

New York State Civil Rights Law 50-a: **The Anti-Transparency Law Creating a Safe Haven for Corrupt Police Officers in** **NY State**

So what the Heck is NY Civil Rights Law 50-a anyway?

New York civil rights law section 50-a provides blanket exclusion from disclosure under the Freedom of Information Law (FOIL) for ANY police department documents that could potentially be used to evaluate an officer.

So what did you mean by that “transparency” thing you talked about?

Transparency in government is your ability as a citizen to access information about your government, be it at the local, county, state, or federal level. It refers to your ability to obtain official records and documented proof that your government is actually doing what it claims to be doing. Transparency is your ability as a citizen to track the activities of your government and prove that elected officials and government bureaucrats aren't lying, cheating, stealing or otherwise breaking laws that you yourself might be thrown in jail for breaking.

I think I've heard of FOIL before, that's related to Transparency right?

You bet your bottom lip it is! FOIL is the Freedom of Information Law, and states specifically that no government information can be withheld from the public unless there is a valid legal reason to do so. Legal reasons can include national security, protection of personal privacy, or the protection of confidential information in an ongoing criminal investigation to name a few. The overwhelming majority of your rights to access records and exercise transparency in government is based on FOIL!

So how is 50-a affecting FOIL when it comes to the police department?

Since the mid-1990s, courts in NY have been expanding the use of 50-a in terrifying ways. At this point, any record that could possibly be used to evaluate the conduct of an officer is now protected from disclosure through FOIL. If citizens complain about an officer or he/she is accused of misconduct, every complaint made (or even just the number of complaints) against that officer is protected from disclosure. If internal affairs conducts an investigation for misconduct, corruption, the use of force, or anything else for that matter, every aspect of that report is protected from disclosure even if the names of the people involved are completely removed! If an officer is caught lying, cheating, or stealing and has disciplinary charges leveled against him/her, all of the findings are exempt from disclosure. Basically, the reasoning is that any police department information that can prove an officer is corrupt can also be used to evaluate that officer's performance, and is therefore protected from ever being disclosed to the public. It's an incredibly serious issue!

Yeah, but what about Body Cameras? That will create transparency because then everything will be on video!

Sure it will be on video, but what makes you think you will have any right to access that footage? FOIL is the only thing giving you the right to access government records, and in NY State, anything that can be used to evaluate police performance is exempt from disclosure, including footage from Police Body Worn Cameras! So if you accuse an officer and want to see the BWC footage, the police department, by law, is under no obligation to furnish the video to you if it decides it doesn't want to. Your only alternative is to get a court to rule in your favor, and force the police to get you the video. Understand that you don't have access rights to government information outside FOIL or a court order, and with regard to the police, FOIL has been severely shackled in this state because of 50-a.

So what can be done?

- A)** Talk to everyone you know about 50-a and how it impacts our interactions with the police in NY!
- B)** Call your state legislators and senators and tell them you want civil rights law 50-a repealed, and that if they won't support it you consider them in opposition to government transparency!
- C)** Talk to the mayor and your city council members, and demand that members from the Coalition for Police Reform are at the table representing the public when the final body camera policy is being drafted by the city.
- D)** Demand that public access to body camera footage are guaranteed in the final body camera policy for Rochester NY.
- E)** Join the Coalition for Police Reform! Contact us through the website at: **www.rochesterpcpr.org**.
- F)** Come to an Enough-Is-Enough meeting every Tuesday at the Flying Squirrel Community Space @ 7:00 pm to learn more about issues related to police accountability in this city. Find us at: **enoughisenough.rocus.org**.