

WRITTEN TESTIMONY FROM COMMON CAUSE/NY TO THE SENATE STANDING COMMITTEE ON CODES

Public Hearing- October 24th, 2019

Thank you for the opportunity to submit this testimony. Common Cause is a national nonpartisan, nonprofit public advocacy organization founded in New York in 1970 by John Gardner as a vehicle for citizens to make their voices heard in the political process and to hold their elected leaders accountable to the public interest. With more than 1 million members and supporters and 30 state organizations, Common Cause is committed to honest, open and accountable government and to encourage citizen participation in democracy. Since its inception, the New York chapter has always been and continues to be one of the most active state organizations in the country, representing over 60,000 New Yorkers throughout the state.

Recognizing that transparency and public accountability is the bulwark of a healthy and functioning democracy, Common Cause/NY has fought vigorously at both the state and municipal level to bring about an honest and open government. It has long been Common Cause/NY's position that governments should conform to the highest standards of transparency and make a concerted effort to provide as much information possible for public review. When New Yorkers are left in the dark about the actions of public officials, the implications are vast and often times irreparable. All New Yorkers suffer when critical decisions are made behind closed doors without opportunity for public scrutiny or oversight.

New York's Freedom of Information Law (FOIL) aims to remedy that problem by providing New Yorkers access to official documents and insight into the government's decision making process, promoting a greater sense of trust in our institutions and public officials. Common Cause/NY helped to pass FOIL and has been a long time supporter, seeking to strengthen and improve it. In 1976 however, the state legislature carved out a small exemption from the statute known as Civil Rights Law 50-A. The law restricts public access to personnel records of law enforcement officers in order to protect them from being used during cross examinations. By virtue of its exemption though, Section 50-A is largely antithetical to FOIL's main goals of transparency and accountability. As a result, 50-A has contributed to a precipitous decline in trust between New Yorkers and the public officials tasked with protecting them.

We strongly support repealing Section 50-A, a statute that is deeply flawed from both a criminal justice and government accountability standpoint. Over the past 40 years, the statute has been interpreted so broadly by the Courts, that it has become nothing more than a deliberate effort to provide blanket protection for police misconduct and prevent the public from conducting necessary oversight. Those who oppose repealing Section 50-A, argue that it would provide for unbridled access to personnel files, paving the way for harassment and jeopardizing the safety of law enforcement officers. While officer privacy and safety is a legitimate concern, it must also be weighed against the public's interest in monitoring the actions of all public officials, especially those who are most likely to come into contact with New Yorkers on a regular basis. As noted in the Department of State's Committee on Open Government 2018 Report, "it is ironic that public employees having the most authority over peoples' lives are the least accountable relative to disclosure of government records."

CONCLUSION

Transparency rests at the heart of a healthy and robust democracy. The more the public is aware of the

government's actions and decision-making process, the more they trust that public officials are acting in their best interest. By stripping the public of crucial oversight powers, Section 50-A impedes on New Yorkers' ability to actively partake in our democracy and hold law enforcement officials accountable. Repealing 50-A will make our government more accountable, our democracy stronger, and is a necessary step towards restoring public faith in the institutions tasked with protecting them.