

## Memorandum of Support: S.3695 (Bailey) / A.2513 (O'Donnell)

June 5<sup>th</sup>, 2020

Dear Members and Concerned Citizens,

The National Association of Social Workers – NYC Chapter strongly supports S.3695 (Bailey) / A.2513 (O'Donnell) and views it as a positive step forward and as a commitment to transparency in an effort to remedy concerns with police misconduct in New York. Once enacted, the measure will repeal [Section 50-a of the Civil Rights Law](#), thereby creating transparency and eliminating current practices that hide police misconduct records from public view. The repeal is specific to personnel and job performance records used to evaluate individuals towards continued employment or promotion. This section of the law includes personnel records of correction officers, police officers, and firefighters. It was originally enacted in 1976 to help protect personal information of officers testifying in court, as well as to ensure that they were not harassed as a result of their public testimony. Over the years, the law has been applied to cases where request(s) were made for police conduct records. For instance, in the case and death of Eric Garner of Staten Island, NY in 2014, 50-a was repeatedly used by NYPD to block the disciplinary record of the police officer who held Mr. Garner in a choke hold subsequently leading to his death.

The National Association of Social Workers - NYC Chapter makes clear that our support of this repeal does not mean or suggest that we condone the harassment, harm, or otherwise threat of safety to ANY police officer, firefighter, correction officer, or other public servant. We call for the repeal in the spirit of transparency and accountability. We call for it because the difficulty of obtaining records from police departments in NY and the lack of response to FOIL request(s) has been noted several times over the years. Furthermore, we affirm the importance of equity and assert that like many other public servants whose personnel and job records are subject to public review, police - as one of the largest law enforcement public servants with significant power to impact individual lives - should be held to the same standards as others, rather than be excluded.

We do not take this position lightly and while we understand that there are varying degrees of connection to this issue; social workers, like many others, work closely with law enforcement and other public servants every day. In addition, police officers are more than colleagues. They are our family members, friends, and loved ones. We value and respect the importance of these public servants and despite the varying opinions we hold as social workers, we are charged with committing ourselves to work towards equity, fairness, and justice. It is undeniable that trust, competence, and accountability are necessary in every profession. The nature of our work and the vulnerability of those we serve means that social workers are subject to high levels of scrutiny in many of the places we seek to gain or maintain employment. It is not uncommon that background checks, inquiries regarding any potential history of disciplinary action, founded claims of ethical violations and so forth are subject to question, review, and at times public knowledge. For those of us who are licensed, anyone can search our name, license number, area of registration, expiration date, and information regarding the status of our license. This is because of the public trust associated with this field and the weight of responsibility we must carry to ensure ethical, non-biased, and equitable practices are imbedded into our work. Police officers and all other public servants should be held to the same accountability standards.

Currently, 50-a serves no public policy purpose. Claims that 50-a is necessary to protect an officer's privacy or safety have been generally unfounded. While a legitimate concern, New York's Freedom of Information Law ("FOIL") already protects personal and private information, including home addresses, medical records (further protected by Federal law HIPPA), and social security numbers from public release. In fact, for thousands of non-police public employees, FOIL has been protecting their private information for years. If 50-a is repealed, police departments can still continue to respond to any legitimate threats regarding privacy and safety of their officers, while ensuring that the public is able to gain access to the specific portions of police records necessary for transparency and accountability.

There are several modifications that have been discussed publicly by the NYPD or in the Legislature. NASW-NYC is **opposed** to any proposal to modify 50-a that would:

- **Further narrow the types of information that will be made publicly accessible** – Narrowing the information that can be released beyond the limitations already established in FOIL will not go far enough. Proposals that attempt to tweak the definition of "personnel records" are ripe for further misinterpretation and expansion, and would result in ongoing litigation concerning what specific types of documents fall within or outside of the definition of "personnel records."
- **Create scales of seriousness** – Standards that create a scale relying on the *seriousness* of wrongdoing or carve out a certain degree of disciplinary charges will be easily exploited by departments to avoid disclosure. Furthermore, access to *trivial* or *technical* violations are valuable in not only showing officer misconduct, but in understanding whether a department is retaliating against whistleblowers or engaging in employment discrimination. To remove the current shield of secrecy, all instances of misconduct must be disclosed.
- **Create unreasonable timelines concerning the release of information pertaining to disciplinary matters** – The public release of misconduct information cannot hinge on the resolution of an internal administrative process or a disciplinary process by an external oversight agency. As was demonstrated by the disciplinary process of Daniel Pantaleo - the NYPD officer who killed Mr. Eric Garner - these cases often take years to be resolved through an administrative process. Withholding information from victims, family members, and the public at large for years is unacceptable and does incredible harm to individuals and the public trust.

Modification or partial repeal of 50-a serves no purpose other than to maintain avenues for departments to hide officer and departmental misconduct. Any action aside from full repeal would provide a false sense of progress. The National Association of Social Workers - NYC Chapter implores the New York State Legislature to fully repeal 50-a and reject attempts to modify or *partially* repeal.

**Want to get involved in the campaign to #repeal50a, pass the #SaferNYAct, and improve police accountability and transparency in New York?**

Follow this link for ways and suggestions: [CALL TO ACTION LINK](#)

With appreciation and in solidarity,



Dr. Claire Green-Forde  
Executive Director - NASW-NYC