



Reforming Police Record Disclosure Policy: Legislative Action for Accountability in Law Enforcement

By: Jeff Chubbs, Legislative Fellow
August 4, 2020

Overview

In the wake of protests brought on by the deaths of George Floyd, Breonna Taylor, and Ahmaud Aubrey, several states have initiated legislative action to increase accountability and transparency among police agencies.

For example, public access to an officer's disciplinary records vary widely from state to state. In an [investigation](#) from WNYC news in 2015, 23 states, including Delaware, made personnel files unavailable to the public. In recognition of the impact that these laws may have on public health, police conduct, and institutional transparency, some state legislatures are making swift changes.

Recent civil unrest has opened up further discussion in Arizona, Colorado, New York, Michigan, and other states. And as of June 12, 2020, New York's governor signed a [high-profile bill](#) removing police record confidentiality.

This issue brief covers: Transparency and law enforcement, reports and memorandums calling for records reform, comparison of Delaware and New York statutes, and resources for Delaware legislators considering change.

Current Events in Disclosure Statutes

- **California**
For over 40 years, CA law strictly prohibited disclosure of police disciplinary records. In 2018, Governor Brown [signed](#) SB 1421 into law, removing the protection.
- **New York**
On June 9, 2020, New York's Governor signed the "50-A" repeal [bill](#) into law. Now, police disciplinary records, including complaints, charges, transcripts of trials, and other information are available by request.
- **Public Memorandum of Support**
Days before New York's decision, several organizations published a [memorandum](#) of support for the bill's passage. Widely cited by [press](#), the articles also call out Delaware as one of the *only* remaining states to provide special carveouts for law enforcement records.
- **Delaware's Police Record Disclosure Law**
[Section 9200\(c\)](#) of Title 11 of the Delaware Code prevents the release of records as a result of an investigation to the public.

Advantages of Police Record Transparency

- **Transparency and equal treatment of public official activity.** Originally, New York's '50-A' law served to stop harassment and impeachment of officers on "unsubstantiated claims" while in court. However, a NYC Bar [report](#) revealed it broadly shielded officers from public inquiry and worsened racial injustice. Therefore, repealing 50-A and adding new provisions would increase accountability within police agencies.

Challenges of Record Disclosure Statutes

- **Revealing sensitive information on police officers.** Some police unions have [argued](#) the recent reforms will put officer's personal safety at risk. However, [survey data](#) suggests otherwise. Administrators find access to records do more to benefit community relations than infringe on officer's wellbeing.

How Statutory Language Shapes Police Accountability and Improves Trust

- California law specifies the [types](#) of records that may be disclosed and under what circumstances. Additionally, it includes provisions for agencies to delay disclosure as well as redaction of personal data to ensure personal safety.

Considerations for Delaware Legislators

- If altering Delaware's Police Record Disclosure Law, legislation [might specify](#) what files to disclose, how to handle unsubstantiated claims, and the private data to redact.