

**Alert | New York Government Law & Policy**



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## **New York State Police and Criminal Justice Reforms Enacted Following George Floyd’s Death**

The death of George Floyd, an unarmed and handcuffed African-American man, during an encounter with now-fired City of Minneapolis police officers, has sparked global protests and re-ignited conversations, reflections, and legislative reform efforts around issues of police brutality, criminal justice, social justice, and race relations in the United States.

The New York state Legislature recently took up 12 bills focused on police reform, 10 of which passed both houses and were subsequently signed by Governor Cuomo. Additionally, the Governor issued an Executive Order that was aligned with the police reform package and a separate order that recognized Juneteenth as a state holiday. These recent New York state laws and executive orders are summarized below.

### **1. Disclosure of Police Disciplinary Records: A10611/S8496 | Signed Into Law**

A10611 repeals Section 50-a of the Civil Rights Law, which made personnel records of police officers, firefighters, correction officers, and peace officers confidential and not subject to inspection or review without the consent of the officer or mandated by court order. A10611 amends Section 86 of the Public Officers Law, which codifies the New York Freedom of Information Law, to define and include law enforcement disciplinary records, disciplinary proceedings, agencies and technical infractions. This legislation also adds certain exceptions to disclosure, such as requiring law enforcement agencies responding to requests for personnel records to redact certain sensitive information related to medical

history, certain addresses and telephone numbers, social security numbers, and use of mental health services.

Prior to the enactment of this law, Section 50-a of the New York State Civil Rights Law permitted law enforcement officers to refuse disclosure of personnel records used to evaluate performance toward continued employment or promotion. This narrow exemption has been expanded in the courts to allow police departments to withhold from the public virtually any record that contains any information that could conceivably be used to evaluate the performance of a police officer.

## **2. Eric Garner Anti-Chokehold Act: A6144B/S08539 | Signed Into Law**

The “Eric Garner Anti-Chokehold Act” adds a new section 121.13 of the New York Penal Law, making the crime of aggravated strangulation a Class C Felony. The bill was introduced in response to the 2014 death of Staten Island, New York resident Eric Garner by way of a police officer chokehold. While chokeholds were and currently are prohibited in the New York City Police Patrol Guide, this law makes it a crime to engage in one as a police officer throughout the state of New York.

## **3. Banning False, Protective Class-Based 911 Calls: A01531B/S0849 | Signed Into Law**

This legislation amends subdivision 2 of Section 79-n of the Civil Rights Law to provide for civil penalties where any person who intentionally summons a police officer or peace officer without reason to suspect a criminal violation, in whole or in part because of a belief or perception regarding the race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of a person, regardless of whether the belief or perception is correct.

## **4. Special Prosecutor Office for Police-Involved Deaths: A1601c/S02574-C | Signed Into Law**

This bill adds a section to the Executive Law, to establish a new Office of Special Investigation within the Office of the Attorney General. This Office is tasked with investigating and, if warranted, prosecuting, any alleged criminal offense(s) committed by a police or peace officer while on or off duty where that offense results in the death of another individual.

Furthermore, the Office of Special Investigation is required to issue a public report for each incident where the office initiates an investigation but declines to prosecute, or where a grand jury declines to return an indictment as well as a report six months after the law takes effect, and annually thereafter, providing information on the matters investigated and recommendations for reforms.

## **5. Weapons Discharge Reporting: A.10608/S.2575-B | Signed Into Law**

This legislation requires state and local law enforcement officers, as well as peace officers, to report, within six hours, when they discharge their weapon where a person could have been struck, whether they were on or off duty.

## **6. Medical Attention for Persons Under Arrest: A.8226/ S.6601A | Signed Into Law**

This act adds an amendment to the Civil Rights Law, establishing a cause of action for failure by law enforcement to provide proper medical treatment for people in their custody. Additionally, the bill creates a duty for police officers to respond in good faith in addressing the medical and mental health needs of people under arrest.

### **7. Right to Record Police Activity: A.1360a/S.3253B | Signed Into Law**

This legislation clarifies the rights of a person not under arrest or in the custody of law enforcement to record police activity and to maintain custody and control of that recording, along with any property or instruments used to record such police activities.

### **8. Expanded Use of Law Enforcement Body Cameras: A.8674/S. 8493a | Signed Into Law**

The “New York State Police Body-Worn Cameras Program Act” directs the Division of State Police and the Metropolitan Transit Authority (MTA) Police to provide all agency police officers with body-worn cameras that are to be used any time an officer conducts a patrol, and prescribes mandated situations when the camera is to be turned on and recording.

### **9. Law Enforcement Misconduct Investigative Office: A10002B/ S3595 | Signed Into Law**

This bill directs the State Inspector General, MTA Inspector General, and the Port Authority Inspector General to investigate allegations of corruption, fraud, use of excessive force, criminal activity, conflicts of interest, or abuse by officer agencies. Unlike the Special Prosecutor, which is only triggered following a law enforcement-related death, this law allows for an independent review of alleged misconduct by any local law enforcement agency.

### **10. Reporting Requirements of Chief Administrator of Courts: A10609/ S1830 | Signed Into Law**

This bill expands reporting requirements of misdemeanors and violations charged by the Chief Administrator of the Courts and law enforcement agencies. The bill mandates the collection of data about the race, ethnicity, age, and sex of individuals charged, as well as the status of their cases, all of which must now be made publicly available online. It also requires the reporting and publication of deaths in police custody and those caused by any use of police force.

### **11. Police STAT Act: A.5472/ S.1830C | Currently on Calendar in the Assembly**

The Police Statistics and Transparency (STAT) Act, requires courts to compile and publish racial and other demographic data of all low-level offenses, including misdemeanors and violations. The bill also requires police departments to submit annual reports on arrest-related deaths to be submitted to the Department of Criminal Justice Services and to the governor and the Legislature. The legislation requires that the information contained in the report be made publicly available on the Office of Court Administration’s website and be updated monthly.

### **12. Racial Profiling by Police Officers: A.4615/ S.1137C | Passed Assembly, Currently in Senate Finance**

This bill prohibits police officers from using racial and ethnic profiling; requires that a procedure be established for the taking and review of complaints against police officers for racial and ethnic profiling; and allows an action for injunctive relief and/or damages to be brought against a law enforcement agency, any agent of a law enforcement agency, and the supervisor of an agent.

### **Executive Order No. 203**

Executive Order No. 203 requires all municipalities within New York state with a police agency to establish a plan for reinventing and modernizing police strategies and programs. The process for

developing the plan must incorporate the input of community stakeholders. In particular, the executive order requires municipalities to review current police force policies and procedures; develop a plan for improvement that addresses the needs of the communities they service; promote community engagement to foster trust, fairness, and legitimacy; and to address any racial bias and disproportionate policing of communities of color. The plan must be ratified or adopted by local law or resolution no later than April 1, 2021, or the municipality risks losing state funding

### Executive Order No. 204

Executive Order No. 204 recognizes June 19, also known as “Juneteenth,” as a paid holiday for state employees not required to work, in recognition and commemoration of the emancipation of African-Americans throughout the United States following the end of the American Civil War. The Governor may also advance legislation to make Juneteenth an official state holiday next year.

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