

# The Star-Ledger

## **Investigating your police department? Here's what N.J. cops must tell you under new rules.**

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As a battle over how civilians may investigate cops in New Jersey's largest city is waged in court, new statewide rules have already reshaped what police must tell citizens.

The changes were announced last month as part of a broad package of policing reforms. Law enforcement officials defended the guidelines, while critics said they unfairly tied the hands of outside investigators.

During two interviews in December, State Attorney General Gurbir Grewal said strengthening a police department's ability to investigate its own was the best way to hold officers accountable. However, if a town wanted more civilian oversight, the rules allowed a civilian review board to read internal police files in certain circumstances.

This is "more transparency than ever before existed," Grewal said. Some departments previously wouldn't share any internal files, he said. "We're saying, 'you can have it,' which is a huge step forward."

Rev. Charles Boyer, who helped lead recent public hearings on police force around the state, said he was concerned the guidelines could hinder healthy checks and balances.

It "takes power away from the community," he said. Boyer and his organization, Salvation and Social Justice, plan to push for legislation this year that would create county-level civilian review boards across the state, modeled after the one in Newark.

Civilian boards monitor cops around the country, but they're almost nonexistent in New Jersey. Even when a town like Maplewood created a policing board in 2018, it was barred from running its own investigations, according to the ordinance and board members.

Newark is the exception, and the city is fighting a police union in court to give civilians the ability to subpoena witnesses. That power would even set Newark apart from many boards in other states, according to Samuel Walker, professor emeritus of criminal justice at the University of Nebraska, Omaha, who has written extensively about this issue.

Regardless of the outcome of Newark's case, the new rules set up parameters for how a civilian board may investigate officers if the board wants to review internal affairs files. (The rules would not apply to a board that did not want internal files, which are normally not public.)

A civilian board may not begin any inquiry until the police and the county prosecutor have finished their own investigations, according to the guidelines.

A department does not have to share internal files with a civilian board. If it does, the department decides where the records are reviewed and for how long, and it may redact those files.

While a civilian board may write its own report about an incident, police may “appropriately” redact that report before it’s published, although what redactions would be acceptable are not defined. The board may not override law enforcement decisions, impose discipline or give any order that officials have to follow. (An appellate court recently agreed that Newark cops shouldn’t be bound by a board’s findings.)

Much of this hampers the public’s ability to investigate complaints, said Jeanne LoCicero, legal director for the American Civil Liberties Union in New Jersey — especially since there are well-documented cases of police failing to effectively investigate their own.

Another rule largely keeps people with criminal histories from reviewing internal files. Alexander Shalom, another ACLU lawyer, said that disproportionately keeps people within heavily policed communities, especially black communities, from participating in oversight.

The rules seem to say, “you better not dream as big as Newark,” Shalom said. “This is certainly a chilling message to other municipalities.”

Grewal, the state attorney general, said these “basic criteria” gave departments the space they needed to properly investigate incidents, and made sure members were qualified. Newark wasn’t the reason for the changes, he said.

James Stewart Jr., president of Newark’s Fraternal Order of Police, wrote in an email that he was “generally happy with the guidelines.”

If the city’s board was given final approval by the state Supreme Court, Stewart said the new restrictions on when civilians could review internal files was appropriate. He also wrote that his union “applauds” the limits on membership. Boards cannot include cops, local defense attorneys or prosecutors, political candidates or city officials, among other restrictions.