

Winston Blocks Police Union's Efforts to Withhold Disclosure of Disciplinary Records

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In connection with Winston & Strawn's ongoing representation of the [New York Civil Liberties Union](#) (NYCLU), a Winston team recently secured a complete denial and dismissal with prejudice of the Schenectady Police Benevolent Association's (PBA) lawsuit seeking to prevent the release of officer disciplinary records.

The NYCLU had submitted a Freedom of Information Law (FOIL) request for an officer's disciplinary records after he was recorded on video kneeling on a man in July, resulting in public outcry.

Winston leveraged the NYCLU's police transparency campaign after the repeal of CPL § 50-a—a law that shielded all police disciplinary records from public disclosure—and submitted a second FOIL request seeking, *inter alia*, law enforcement disciplinary records, as well as records related to the use of force, stops, temporary detentions, field interviews, and civilian complaints. The Schenectady PBA filed an Order to Show Cause and temporary restraining order attempting to shield disclosure of the requested documents sought by the NYCLU and more than a dozen media organizations. On behalf of the NYCLU, Winston sought and obtained intervener status in October, and subsequently filed an opposition to the Schenectady PBA's complaint in November.

On December 29, New York State Supreme Court Judge Mark Powers issued a decision in the NYCLU's favor and mandated that the disciplinary records be disclosed. Judge Powers adopted Winston's arguments with respect to each of the PBA's claims and found that no privacy right exists for records related to the performance of public duties. The court looked to the state legislature's intent in repealing CPL § 50-a, and found that law enforcement disciplinary records should be afforded the "greatest permissible disclosure." This decision protects the public's broad right of access to law enforcement disciplinary records.

Judge Powers ruled that, "In our current times, our state lawmakers have seen fit to require disclosure of police personnel records, upon FOIL request, even when such records reflect no more than allegations. They, presumably, did so in the name of opening the door to transparency, and having done so, it would be palpably improper for this Court to close it. It strikes the Court that the legislature intended not just a change in law but, rather, a change in culture."

The court also summarily rejected the PBA's assertion that the public's right of access could be bargained away in collective bargaining agreements.

“This precedent-setting decision confirms that the repeal of Section 50-a and corresponding amendments to FOIL provide the public with a broad right of access to police disciplinary records. As Judge Powers set forth: There is no ambiguity in the new statutory scheme,” said Winston & Strawn New York Partner Sofia Arguello. “We are proud to represent the NYCLU in its critical mission to increase police accountability.”

The Winston team that worked on this matter included New York Partner Sofia Arguello; New York Associate Lauren Duxstad; and former New York Partner Julissa Reynoso.

This matter is part of Winston & Strawn’s CEASE initiative. Learn more about CEASE and Winston’s Pro Bono Racial Justice and Equity Council [here](#).

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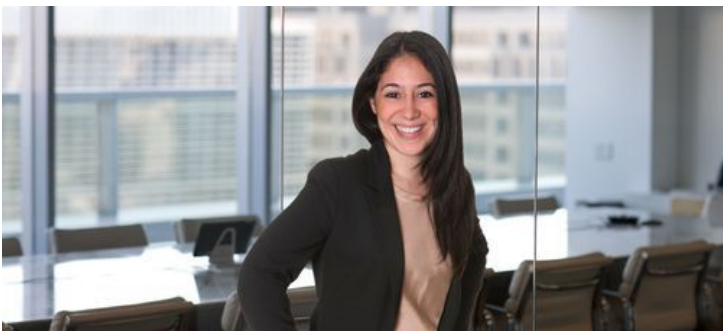
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