

February 4, 2021

Contact:

Redmond Haskins
The Legal Aid Society
(929) 441-2384
rhaskins@legal-aid.org

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

Trailblazing Litigants Respond to the Repeal of New York’s “Walking While Trans” Statute

(NEW YORK, NY) – The Legal Aid Society released quotes from clients responding to the historical repeal of 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 of New York’s “Walking While Trans” statute.

“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.**

“It’s a victory for all of us. Now I feel like all the things we fought for – everyone, not just me – are being recognized. It gives us confirmation. It tells us we are here. We are finally being seen and heard,” said **Natasha Martin, 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.**

“For too long, it was just too easy for the police. You could be walking down the street not doing anything and get arrested just for the sake of filling quotas or beefing up the books. Now, it is going to be a little harder for them to lock you up for no reason. This might not make the police respect us more or value our humanity, but it is an important step,” said **Tiffany Grissom, 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. The brave plaintiffs in *D.H.* devoted years of their life to the lawsuit, which required an endless telling and re-telling of the trauma they experienced at the hands of the NYPD.

In light of the serious constitutional issues raised by these arrests, the NYPD agreed, in a 2019 settlement, 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.

Undeterred by the settlement and inspired by their own stories of discrimination and harassment, a coalition of advocates pushed tirelessly for the full repeal of this antiquated law. The historic repeal of the loitering statute, which builds upon the protections secured in the settlement, is thanks to the courage and bravery of the *D.H.* plaintiffs and coalition advocates.

###

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