

Pashman Stein Walder Hayden Files Amicus Brief to Fight Off Police Union Appeals of Attorney General's Police Transparency Directives

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On July 7, 2020, CJ Griffin Director of the Justice Gary S. Stein Public Interest Center at Pashman Stein Walder Hayden (PSWH) filed a friend-of-the-court **brief** on behalf of the National Coalition of Latino Officers (NCLO) and the Law Enforcement Action Partnership (LEAP) to support Attorney General Gurbir S. Grewal's recent directives to release information about officers who received major discipline. Both organizations are non-profit organizations comprised of current and former members of the law enforcement community, including current New Jersey police officers. Both NCLO and LEAP favor broad transparency in policing.

In mid-June 2020, the Attorney General issued Law Enforcement Directive 2020-5 to require future disclosure of the names of officers who have been subject to "major discipline," which is described as a sanction of termination, demotion, or five or more days of suspension. Law Enforcement Directive 2020-6 ordered the State Police and other state law enforcement agencies to make a retroactive disclosure, requiring disclosure of the names of those who have received major discipline for the past twenty years. The Attorney General gave local departments the discretion to apply Directive 2020-5 retroactively and some cities and counties made decisions to release information about past discipline.

The police unions quickly filed emergent appeals to stop the police directives from taking effect. The *amici curiae* brief filed by PSWH asks the Appellate Division to uphold the directives, arguing that the unions should embrace transparency because it benefits their members. The brief discusses the importance of police-community trust and how transparency earns that trust, while secrecy undermines it. When police earn the community's respect, members of the public

will be more likely to cooperate with investigations, report crimes, and ensure that police departments have proper resources to perform their jobs safely and to be adequately compensated. When police do not have the community's respect, policing becomes much more difficult.

Because *amici* believe that the police are the public and the public are the police, the brief argues that the community has a right to know how the police disciplinary system is functioning so that the community can provide oversight and make sure the system works the way they want it to work. In more than half of all states, the public has access to information about discipline and in more than a dozen states the public enjoys broad access to actual police internal affairs and disciplinary files. Although additional transparency is needed, *amici* argue that the Attorney General's directives are important first steps toward transparency.

Finally, the brief argues that transparency would greatly benefit officers of color and women officers. New Jersey's police force is overwhelmingly white and male. Minority officers and women officers have long-argued that discipline is imposed in an unfair, discriminatory matter. Transparency will allow organizations like NCCLO to identify racial and gender disparities in how discipline is imposed so that it can protect its members and advocate for change and accountability.

The matter is currently pending in the Appellate Division. A decision is expected before July 15, 2020 when the Attorney General's directives are to go into effect.