

STATE OF NEW YORK

2442

2023-2024 Regular Sessions

IN ASSEMBLY

January 26, 2023

Introduced by M. of A. GONZALEZ-ROJAS, DAVILA, KELLES, SIMON, EPSTEIN --
read once and referred to the Committee on Governmental Operations

AN ACT to amend the public officers law, in relation to the disclosure
of law enforcement officer's disciplinary records

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

Section 1. Section 87 of the public officers law is amended by adding
a new subdivision 4-c to read as follows:

4-c. An agency responding to a request for law enforcement discipli-
nary records as defined in section eighty-six of this article shall not
deny access to such records or portions thereof on the grounds that such
records:

(a) constitute an unwarranted invasion of personal privacy as
described in paragraph (b) of subdivision two of this section because
such records concern complaints, allegations, or charges that have not
yet been determined, did not result in disciplinary action, or resulted
in a disposition or finding other than substantiated or guilty;

(b) are compiled for law enforcement purposes as described in para-
graph (e) of subdivision two of this section;

(c) are inter-agency or intra-agency materials as described in para-
graph (g) of subdivision two of this section;

(d) are or were designated as confidential, secret, or otherwise
private by a private agreement, including but not limited to a settle-
ment, stipulation, contract, or collective bargaining agreement; or

(e) were created prior to the effective date of this subdivision.

§ 2. Paragraphs (c) and (d) of subdivision 2-b of section 89 of the
public officers law, as added by chapter 96 of the laws of 2020, are
amended and a new paragraph (e) is added to read as follows:

(c) any social security numbers; ~~[ex]~~

(d) disclosure of the use of an employee assistance program, mental
health service, or substance abuse assistance service by a person

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD04836-01-3

1 employed by a law enforcement agency as defined in section eighty-six of
2 this article as a police officer, peace officer, or firefighter or
3 firefighter/paramedic, unless such use is mandated by a law enforcement
4 disciplinary proceeding that may otherwise be disclosed pursuant to this
5 article[~~+~~]; or

6 (e) the name or other personal identifying information of a person
7 included in a law enforcement disciplinary record, where that person is
8 alleged to have been the victim of sexual misconduct. For the purposes
9 of this section, the term "sexual misconduct" encompasses misconduct of
10 a sexual nature or motivated in whole or in part by the person's actual
11 or perceived gender or gender presentation alleged by a person against a
12 member of a law enforcement agency. Sexual misconduct includes, but is
13 not limited to, the following examples of misconduct: verbal, digital,
14 and written sexual harassment; sexual harassment using physical gestures
15 and expressions; sexual humiliation; sexual intimidation and coercion;
16 taking unwarranted photographs or videos or voyeuristic actions; use of
17 personal information, including telephone numbers, obtained from indi-
18 viduals in the course of duty for other than legitimate purposes; sexu-
19 ally motivated police actions such as stops, summonses, searches, or
20 arrests; sexual or romantic propositions; and any intentional bodily
21 contact of a sexual nature, including but not limited to, groping, sexu-
22 al assault, rape, and engaging in sexual activity while on duty.

23 § 3. This act shall take effect immediately.