

**NYSCOPBA REMINDER:  
PERSONAL HISTORY FOLDER AND FREEDOM OF INFORMATION LAW**

**(1) Why is this reminder coming up now?**

DOCCS recently provided NYSCOPBA notice that it will be legally compelled to release members' disciplinary records because of a FOIL lawsuit by the New York Civil Liberties Union (NYCLU). NYCLU filed this lawsuit due to DOCCS' failure to provide the documents made after a FOIL request.

**(2) How can NYCLU (or anyone) access NYSCOPBA member disciplinary records?**

In 2020, the NYS Legislature passed a bill repealing Civil Rights Law § 50-a, which then Governor Cuomo signed into law. Law enforcement unions (including NYSCOPBA) could not overcome the Democratic super-majority responsible for this repeal. The repeal removed protections that had prevented law enforcement personnel information from being disclosed via FOIL. After the law was repealed, law enforcement personnel/disciplinary information could be disclosed the same way as all other public employee personal history folders. Those disclosures would be subject to the redaction of sensitive personal information like contact information, DOBs, SSNs, health and private information. However, names would not be redacted.

**(3) What can NYSCOPBA members expect next?**

DOCCS must comply with the recently enacted Notice of FOIL legislation that was drafted by NYSCOPBA. As a result, DOCCS has indicated that it will provide individual notice to each member affected by the impending FOIL disclosure prior to the release of any information. Disclosures are voluminous and will take time to complete. Disclosures are scheduled to begin in the spring and summer of 2025.

**(4) What can NYSCOPBA members do to protect themselves?**

NYSCOPBA members can review their personal history folders by making requests at their facility based on Article 10 of the Contract. Members may then request removal of certain adverse materials after they have been in their personal history folders for one year (see Article 10.4 of the Contract). Members should also periodically review their personal history folders to ensure that certain materials that are more than three years old have also been removed (see Article 10.5 of the Contract). This ensures that a member's personal history folder does not contain excess information that could be disclosed via FOIL.

**(5) What is NYSCOPBA doing about the public's access to members' personal history folders?**

The current makeup of the NYS Legislature prevents laws from reinstating the protections of § 50-a. In the 2024 legislative session, NYSCOPBA drafted and helped pass the Notice of FOIL bill, which Governor Hochul then signed into law. This requires state agencies to give notice to affected members when they are the subject of FOIL releases. NYSCOPBA recently secured a related victory in arbitration, which it will confirm in court. NYSCOPBA is also monitoring the release of members' records regarding unsubstantiated allegations, which are a separate category of document, along with related cases for potential legal challenges if those records are released and members' names and identifying information are not redacted. So far, that has not occurred.