

End Secrecy in Policing in New Jersey - *Star Ledger*

RELATED ATTORNEYS

CJ Griffin

RELATED PRACTICE AREAS

Media Law

Publication

8.19.20

From: *Star Ledger*, click [here](#) to view the full article.

by: CJ Griffin, Director of the Justice Gary S. Stein Public Interest Center at Pashman Stein Walder Hayden

Like millions of others who are enraged by the latest police killings of Black people, I believe policing in America must be transformed. Access to records of police misconduct is a necessary starting point, as we must be able to identify problems in policing before we can demand change. Many are surprised to learn how little transparency exists in New Jersey when it comes to records about police misconduct.

For those who are unfamiliar, police departments across the nation investigate alleged misconduct through an “internal affairs” (IA) process. Certain officers work in the IA Unit and investigate complaints against their fellow officers. Those investigations result in one of several findings, including “not sustained,” meaning that the investigation failed to disclose sufficient evidence to clearly prove or disprove the allegation, and “sustained,” meaning that it did.

In more than a dozen states, including Florida and Colorado, IA records are fully open to the public. Given that the IA process amounts to police policing themselves, public oversight ensures that complaints are investigated properly and misconduct isn't swept under the rug.

Opening IA files also benefits police officers. In addition to building community trust, which is an essential component of effective policing, transparency permits officers to see whether discipline is imposed fairly across the board. This is especially important for Black, Latinx and women officers, who often allege that discipline is imposed in a discriminatory manner.

In stark contrast, New Jersey's IA records are top secret. Recently, the Attorney General (AG) changed state policy to order disclosure of the names of officers who receive "major" discipline, i.e., a termination, demotion, or suspension of five days or more. Although the police unions are fighting even this small sliver of sunlight and have obtained a judicial stay of the directive, the reality is that this minor reform still leaves New Jersey as one of the nation's more secretive states.

Most IA complaints are not sustained, let alone result in major discipline. For example, agencies in Bergen County concluded 756 IA investigations in 2018. Only 241 (31.8%) complaints were sustained. Major discipline was imposed in only 19 (2.5%). This leaves 97.5% of cases completely confidential.

In the past, the names of those 19 officers would have been kept secret and now per the AG's directive they will be disclosed, which is some progress. But names are all we will get. We will have to blindly trust that the disclosure is full and accurate because we have no access to any actual documents to verify it. Recently during a police reform hearing, the AG admitted that New Jersey "lags behind the pack" when it comes to police transparency. He said that we "can and should be a national leader on this issue."

On that, I agree with the attorney general. Thankfully, Senator Loretta Weinberg **has introduced S-2656**, a bill that would finally make police IA and disciplinary records open to the public.

The police unions will no doubt also challenge this bill, so we must work even harder to ensure its passage and to debunk the false rhetoric the unions use to maintain their system of total secrecy. They argue that harm will fall upon them and their families if their IA records are released, but none of the doomsday scenarios have happened in the numerous other states where the public has full access to IA files.

The unions have also argued that IA records mostly encompass minor administrative rule violations, yet we know officers receive major discipline for conduct as serious as "engaging in racially offensive behavior" and falsifying reports.

The unions have gone so far as to argue in court that the public does not deserve to know who has been disciplined for receiving DWIs, failing to pay child support, or committing domestic violence. We should know, however, when police officers fail to comply with the very laws that they enforce. Identifying officers who commit misconduct both holds them accountable to the public they serve and deters others from committing misconduct in the future.

Earlier this month, New York lawmakers realized that this moment demands significant change when they repealed 50-A, the law that shielded police misconduct files from the public for decades. In doing so, New York was added to the growing list of states that make IA records public and New Jersey fell further behind when it comes to police transparency. We can change that by passing S-2656 and bringing full transparency to this state.

The bill gives reporters, attorneys, and advocates the data necessary to expose misconduct and to identify systemic problems that need to be rectified. We can support their efforts by letting our lawmakers know that this moment demands the passage of S-2656 and an end to the culture of secrecy within New Jersey's police departments.