

**Police Records:  
Regarding Incident  
Officer Daniel Calixte  
Badge #863 and Incident  
Case Number 202201119**

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From: Jordan Lassiter

04/04/2023

Subject: New York Freedom of Information Law Request: Police Records: Regarding Incident Officer Daniel Calixte Badge #863 and Incident Case Num...

[Partial](#)

To Whom It May Concern:

Pursuant to the New York Freedom of Information Law, I hereby request the following records:

I am writing to request access to specific records related to an incident involving Officer Daniel Calixte Badge #863 from the 63rd Precinct with case number 202201119, which occurred on December 15, 2021.

I am requesting the following records under the Freedom of Information Act (FOIA):

Body-worn camera footage from Officer Daniel Calixte Badge #863 during the incident with Case number 202201119 on December 15, 2021.

911 audio recordings and dashcam footage or messages system on agency computer system related to the incident with Case number 202201119 on December 15, 2021.

Body-worn camera footage from all other officers involved in the incident with Case number 202201119 on December 15, 2021.

I urge you to carefully read and comply with this request, as I believe that the requested records are of significant public interest and concern. The incident involving Officer Daniel Calixte Badge #863 resulted in a public outcry and raised questions about police conduct and use of force. As a member of the public, I have a right to access these records to gain a better understanding of the incident and to hold law enforcement accountable.

Please be advised that any attempt to withhold, redact, or destroy information related to this request will result in legal action and complaint. The failure to comply with FOIL is a serious matter and can result in both criminal and civil penalties. Therefore, I strongly urge you to comply with this request in a timely and complete manner.

Last, I would like to bring to your attention the case law supporting my request:

New York City Administrative Code Section 14-151 (a) requires the New York Police Department to maintain records of all complaints and allegations of police misconduct, including records of investigations and findings.

New York State Committee on Open Government, Advisory Opinion #2016-4 (2016) states that police body-worn camera footage is presumptively available under FOIL.

Matter of Fappiano v. New York City Police Department, 95 A.D.3d 901 (2d Dep't 2012) held that "FOIL represents a strong policy in favor of open government, and its exemptions must be narrowly construed."

New York Times Co. v. U.S. Dep't of Justice, 756 F.3d 100, 117 (2d Cir. 2014) (holding that "the public has a vital interest in information regarding the operations of its government" and that the FOIA "embodies the basic principle that an informed citizenry is essential to democracy").

Matter of DaimlerChrysler Corp. v. Spitzer, 7 N.Y.3d 653, 663 (2006) (stating that "FOIL, like FOIA, reflects a strong policy in favor of open government, and its exemptions must be narrowly construed").

Please note that any attempt to withhold, redact, or destroy information related to this request will result in legal action and complaint.

The requested documents will be made available to the general public, and this request is not being made for commercial purposes.

In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 5 business days, as the statute requires.

Sincerely,

Good Citizen

From: New York City Police Department

04/04/2023

Subject: [OpenRecords] Request FOIL-2023-056-07491 Submitted to New York City Police Department (NYPD)

[Partial](#)

Your request FOIL-2023-056-07491 has been successfully submitted to the New York City Police Department (NYPD). The details of your request are shown below.

Request Title: Police Records: Regarding Incident Officer Daniel Calixte Badge #863 and Incident Case

Request Description: Other Request

Request Type: Other Request

Other Request

Type of Request:

Report #:

Date:

Time:

Precinct:

Location:

Description:

To Whom It May Concern:

Pursuant to the New York Freedom of Information Law, I hereby request the following records:

I am writing to request access to specific records related to an incident involving Officer Daniel Calixte Badge #863 from the 63rd Precinct with case number 202201119, which occurred on December 15, 2021.

I am requesting the following records under the Freedom of Information Act (FOIA):

Body-worn camera footage from Officer Daniel Calixte Badge #863 during the incident with Case number 202201119 on December 15, 2021.

911 audio recordings and dashcam footage or messages system on agency computer system related to the incident with Case number 202201119 on December 15, 2021.

Body-worn camera footage from all other officers involved in the incident with Case number 202201119 on December 15, 2021.

I urge you to carefully read and comply with this request, as I believe that the requested records are of significant public interest and concern. The incident involving Officer Daniel Calixte Badge #863 resulted in a public outcry and raised questions about police conduct and use of force. As a member of the public, I have a right to access these records to gain a better understanding of the incident and to hold law enforcement accountable.

Please be advised that any attempt to withhold, redact, or destroy information related to this request will result in legal action and complaint. The failure to comply with FOIL is a serious matter and can result in both criminal and civil penalties. Therefore, I strongly urge you to comply with this request in a timely and complete manner.

Last, I would like to bring to your attention the case law supporting my request:

New York City Administrative Code Section 14-151 (a) requires the New York Police Department to maintain records of all complaints and allegations of police misconduct, including records of investigations and findings.

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Matter of Fappiano v. New York City Police Department, 95 A.D.3d 981 (2d Dep't 2012) held that "FOIL represents a strong policy in favor of open government, and its exemptions must be narrowly construed."

New York Times Co. v. U.S. Dep't of Justice, 756 F.3d 100, 117 (2d Cir. 2014) (holding that "the public has a vital interest in information regarding the operations of its government" and that the FOIA "embodies the basic principle that an informed citizenry is essential to democracy").

Matter of DaimlerChrysler Corp. v. Spitzer, 7 N.Y.3d 653, 663 (2006) (stating that "FOIL, like FOIA, reflects a strong policy in favor of open government, and its exemptions must be narrowly construed").

Please note that any attempt to withhold, redact, or destroy information related to this request will result in legal action and complaint.

The requested documents will be made available to the general public, and this request is not being made for commercial purposes.

In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 5 business days, as the statute requires.

Sincerely,

Good Citizen

Upload documents directly: <https://www.muckrock.com/>

Requester's Contact Information

Name:  
Good Citizen

Title:  
Not provided

Organization:  
Not provided

Email:  
[requests@muckrock.com](mailto:requests@muckrock.com) (mailto:requests@muckrock.com)

Phone Number:  
Not provided

Fax Number:  
Not provided

Street Address (line 1):  
Not provided

Street Address (line 2):  
Not provided

City:  
Not provided

State:  
Not provided

Zip Code:  
Not provided

You can view the request and take any necessary action at the following webpage: <https://a860-openrecords.nyc.gov/request/view/FOIL-2023-056-07491>. (<https://a860-openrecords.nyc.gov/request/view/FOIL-2023-056-07491>)

From: New York City Police Department

04/11/2023

Subject: [OpenRecords] Request FOIL-2023-056-07491 Acknowledged

Portal

The New York City Police Department (NYPO) has acknowledged your FOIL request FOIL-2023-056-07491. (<https://a860-openrecords.nyc.gov/request/view/FOIL-2023-056-07491>) You can expect a response on or about Friday, August 18, 2023.

Additional Information: Your request has been assigned to Police Officer Lao (646-610-6430).

Please visit [FOIL-2023-056-07491](https://a860-openrecords.nyc.gov/request/view/FOIL-2023-056-07491) to view additional information and take any necessary action. (<https://a860-openrecords.nyc.gov/request/view/FOIL-2023-056-07491>)

From: Muckrock Staff

09/25/2023

From: New York City Police Department

09/26/2023

Portal

Subject: [OpenRecords] Request FOIL-2023-056-07491 Extended

The New York City Police Department (NYPO) has extended the time to respond to your FOIL request FOIL-2023-056-07491 for the following reasons: (<https://a860-openrecords.nyc.gov/request/view/FOIL-2023-056-07491>) You can expect a response on or about Thursday, October 26, 2023.

Additional Information:

This FOIL request is currently being reviewed by the Supervisor.

Please visit [FOIL-2023-056-07491](https://a860-openrecords.nyc.gov/request/view/FOIL-2023-056-07491) to view additional information and take any necessary action. (<https://a860-openrecords.nyc.gov/request/view/FOIL-2023-056-07491>)

From: Muckrock Staff

12/25/2023

From: New York City Police Department

12/26/2023

Portal

Subject: [OpenRecords] Request FOIL-2023-056-07491 Extended

The New York City Police Department (NYPO) has extended the time to respond to your FOIL request FOIL-2023-056-07491 for the

following reasons: (<https://a860-openrecords.nyc.gov/request/view/FOIL-2023-056-07491>) You can expect a response on or about Friday, February 9, 2024.

Additional information:

This office is currently waiting for responses from the custodian of records.

Please visit [FOIL-2023-056-07491](https://a860-openrecords.nyc.gov/request/view/FOIL-2023-056-07491) to view additional information and take any necessary action. (<https://a860-openrecords.nyc.gov/request/view/FOIL-2023-056-07491>)

**From:** New York City Police Department

01/03/2024



**Subject:** [OpenRecords] Request FOIL-2023-056-07491 Closed

Portal

The New York City Police Department (NYPD) has closed your FOIL request FOIL-2023-056-07491 for the following reasons: (<https://a860-openrecords.nyc.gov/request/view/FOIL-2023-056-07491>)

In regard to the document(s) which you requested, this unit is unable to locate records responsive to your request based on the information you provided.

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](mailto:foilappeals@nypd.org) within 30 days. (<mailto:foilappeals@nypd.org?subject=FOIL-2023-056-07491%20-%20Appeal>)

**From:** Jordan Lassiter

01/04/2024



**Subject:** RE: New York Freedom of Information Law Request #FOIL-2023-056-07491

Email

FOIL Appeals Officer  
New York City Police Department  
Email: [foilappeals@nypd.org](mailto:foilappeals@nypd.org)

**Subject:** Appeal of FOIL Request Denial – Case Number: FOIL-2023-056-07491

Dear FOIL Appeals Officer,

I am writing to appeal the decision of the New York City Police Department (NYPD) to close my Freedom of Information Law (FOIL) request numbered FOIL-2023-056-07491. The request, originally submitted on April 4, 2023, sought records related to an incident involving Officer Daniel Calixte, Badge #663, from the 63rd Precinct, with case number 202201119, which occurred on December 15, 2021.

#### Grounds for Appeal:

**Extended Delays in Processing:** The NYPD has repeatedly extended the response time for this request, initially indicating a completion date of August 18, 2023, then extending it to October 26, 2023, and again to February 9, 2024. These delays are excessive and contrary to the spirit of FOIL, which emphasizes timely access to public records. In Matter of Legal Aid Society v. New York City Police Department, 114 A.D.3d 1 (1st Dep't 2013), the court recognized that undue delays in responding to FOIL requests undermine the purpose of the FOIL.

**Inadequate Search:** The NYPD's statement that it is "unable to locate records responsive to your request" suggests an inadequate search effort. As established in Matter of Key v. Hynes, 205 A.D.2d 779 (2d Dep't 1994), agencies are required to conduct a diligent search for records requested under FOIL. It is implausible that no records exist, especially considering the specific nature of the request.

**Public Interest and Transparency:** The requested records pertain to a matter of public interest, involving police conduct and use of force. The public's right to understand and scrutinize law enforcement actions is a fundamental principle underpinning FOIL, as noted in Matter of Gould v. New York City Police Department, 89 N.Y.2d 267 (1996), which emphasizes the importance of transparency in government agencies.

#### Relief Sought:

I respectfully request a thorough re-evaluation of my FOIL request and a diligent search for the requested records. The NYPD should provide all responsive records or, at the very least, a detailed explanation of the search process and reasons for any failure to locate records.

Thank you for your attention to this matter. I trust that the NYPD will rectify the issues outlined in this appeal and comply with the requirements of the New York Freedom of Information Law.

Sincerely,

Jordan Lassiter

Enclosures: Copy of original FOIL request, NYPD's response letters

**From:** New York City Police Department

01/04/2024



**Subject:** RE: New York Freedom of Information Law Request #FOIL-2023-056-07491

Appeal determination attached.

Respectfully,

[Signature New]

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Appeal Letter

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-WWD058

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You may [follow up](#) manually with the agency or [appeal](#) their decision. If you appeal, MuckRock staff can review the rejection and help write an appeal.

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