

February 24, 2021

Contact:

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

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

Broken Promises: City Makes Little Progress Towards Expunging Local Rogue DNA Index Since Council Oversight Hearing Last February

In Just 12 Months, the City's DNA Database has Grown by Almost 2,000 New Yorkers' Profiles

(NEW YORK, NY) – **The Legal Aid Society** condemned the New York City Police Department (NYPD), the New York City Office of the Chief Medical Examiner (OCME) and City Hall for [failing](#) to sufficiently reform the City's DNA collection and storage practices, and expunge DNA profiles from its rogue DNA database, as promised last February at a New York City Council oversight hearing on the matter.

“A year ago, the City promised to reform its shameful practice of collecting and indexing DNA from people - including children as young as 12 - who have not been convicted of a crime. At that time, lawmakers also promised they would hold the police accountable if they broke that promise. These numbers show that the City can't be trusted to police itself. Legislators must act now to end genetic stop and frisk - which disproportionately culls the DNA of Black and Latinx people - by shutting down the City's rogue DNA index,” said Terri Rosenblatt, Supervising Attorney of the DNA Unit at The Legal Aid Society.

Since its promise to reform the DNA database at last year's City Council hearing, the City has added more 2,000 new DNA profiles, bringing the total number of profiles to 33,807. As of the Council hearing last February, the City had 32,000 profiles in its database. The total number of additional profiles reflects that, while some profiles have been removed, many more were added.

This data also shows that, as of February 1, 2021, the NYPD, whose officers collect the DNA from New Yorkers, identified 2,826 profiles to OCME, the agency charged with managing the database, for removal. However, OCME has removed fewer than half of those profiles, and for last month alone, OCME added more than 200 profiles to the database.

At this rate, it would take years for the City to meaningfully reduce the size of its database.

In the past year, the City removed 1,042 profiles from its rogue index. If only those removals happened, without any new additions to the rogue, unregulated index, the total would be 30,958.

But instead, the current databank total of 33,807 profiles - even with those removals - reveals that the City actually added 2,849 profiles in the last year.

It is unknown how many of these newly added individuals were people involved in this summer's George Floyd protests, which resulted in hundreds of arrests. It also is unknown how many of these samples were taken from children or through the NYPD's surreptitious collection program. Additionally, the number of profiles that the NYPD agreed should be removed is far less than the more than [8,000 people](#) who are in the City index but never were convicted of a crime and the more than 1,600 [children](#).

Background

At a February hearing before the New York City Council, the NYPD promised that it would identify for expungement those DNA profiles that the Department had collected, including the profiles of minors and people who have not been convicted of a crime and work with OCME to remove those records.

By law, people included in these groups should never have been added to the index in the first place. This is because, under New York law, DNA can only be collected from a person through a warrant, court order, or valid consent. And DNA can only be permanently stored in a DNA index if a person has first been convicted of a designated offense.

Video of the NYPD surreptitiously collected a New Yorker's DNA without consent: <https://vimeo.com/455960394/f3327be65d>

There are currently two pieces of legislation pending in the Legislature and City Council that would work to make the existing law--which already prohibits the City's activities—even more clear. Right now, the City is exploiting a perceived loophole in the law, even though countless State court judges have ruled against the practice. The first, S01347 (Hoylman), would clarify law to prohibit cities like New York from operating an unregulated DNA index. This legislation does not affect the State's operation of its lawful and regulated database. The second, Int. 2105 (Ayala), currently pending in New York City Council, would prohibit the NYPD from surreptitiously collecting DNA from juveniles.

###

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