agency employees, including the following data regarding each complaint or report of misconduct:
  - a. The name, position, and duty station of the Agency 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 Agency 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



# Exhibit B

**From:** [donotreply@records.nyc.gov](mailto:donotreply@records.nyc.gov)  
**To:** [Jesse Barber](#)  
**Subject:** [OpenRecords] Request FOIL-2021-072-00063 Acknowledged  
**Date:** Wednesday, May 5, 2021 9:06:44 AM

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The Department of Correction (DOC) has **acknowledged** your FOIL request [FOIL-2021-072-00063](#).

You can expect a response on or about Monday, June 7, 2021.

Additional Information:

Good morning,

please provide clarification for the following:

- agency employees  
timeframe for the requested records

Please refer to FOIL # 2021 FR 1722 when responding.

Thank you

Please visit [FOIL-2021-072-00063](#) to view additional information and take any necessary action.



# Exhibit C



NEW YORK CITY DEPARTMENT OF CORRECTION  
Vincent Schiraldi, Commissioner

Stephane L. Plantin  
Agency Attorney | FOIL Officer  
75-20 Astoria Boulevard  
East Elmhurst, New York 11370

718-546-0982  
Fax 718-278-6001

June 3, 2021

Jesse Barber  
jbarber@nyclu.org

Re: FOIL Request  
FOIL #: 2021-072-00063

Dear Jesse Barber:

This is an interim response to your request for records made pursuant to the New York State Freedom of Information Law. Given the nature of your record request, an extensive search needs to be conducted. The Department is still in the process of identifying documents responsive to your request and expects to be in a position to respond in approximately two (2) months but will advise you if any further delay is anticipated.

Very truly yours,

*Stephane L. Plantin*

Stephane L. Plantin  
Agency Attorney

Enclosure  
SLP/amt