

# The Bronx Defenders

Redefining public defense

## In a Win for Millions of New Yorkers, Court Orders NYPD to Stop Accessing Sealed Arrest Records

### Court Order Brings Relief for Over 3.5 Million Majority Black and Brown New Yorkers in NYPD's Massive Searchable Databases

MONDAY, SEPTEMBER 27, 2021

CONTACT: Emily Whitfield, [ewhitfield@bronxdefenders.org](mailto:ewhitfield@bronxdefenders.org)

(NEW YORK, NY) Saying that a class action lawsuit brought by **The Bronx Defenders** and **Cleary Gottlieb Steen & Hamilton LLP** has a “very strong likelihood of success,” New York State Supreme Court Justice Lyle E. Frank today issued a sweeping order granting relief to millions of New Yorkers whose sealed arrest records the NYPD made available to officers in violation of longstanding laws that protect privacy and the presumption of innocence.

Today's order brings an end to the NYPD's flagrant violation of a 45-year-old statute that was designed to prevent the stigmatization of people who were arrested for, but not convicted of, felonies or misdemeanors. The 1976 statute specifically recognized that the use of such records in criminal investigations fell “disproportionately” on “racial minorities,” who continue to be the subject of over policing.

“In finding that the NYPD has been systemically violating people's right to privacy, the Court has restored the basic rights of millions of mostly Black and brown New Yorkers,” said **Niji Jain, an Impact Litigation attorney with The Bronx Defenders**. “It should not take a court order to compel the NYPD to respect the law, but today's ruling ensures that the NYPD will finally change its systems to end decades of illegal use of sealed records and restore the presumption of innocence for our class members.”

Specifically, Justice Frank's order (1) prohibits the NYPD from giving officers access to the sealed arrest records of millions of New Yorkers for law enforcement purposes, (2) directs the NYPD to issue organization-wide corrective instructions that such access is illegal, (3) makes public certain training documents that reveal how officers were directed to access the sealed

arrest records in defiance of a previous court decision; and (4) requires the NYPD to submit plans to the Court for how it will make the significant changes to its databases that are required to end the widespread unlawful access to sealed records.

In his ruling, Justice Frank noted that the NYPD “freely admitted” that its prior trainings were contrary to the law and agreed with plaintiffs that allowing access to sealed records causes irreparable harm. “The best way to ensure this conduct is not repeated is for this Court to issue an order enjoining such future conduct,” he said, noting, “once a sealed document is seen it cannot be unseen.”

Today’s ruling is the result of a request for a preliminary injunction sought in the class action lawsuit, [R.C. v. City of New York](#), against the City and the NYPD for illegally using and sharing information from sealed arrest records, including photographs, fingerprints, arrest details, addresses, and other documents. The lead client, a young Latino man identified as R.C., was arrested for a 2015 robbery in the Bronx after his picture from a 2011 sealed arrest charge had been used in three photo arrays shown to the victim. R.C., who lived 75 miles upstate at the time, was forced to commute to a Bronx court for 10 separate appearances, causing him to lose his job and give up college plans. Prosecutors dropped the case the following year.

In response to today’s ruling, R.C. said: “Justice is served. I’m so happy the judge will stop the NYPD from going against people’s rights and that I don’t have to be afraid of a dismissed arrest following me anymore.”

Justice Frank issued his ruling following a virtual hearing on Wednesday in a Motion for a Preliminary Injunction that Plaintiffs filed to prevent the NYPD from continuing to illegally access sealed arrest records. The case will now move forward with further discovery focused on other unlawful NYPD uses of sealed records, including its apparent practice of regularly disclosing information to the media and to prosecutors.

Justice Frank’s ruling is online [here](#).