

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. LYLE E. FRANK PART 11M

Justice

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R. C., A. G., J. J.,

Plaintiff,

- v -

THE CITY OF NEW YORK, JAMES P. O'NEILL,

Defendant.

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INDEX NO. 153739/2018
MOTION DATE N/A
MOTION SEQ. NO. 007

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 007) 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 251, 252, 253, 254, 255, 256, 257, 258

were read on this motion to/for ENFORCE/EXEC JUDGMENT OR ORDER.

Upon the foregoing documents, the plaintiffs' motion is granted in part. The Court in this motion is asked to determine whether the public dissemination of sealed arrest information by certain New York City officials on August 3, 2022, to discuss recidivism was in violation of the Sealing Statutes and this Court's prior preliminary injunction. This Court finds that it was.

The defendants argue that this dissemination was provided for by the Court's preliminary injunction order where this Court indicated that sometimes the use of sealed arrest information could be used by the defendant for deployment of resources and other similar data driven purposes. That remains the case, because in those instances there would simply be the amalgamation of data that have nothing to do with the identity of the individuals that had been arrested. That data without in any way identifying the arrested individual could just as easily have been culled from when an arrest was made and before any determination was made as to whether such information should be sealed.

The situation here is entirely distinguishable from the above scenario. In the above instances, there wouldn't be any need to cull through any sealed records in order to obtain the

information sought. In this instance, the defendants would have had to cull through arrest records and reports for specific individuals, many of which were sealed, in order to gather the information that was disseminated. In short, it was this conduct that is at the very heart of this Court's preliminary injunction: the apparent routine accessing of sealed records by individuals within the New York City Police Department.

The defendant's argument that no names of individuals was used is of no moment to this analysis. As indicated above, the issue is not whether individual names were used, but simply that sealed records were accessed to gather the information.

The Court declines to issue any sanctions for the use of such information. The defendants could have in good faith felt that the actions they took were consistent with this Court's preliminary injunction, mistaken as it was.

The defendants are therefore enjoined from taking further action consistent with this Decision and Order.

The foregoing constitutes the Decision and Order of the Court.

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LYLE E. FRANK, J.S.C.

3/2/2023
DATE

CHECK ONE:

CASE DISPOSED
 GRANTED DENIED
 SETTLE ORDER
 INCLUDES TRANSFER/REASSIGN

NON-FINAL DISPOSITION
 GRANTED IN PART OTHER
 SUBMIT ORDER
 FIDUCIARY APPOINTMENT REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: