



June 8, 2020

Via Electronic Mail

Re: Letter of Support for S3695-Bailey/A2513-O'Donnell Bill to Repeal Civil Rights Law § 50-a

Dear New York State Legislators:

LatinoJustice PRLDEF respectfully submits this letter in support of Senator Bailey and Assemblyman O'Donnell's bill to fully repeal Civil Rights Law § 50-a (CRL 50-a), a statute that has stymied public disclosure of records relating to police misconduct since 1976.

CRL 50-a gained wider recognition after the death of Eric Garner when attorneys and advocates highlighted how the statute created impenetrable obstacles to access then NYPD Officer Pantaleo's history of civilian complaints and disciplinary findings. Leaked documents eventually revealed a substantiated pattern of Pantaleo's problematic policing¹. Despite the dangers behind its secrecy, CRL 50-a remains the nation's most restrictive law on withholding what should be public information. This lack of transparency corrodes community trust in law enforcement, endangers public safety, and limits access to justice for survivors of police misconduct and victims of police violence. Recent documented instances of police brutality at the hands of the NYPD and police departments around the country calls into question the utility and morality of CRL 50-a once more. If the life of George Floyd had been taken in New York, CRL 50-a would obscure the horrifying history of excessive force of the officer who killed him. In that context, LatinoJustice urges you vote for the immediate passage of S3695-Bailey/A2513-O'Donnell to ensure that New Yorkers have access to vital information necessary to public safety and accountability of law enforcement.

Founded in 1972 as the Puerto Rican Legal Defense and Education Fund, LatinoJustice PRLDEF champions an equitable society by protecting, defending and advancing the rights of the greater pan-Latinx communities in the United States. In that mission, LatinoJustice has repeatedly defended Latinxs against predatory NYPD practices and policies. Most notably, we jointly represented several plaintiffs in *Ligon v. City of New York*, a case more commonly referred to as the "Stop and Frisk" case.² Currently, we represent a class of Latinx New Yorkers who were repeatedly stopped and robbed by uniformed members of the Suffolk County Police Department (SCPD).³ There, SCPD officers used existing laws to disproportionately stop, harass, terrorize and victimize Latinxs community members of Suffolk County. LatinoJustice's advocacy for an investigation of the SCPD "stop and rob" of Latino motorists led to the felony conviction of a SCPD sergeant. LatinoJustice is uniquely cognizant of the importance of bringing discriminatory practices and police abuse into the public's awareness; a community-wide goal that is perpetually frustrated by CRL 50-a.

¹ Jack Jenkins, Carimah Townes, *The disturbing secret history of the NYPD officer who killed Eric Garner*, ThinkProgress (Mar. 21, 2017), available at <https://thinkprogress.org/daniel-pantaleo-records-75833e6168f3/>.

² *Ligon, et al. v. City of New York*

³ *Plaintiffs#1-21v.TheCountyofSuffolket.al.* EDNY2:15-cv-0243



The need for CRL 50-a has run its course. The initial animus behind the statute was to safeguard against the improper cross-examination of police officers in criminal trials through the admission of unsubstantiated actions. The statute provides that:

“all personnel records used to evaluate continued employment or promotion, under the control of any police agency . . . shall be considered confidential and not subject to inspection or review without the express written consent of such police officer . . . except as may be mandated by lawful court order.”⁴

In the quest to achieve this objective, however, the evolution and current interpretation of CRL 50-a has created a black box which shrouds all materials related to a police officer’s history. This safeguarding of materials crucial to public accountability is not afforded to any other category of public employee. In fact, it is unnecessary because both the New York’s Freedom of Information Law (FOIL) and Public Officers Law already provide all public employees, including those protected under CRL 50-a, the protections necessary to guard against “unwarranted invasions of privacy and from disclosures that could jeopardize their security or safety”.⁵ In addition, judges can determine if certain police file materials are inadmissible in a trial without a blanket denial of public access to information regarding police activity under CRL 50-a. Therefore, what CRL 50-a achieves is the concentration of power through state-sanctioned silence. It is time to end a dangerous practice that needlessly endangers communities of color, who have been disproportionately over-policed and brutalized by police departments across the state.

Policing reforms cannot occur in an era that allows for the continued secrecy of on-duty police misconduct. Transparency is essential to building community trust. To that end, New Yorkers have a right to know who patrols their streets. Survivors of police brutality and over-policed communities of color have a right to access information that demonstrates pattern of violence and aids in the removal of perpetrators of state violence from their neighborhoods. CRL 50-a prioritizes the unjustified withholding of information over the safety of the community members, leading to devastating losses in our communities like that of Eric Garner. No modification or amendments of CRL 50-a can ameliorate the current state of police record secrecy since the police can continue expand the meaning of “personnel records” to virtually restrict any relevant documents. Hence, a complete repeal is necessary for justice. LatinoJustice urges you vote for the immediate passage of S.3695/A.2513.

We also welcome the opportunity to meet virtually or telephonically to discuss this matter further. Kindly contact us at 212.219.3360 Ext. 9132 if you have any questions or need any additional information.

⁴ N.Y. CIV. RIGHTS LAW § 50-a.

⁵ Cynthia Conti-Cook "Defending the Public: Police Accountability in the Courtroom," Seton Hall Law Review: Vol. 46 : Iss. 4, Article 3, available at <http://scholarship.shu.edu/shlr/vol46/iss4/3/> 1067-1070 (2016)



Respectfully,

s/

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