



MEMO IN SUPPORT

S8428 (Bailey) / A9050 (Gonzalez-Rojas)

Clarifies Intent of 50-a Repeal

April 13, 2022

TITLE OF BILL

An act to amend the public officers law, in relation to the disclosure of law enforcement officer's disciplinary records.

SUMMARY OF PROVISIONS

Section 1 adds a new subdivision 4-c to Public Officers Law Section 87 to clarify that agencies responding to requests for police disciplinary records shall not deny records or portions of records on the basis that the records:

- Constitute unwarranted invasions of personal privacy due to proceedings that:
 - are ongoing;
 - are unresolved;
 - did not result in disciplinary action; or
 - resulted in a finding other than “substantiated” or “guilty”;
- Are compiled for law enforcement purposes;
- Are inter- or intra-agency materials;
- Are or were designated as not for sharing in a private agreement (contracts, collective bargaining agreements, etc.); or
- Were created prior to the effective date of subdivision 4-c.

Section 2 adds a paragraph (e) POL Section 89(2)(b) to provide that when police disciplinary records are disclosed, the names of alleged victims of sexual misconduct or harassment by a police officer shall be redacted.

Section 3 states that the bill takes effect immediately.

STATEMENT OF SUPPORT

Our groups support this bill because we believe that opening up police disciplinary records builds public trust and allows New Yorkers to hold civil servants accountable.

The 2020 George Floyd protests led to the repeal of 50-a, a provision in state law that prohibited police disciplinary records from being subject to Freedom of Information (FOIL) requests.¹ Unfortunately, many police departments have tried to circumvent 50-a repeal through contracts and collective bargaining agreements that prohibit disclosure of officer disciplinary records.² Others have claimed that the law does not apply to disciplinary records created prior to 2020.

Passing this bill will clarify that the intent of the original bill was to make all police disciplinary records past and present subject to disclosure, and protect alleged victims of sexual misconduct by police from having their names disclosed.

We urge the Legislature to pass the bill.

¹<https://reinventalbany.org/2020/06/watchdogs-issue-memo-of-support-for-new-bill-to-repeal-50-a/>

²<https://www.democratandchronicle.com/story/news/2021/04/13/50-a-repeal-supreme-court-justice-says-police-files-before-date-dont-have-shared/7111688002/>