



Legislation Text

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Res. No. 541

Resolution calling upon the New York State Legislature to pass, and the Governor to sign legislation that would provide the Civilian Complaint Review Board with access to sealed records in furtherance of its duties and functions.

By The Speaker (Council Member Adams) and Council Members De La Rosa, Farías, Hudson, Hanif and Brewer

Whereas, Civilian law enforcement oversight entities throughout New York State, including, but not limited to the Civilian Complaint Review Board (“CCRB”), are responsible for investigating and recommending action on complaints against police officers related to allegations of misconduct; and

Whereas, Under Section 440 of the New York City Charter, CCRB is empowered to receive, investigate, mediate, hear, make findings, and recommend action on complaints made against uniformed members of the New York City Police Department (“NYPD”), alleging misconduct relating to the excessive or unnecessary use of force, abuse of authority, discourtesy, or the use of offensive language; and

Whereas, Legal barriers exist that currently impede the CCRB from meeting its Charter mandated duties by limiting access to certain sealed records and materials that are necessary to aid the investigation of alleged misconduct; and

Whereas, Among such barriers, Section 1-23(e) of Title 38-A of the Rules of the City of New York, provides that CCRB may obtain NYPD records and other materials that are necessary for the investigation of complaints, except when such records and materials cannot be disclosed by law; and

Whereas, CCRB investigations often rely on access to records and materials that may be sealed for a variety of reasons, such as records pertaining to arrests that do not result in a conviction, or materials sealed

pursuant to family court order; and

Whereas, On October 21, 2021, before the Public Safety Committee of the New York City Council, CCRB Executive Director Jonathan Darche testified that certain records and materials that are necessary to investigate civilian complaints, can include information that had been sealed due to underlying police misconduct or error, such as records relating to arrests or searches where police did not have sufficient probable cause, thereby resulting in the case resolving in a defendants' favor; and

Whereas, CCRB can face significant delays in its investigations due to requisite efforts to obtain access to certain sealed records, such as seeking unsealing orders or obtaining release waivers from impacted civilians to fully investigate cases where the NYPD denies access to records or other materials due to the record being sealed, a process that can result in delays approaching the 18 month statute of limitation in which CCRB must complete investigations; and

Whereas, Former CCRB Chairman Frederick Davie has petitioned state lawmakers for exemptions from state sealing statutes, calling it a necessary change to empower the agency to conduct its legally mandated responsibilities to investigate allegations of racial profiling and patterns of bias-based policing within the NYPD, efforts that in many circumstances rely on evidence obtained through examining records of an officers' prior enforcement actions, some of which likely would be sealed if such arrests did not lead to convictions; and

Whereas, Legislation to amend state law to grant CCRB access to certain sealed records would promote CCRBs ability to fulfill its mandate of investigating allegations of police misconduct; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to pass, and the Governor to sign legislation that would provide the Civilian Complaint Review Board with access to sealed records in furtherance of its duties and functions.