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Should N.J. name disciplined cops? Top court is considering plan to reverse policy dating back decades.

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New Jersey's top court heard arguments Tuesday about whether the names of officers found guilty of misconduct should be made public, the final stop in a months-long legal battle between the state's top law enforcement official and a coalition of police unions.

Unlike many states, New Jersey generally doesn't name officers who received "major discipline," which can be used in cases involving abuse of family members, drinking on the job or giving false testimony.

State Attorney General Gurbir Grewal announced the plan to release names last summer and a representative told the Supreme Court Tuesday that disclosure would help the public hold cops accountable.

Police unions disagreed, and raised the specter of a deadly attack on a judge's home to argue that publicizing the names of cops who had received suspensions threatened those officers and their families. The state does release information about use-of-force incidents and that was more than enough to judge an officer's record, lawyers said.

The unions, representing police from the local to state level, asked the seven justices to overturn a ruling from a lower court which unanimously found Grewal's plan to be legal.

During more than four hours of oral arguments conducted over Zoom, some justices appeared skeptical of union claims that the plan would do little to bolster public trust.

"Transparency, accountability — you don't think that those are furthered by the release of names?" asked Justice Barry Albin.

Others questioned whether it was fair to identify officers who had previously been promised confidentiality, especially in cases going back decades.

Justices grilled lawyers on what a fair process would be for individual challenges and left open the possibility of gathering more information before issuing a decision — suggesting some names could remain hidden for months if not years even if the court agrees the plan is legal.

In court documents, police unions representing tens of thousands of officers statewide have characterized the proposal as nothing more than a political ploy hastily rolled out in the wake of George Floyd protests. Public disclosure could amount to a new, unfair punishment on what may have been a years-old mistake, lawyers for the cops said Tuesday.

One attorney said departments were already forthcoming, and she cited an annual State Police report that includes brief, anonymous summaries of officers found guilty of serious misconduct.

“The transparency of the annual report is remarkable,” said Katherine Hartman on behalf of two trooper unions.

However, the last report summarizing misconduct was published in 2017, and the agency has not issued new summaries for the past three years.

State Solicitor Jeremy Feigenbaum said New Jersey needed to do more.

He and other proponents said the release of names could prevent abusive cops from switching to new jobs and help defense attorneys challenge officers who had a history of lying.

Marking a case as “confidential” never took away the attorney general’s ability to release it anyway, Feigenbaum said. He cited the state’s internal affairs policy which says “records of an internal investigation” may be released “at the direction of the County Prosecutor or Attorney General.”

In court documents, Feigenbaum also challenged the claim that disclosure would endanger officers.

He used The Force Report as an example, noting that NJ Advance Media’s disclosure of thousands of officers’ force records did not trigger widespread harassment (although one cop lost his job and was prosecuted for assault after his history was exposed).

Some law enforcement groups do support the plan, on the grounds that knowing who’s been punished could reveal any racial disparities in discipline, such as if a department punishes Black officers more than white officers.

“The attorney general is only carefully disclosing a very limited amount of information,” Feigenbaum said. “It’s only where it’s substantiated, it’s only where it’s major, and it doesn’t disclose any complainants or witnesses.”

His allies in court agreed the plan had limits.

Some groups seeking police reform support a bill (S2656) that would make internal police records public.

The attorney general’s proposal, while helpful, doesn’t go far enough, said Alexander Shalom, a lawyer with the American Civil Liberties Union of New Jersey.

“To my colleagues from the unions who disagree with the policy choices of the attorney general, I say: Welcome to the club,” Shalom said in court.

The justices did not give a timeline for when they might issue a decision.