

Judge Rejects NY Police Unions' Bid to Block Disciplinary Records

ADAM KLASFELD August 21, 2020

MANHATTAN (CN) — New York City's pro-transparency law allowing for the release of police disciplinary records can proceed in mostly full effect, a federal judge announced in a telephone conference Friday.

U.S. District Judge Katherine Polk Failla's decision rejects a police unions' [lawsuit](#) claiming that officers will be put in danger by the [repeal of 50-A](#), a law that previously shielded civilian complaints filed against officers.

"Whoa!" an unidentified participant on the call exclaimed upon her ruling.

Indeed, Failla's ruling upholding the new law bodes a new era of transparency over records involving allegations of police misconduct. Police unions claimed that sunlight over these records would lead to violence against their members, but Failla found they produced no evidence for that proposition.

Referring to slain officers, Failla said: "They are remembered. They are respected."

"There can be no argument that their deaths can be attributed to the repeal of 50-A," Failla added, referring to the now-repealed law.

New York City Corporation Counsel James Johnson applauded the ruling for advancing the will of the legislators.

"In a well-functioning democracy, all government officials are accountable to the public and transparency is critical to accountability," Johnson wrote in a statement. "The legislature underscored that principle when it repealed 50-a. What comes to light because of this increased transparency should be used constructively to help us improve our society."

Judge Failla gave the unions until Monday to appeal her decision.

Their attorney Anthony Coles, from the firm DLA Piper, did not respond to an email requesting comment, but few court-watchers doubt that the unions will accept the judge's invitation for appellate review.

The city appears to be ready for further litigation.

"We are gratified with the court's decision and will continue to vigorously fight for the enhanced transparency the law requires," Johnson said, on behalf of the city.

Even before Failla's ruling, the city's passage of the law led more information to come to light. ProPublica [published records](#) they obtained from a Freedom of Information Law request before the filing of the lawsuit. The New York Civil Liberties Union also obtained files from a records request, and the group [successfully fought](#) for the right to publish them on a database late last month.

Since the Second Circuit upheld a ruling in their favor, the NYCLU's database is now live.



A federal judge in New York Friday ruled a pro-transparency law can proceed mostly in full effect.



Failla granted the police unions a narrow exception for records that would be expunged under the unions' collective bargaining agreements, which include adjudicated police disciplinary proceedings that ended in a disposition of "other than guilty."

On every other legal argument in Failla's court, the police unions stumbled. The judge found that expert who predicted a backlash against officers accused of misconduct did not substantiate his dark visions.

"His opinion at base is rumination," Failla found.

Reciting her ruling for more than an hour, the judge was occasionally interrupted by comments from the more than 100 callers who dialed into the court's telephone line to listen to the long-anticipated ruling. She regularly had to remind participants and the public to mute their lines.

Interruptions aside, her ruling left no doubt that she found the unions' challenge lacking in substance and an attempt to thwart the will of elected representatives.

"As the city and state Legislatures articulated, there are strong government interests in transparency and accountability," she noted.

The pro-transparency legislation on both levels followed the groundswell of public protest that followed a Minneapolis police officer killing George Floyd, whose gasps of "I can't breathe" resonated with New Yorkers who remembered the same dying words from Staten Islander Eric Garner, who died in a police chokehold in 2014.

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