



**Resolution**

**Supporting passage by the New York State Legislature of Assembly Bill A.2513 (O'Donnell) and Senate Bill S.3695 (Bailey) and support NYC Council Resolution T2019-3709 (Williams), all of which call for the immediate repeal of Section 50-a.**

**Nov 14, 2019**

WHEREAS: Section 50-a of New York Civil Rights Law provides confidentiality for personnel records of police officers maintained by the New York Police Department, and

WHEREAS: The purpose of the legislation, as stated by Senator Padavan, the sponsor of the legislation, is to protect against disclosure of family and residential information to prevent harassment, and to protect against abusive use of unverified information against officers when cross-examined in court; and

WHEREAS From 1972 until 2016 records of disciplinary actions imposed by the Police Commissioner, after adjudication, upon officers who had engaged in misconduct were not considered to be personnel records but were publicly available and, indeed, were delivered to the press by posting in the Department's Public Information office; and

WHEREAS In 2016, in response to a request for the prior disciplinary history of Officer Pantaleo following the death of Erroll Garner the City, under Mayor DeBlasio, and the Police Department expanded the definition of "personnel records" to shield findings of misconduct and discipline from the public by invoking Section 50-a; and

WHEREAS: The New York Court of Appeals, in a decision released December, 2018, (*NYCLU v NYPD*, 32 NY 3d 556) went even further, holding that courts, by reason of the City's and the Court's expanded reading of Section 50-a, were not permitted to order disclosure of disciplinary findings even in cases where the records were redacted so as to avoid personal identification of the officers who engaged in misconduct; and

WHEREAS: On March 11, 2019 Judge Arthur Engoren of NY County Supreme Court case (*Patrolemen's Benevolent Association v. DeBlasio*, #15231/2018) enjoined NYPD from even publishing statistical "summaries" of disciplinary record in a "compendium" where there would be no identification of the officers, complainants, location or factual circumstances of misconduct: and

WHEREAS: A recent study and report by the Criminal Courts Committee of the NY City Bar Association found that the law is "the only one of its kind in the nation" and has "been interpreted so broadly that police misconduct in New York State is more secretive than any other state in the nation" while urging that "Transparency is vital to regulating police powers in a democracy.";



WHEREAS: A repeal of Section 50-a would NOT result in improvident disclosure of an officer's private information since New York's FOIL Law (POL § 87) already protects against disclosure of records which would "constitute an unwarranted invasion of personal privacy"; and

WHEREAS: If Section 50-a were repealed, Courts would still be prevented from permitting evidence of uncharged misconduct on cross-examination of an officer unless the examination, in the opinion of the Court, is material, relevant and directly related to the testimony (*People v. Molineux*, 168 NY 264); and

WHEREAS: Police Commissioner James P. O'Neill, in an Op-Ed piece published by the NY Daily News on February 8, 2019 conceded that "The law must be changed so the NYPD can publicly disclose discipline information"; and

WHEREAS: A Bill jointly introduced by Assemblymember O'Donnell and Senator Bailey is currently pending before the State Legislature (A.2513/S.3695) to repeal Section 50-a, which bill is supported by City Council Resolution T2019-3709.

Be it RESOLVED that the Village Independent Democrats support passage by the New York State Legislature of Assembly Bill A.2513 (O'Donnell) and Senate Bill S.3695 (Bailey) and support NYC Council Resolution T2019-3709 (Williams), all of which call for the immediate repeal of Section 50-a.