



NEW YORK STATE SENATOR

Shelley B. Mayer

Statement by Senator Shelley Mayer on S.8496, the Bill to Repeal Section 50-A, and the Package of Bills to Reform Police Practices

SHELLEY B. MAYER June 9, 2020

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"Thank you, Mr. President. I want to explain my vote.

Today we are taking a bold and important first step towards reform in our system of policing – a step we must take to begin to rebuild the trust between law enforcement and the black

and brown New Yorkers they are pledged to serve. As someone who has worked closely with my local police departments as well as police and other law enforcement unions statewide, and who is a strong supporter of our local police and public safety officers, this was not an easy decision. Nevertheless, it is the right decision.

For years, I thought the incremental changes that I supported within the law enforcement community were practical reforms to address the police problem. Like so many others, I thought encouraging diversity in police ranks, community policing, stronger communication between police officials and minority leadership, enhanced training, and tougher leadership that required accountability would limit the targeting of people of color and in some cases the terrible loss of life. I was wrong. We need action to change the institutional forces that sadly, have brought us to this situation. We cannot have our New York neighbors and constituents justifiably afraid they will be pulled over in their cars, accosted on the street, arrested, abused or in some cases, killed. We need change now.

I have decided Section 50-A of the Civil Rights Law, adopted over 40 years ago, can no longer be the standard for the release of disciplinary records of officers. Rather, law enforcement officers, like so many other public officials, must be accountable to the public in order for trust to be restored. While maybe well intentioned so many years ago, this statute no longer protects the public, or balances the public's interest against the privacy concerns that have been used to defend it. The Court of Appeals, as recently as 2018 in the NY Civil Liberties Union v. NYPD again interpreted the law so broadly as to fundamentally bar all disclosure of prior police disciplinary records. The exception in the law, which theoretically allows disclosure, is really no exception at all. In reality, under 50-A, no one in the public can see an officer's prior disciplinary record – under any circumstances. The bill we adopt today, which

grants additional personal privacy protections to law enforcement from some of the disclosure provisions of the Freedom of Information law, is a fair adjustment. It protects law enforcement from unwarranted personal disclosures, and allows technical infractions to be withheld from the public record.

This week I spoke with a distinguished Judge Advocate General, or JAG, officer in my district, who struggled to find answers after the death of George Floyd. She thoughtfully reminded me that the military sees these issues quite differently. While clearly imperfect, in the military, there is an expectation that all officers are held “to a higher standard”; that they have an affirmative duty to speak up and stop unlawful behavior when they witness it, and that the disclosure of information about prior incidents is actually necessary to ensure fundamental trust in the military system of justice. We should take this comparison to heart as we move to change the laws that have contributed – unfortunately, but justifiably – to a fundamental distrust in our law enforcement system by black and brown Americans.

This is a moment of a national reckoning – one that makes me optimistic and determined at the same time. Optimistic because Americans of all colors, faiths and ages are forcing us to look reality in the eye and acknowledge our system must change to confront and end racism in all its forms. Optimistic because young people are demanding us to act.

However, it is a moment of challenge that only determined action can address. Peaceful and loud demonstrations in the streets of my communities and yours – in New Rochelle, White Plains, Yonkers, Harrison, Mamaroneck, Bedford, Bronxville, Tuckahoe, Port Chester and elsewhere – are good. Demonstrations protected under the First Amendment; demonstrations in my communities protected by the police. However, they are not enough.

They must lead to real reforms. We cannot wait for incremental change and continue to rely on the prior innocent hopes that simply the good officers would outweigh and over power the bad. Demonstrations need to lead to meaningful reforms. Sometimes change is uncomfortable. Sometimes change is not easy. Sometimes change comes with risk – even political risk. However, it is our responsibility as elected officials to make this change.

The bill I vote for today – and the other bills that are part of this package – will be an important step towards that change. These bills will not harm the tens of thousands of professional, compassionate and responsible officers I have supported, who have nothing to fear and with whom I will continue to stand. However, it will change the culture of secrecy, the patterns of illegality that have been allowed to fester and the legalized denial of accountability that have held us back for too long. In the process, we will move our state towards a more just state for every New Yorker, those whose skin is darker than mine, but those who are equally entitled to our system of justice for all.

I proudly vote aye."

[Click here](#) to read about State Senator Shelley B. Mayer, 37th District, Westchester.