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*****FOR IMMEDIATE RELEASE*****

Legal Aid Lauds Passage of Legislation to Repeal New York’s “Walking While Trans” Law

(NEW YORK, NY) – **The Legal Aid Society** lauded the New York State Senate and the New York State Assembly for passing legislation to repeal New York’s Loitering for the Purpose of Prostitution law (Section 240.37), colloquially known as the “Walking While Trans” law, which was enacted in 1976. In addition to repealing the flawed loitering statute, the legislation provides for the sealing of thousands of convictions that have resulted in devastating collateral consequences for an already marginalized population.

For decades, the “Walking While Trans” statute has allowed the New York City Police Department (NYPD) to profile, arrest, and detain women arbitrarily based on their race, gender, ethnicity, gender identity and/or appearance and then charge that they were engaging in prostitution.

The Legal Aid Society has represented women assumed to be loitering for prostitution because they were wearing a “short dress,” “a skirt and high heels,” “tight black pants,” or “a black dress.” Women were also targeted for standing outside, speaking to one another, or walking from a subway or grocery store back to their residence.

“New York State is only a pen stroke away from finally relegating this biased law to the history books, one that has stigmatized and dehumanized Black and Brown TGNC individuals, sex-trafficking victims, and sex workers for over 40 years,” said **Tina Luongo, Attorney-in-Charge of the Criminal Defense Practice at The Legal Aid Society**. “The Legislature has done its part, and now Governor Cuomo must keep the promises that he has made on this issue and enact this legislation into law at once. Both the repeal and sealing provisions are critical to remedy past harms and necessary to ensure that race and gender presentation are not further criminalized.”

“A few years ago, the NYPD stopped a bus I was riding on, removed me from it, and arrested me for loitering for the purposes of prostitution. I was neither loitering, nor doing anything for the purpose of prostitution, but I was roughed up, arrested and put through the system. This happened to me because the officers recognized me as a sex worker who they had arrested before. This repeal will allow women to be who they are without their past coming to haunt them. It will give people the freedom to wear what they want, walk where they want, and be who they are, without fear of being judged or ridiculed. Expungement of convictions will change the lives of many people. I will be able to apply for things like apartments or jobs without being judged because of my past,” said

Sarah Marchando, a former Plaintiff in litigation brought in 2016 by The Legal Aid Society and Cleary Gottlieb Steen & Hamilton LLP challenging New York’s “Walking While Trans” statute.

Background

In 2016, Legal Aid and Cleary Gottlieb filed D.H. et al v. City of New York, et. al. – a civil rights lawsuit brought on behalf of women of color, many of whom are transgender, who were wrongly arrested under New York’s loitering for prostitution law.

In 2019, in light of the serious constitutional issues raised by these arrests, in a settlement, the NYPD [agreed](#) to revise its Patrol Guide section on the loitering for purposes of engaging in a prostitution offense, which now specifically prohibits officers from relying on “gender, gender identity, clothing, and location” alone or in combination to establish probable cause, and requires more detailed factual narratives about officers’ observations. The settlement also required that NYPD officers be similarly trained that “an individual’s history of arrests for prostitution-related offenses does not, by itself, constitute probable cause or reasonable suspicion.”

Lastly, officers in commands where these arrests had been made received training about the new rules and the settlement required the NYPD Legal Bureau to audit arrests for compliance.

This legislation, if signed by the Governor, will build on the protections secured in this settlement to protect New Yorkers from this kind of NYPD profiling, discrimination and harassment.

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The Legal Aid Society exists for one simple yet powerful reason: to ensure that New Yorkers are not denied their right to equal justice because of poverty. For over 140 years, we have protected, defended, and advocated for those who have struggled in silence for far too long. Every day, in every borough, The Legal Aid Society changes the lives of our clients and helps improve our communities. www.legalaidnyc.org