

EXHIBIT E

323,911 Accusations of N.Y.P.D. Misconduct Are Released Online

The records had been sealed for decades, but last month, New York repealed a law keeping them secret after national protests against police brutality.



By Ashley Southall

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Over 323,000 accusations of misconduct against current and former New York City police officers were published online on Thursday, a major milestone in a long and contentious political battle to open records of police discipline to public scrutiny.

The records include all civilian complaints filed since 1985 with the city’s independent police watchdog agency, the Civilian Complaint Review Board, and closed after an investigation.

Some 81,550 officers — from the rank-and-file to the current commissioner — were named in the complaints. Together they offer the public the broadest look to date at how officers are investigated and punished for a range of offenses, from using profanity and slurs to beating or choking people during arrests.

The complaints were published in an online database by the New York Civil Liberties Union, which obtained the records from the review board after state lawmakers repealed a law that had kept them secret.

The civil liberties union noted that less than 3 percent of the 323,911 complaints resulted in a penalty for officers, 12 of whom had been terminated. Christopher Dunn, the organization’s legal director, said in a statement that the records showed that the Police Department, whose commissioner makes the final decision on disciplinary matters, “is unwilling to police itself.”

“The release of this database is an important step towards greater transparency and accountability,” Mr. Dunn added, “and is just the beginning of unraveling the monopoly the N.Y.P.D. holds on public information and officer discipline.”

Al Baker, a police spokesman, said the department had refined the discipline system and implemented changes recommended by a panel of prosecutors and judges. “All of this advances the NYPD’s priority to make its internal disciplinary system as fair, effective, and transparent as it can,” he said.

Fred Davie, the chairman of the review board, said in a statement that the agency released the records in response to demands from the public for greater police accountability, which have been underscored by the nationwide protests following the death of George Floyd in police custody in Minneapolis.

“All New Yorkers have a right to transparency” under the state law granting access to public records, said Mr. Davie, who promised that his agency “will hold paramount the people’s right to know how their communities are policed.”

But that might become even more difficult for the review board, which is preparing to possibly lay off staff because of budget cuts brought on by the coronavirus pandemic. The Independent Budget Office recently said the review board, which has a \$20 million budget and 200-person staff, was too small to oversee the police department, which has a \$6 billion budget and 36,000 officers.

The records released Thursday include all allegations of excessive force, abuse of authority, discourtesy and offensive language investigated by the review board though mid-July, as well as the board's findings and any discipline that the police commissioner imposed. They do not include complaints under investigation by the review board or those investigated by the Police Department itself.

The complaints were shrouded in secrecy until June, when, as protests against police brutality spread across the country, the State Legislature in New York repealed a 44-year-old law that had been used to prevent their release to the public.

After a legal challenge from labor unions representing police officers, firefighters and corrections officers whose records were shielded by the law, a federal appeals court on Thursday ruled that the data could be released while the case continued in a lower court.

The unions vowed to continue fighting against what Hank Sheinkopf, a spokesman for the union coalition, said was "the improper dumping of thousands of documents containing unproven, career-damaging, unsubstantiated allegations that put our members and their families at risk."

The publication of the records, policing experts said, chips away at a legal wall of confidentiality built up by police unions, which for decades have used their political clout to block efforts to publicly release complaints about officers and the punishment they receive.

Samuel Walker, a professor at the University of Nebraska Omaha who is a leading expert on police accountability, said the data would allow academic researchers and policymakers to identify patterns and problems.

"That provides the fodder for policy changes, and that is terribly important," he said.

The topic of how and whether to disclose police disciplinary records has been contentious for decades. States like Delaware have laws keeping the records secret, while others like Florida and Arizona permit the release of some or all records, according to the Police Executive Research Forum, a policy and research nonprofit.

"Departments have come to recognize that's part of what transparency looks like," Chuck Wexler, the executive director, said.

The records became a lightning-rod issue when Mayor Bill de Blasio's administration fought against disclosing those of Daniel Pantaleo, a police officer who put Eric Garner in a banned chokehold on Staten Island in 2014 that proved fatal.

Officer Pantaleo was fired last year, but the law the city relied on to shield his records did not change until this past June, after the death of Mr. Floyd.

The records released Thursday add to a patchwork of data about police misconduct in New York City created by media and legal organizations.

ProPublica published data on nearly 4,000 officers who had at least one allegation of misconduct substantiated after an investigation, and BuzzFeed in 2018 published leaked records of 1,800 cases. The Legal Aid Society also maintains a database of federal lawsuits against officers.

Most people who have unpleasant encounters with the police do not file formal complaints. For many who have filed formal complaints that the review board substantiated, the publication of the records offers an opportunity to finally learn what punishment, if any, those officers received.

And for those who are facing criminal charges based on officers' testimony, or who have filed lawsuits against the city accusing police of misconduct and abuse, the records make it easier to learn more about an officer's history.

Richard Emery, a former chairman of the review board, said the data provided a treasure trove for researchers and policymakers.

But the release of the records also puts pressure on the Police Department to change how unsubstantiated claims affect officers' careers, he said. Even if not proven true, misconduct complaints can have a negative effect on officers' opportunities for transfers, promotions and more desirable assignments.

"It's a very, very complicated, messy problem that has a lot of strings to it," Mr. Emery said. "The release of these statistics and information can be something that's useful and it can support reform, but it also can be something that undermines reform and puts the police in the position where they cannot and will not do their job."

The police unions have argued in court that no information about misconduct cases should be released in which the police commissioner has not ended up handing down punishment. But the repeal of the secrecy law, known as 50-a, "made clear that disciplinary records can now be made available to the public," James E. Johnson, the city's corporation counsel said in a statement Thursday.

The unions' argument would have prevented the release of the vast majority of the review board's data. Only in 8,699 of the more than 300,000 cases did officers receive any disciplinary action, according to the civil liberties union. The penalties can range from a letter in their personnel file to suspension or firing, according to the review board.

Reasons for this vary, but the majority of civilian complaints end because investigators did not have enough evidence to determine what actually happened or found evidence to disprove the allegations, or the person filing the complaint withdrew from the investigation.

The Police Department often withholds some evidence, including body camera footage. The review board has said cases in which there is video are more likely to be substantiated.

Kate Levine, a criminal law professor at Yeshiva University, said the data should not be used to "name and shame" officers, but to understand how policing is in need of fundamental change.

"Let's get rid of the worst people first," she said, "but also let's take those dollars and reinvest them in the many different ways that we can better the lives of marginalized communities."