



February 12, 2025

Contact:

Audrey Martin

AMartin@legal-aid.org

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Legal Aid and Orrick, Herrington & Sutcliffe LLP Secure Appellate Decision Requiring the NYPD to Disclose its Special Expense “SPEX” Budget Contracts

NYPD’s “SPEX” Budget Includes Contracts with Various Vendors Relating to Surveillance Technologies Unknown to the General Public

(NEW YORK, NY) – The Legal Aid Society and Orrick, Herrington & Sutcliffe LLP secured an appellate [ruling](#) which [affirmed](#) a lower court order requiring the New York City Police Department (NYPD) to [disclose](#) all documents related to the purchase of novel and invasive electronic surveillance technologies – which include cellphone tracking devices and potentially previously unknown surveillance tools – from March 27, 2007 to October 27, 2020.

The decision comes in response to an appeal filed by the NYPD which sought to relieve the Department of their requirement to provide records pursuant to a Freedom of Information Law (FOIL) request first made by The Legal Aid Society in 2020.

Legal Aid’s FOIL request sought access to all documents related to the NYPD’s purchase of novel and untested surveillance technology through the special expense budget (SPEX budget), a program that allowed the NYPD to shield certain transactions from the public eye. The materials requested by Legal Aid were intended to better inform the public about the controversial surveillance technologies obtained by the NYPD and ensure the Department’s compliance with existing laws.

Despite the New York City Council’s enactment of the Public Oversight of Surveillance Technology (POST) Act in 2020 — which introduced new requirements for the NYPD to publicly disclose surveillance technologies used by the agency — the NYPD continued to evade disclosure of thousands of documents related to SPEX contracts dated between 2007-2020.

Legal Aid's FOIL request was denied by the NYPD on the ground that procuring the materials would be unreasonably burdensome, particularly because the NYPD had chosen not to digitize the documents.

In July 2021, Legal Aid brought an Article 78 proceeding in the New York State Supreme Court to compel the NYPD to comply with the FOIL request. After a factual hearing with testimony from an NYPD agency attorney, [the court sided with Legal Aid](#), finding that NYPD had not provided sufficient evidence that the request was unreasonably burdensome.

The NYPD appealed the decision. After briefing and oral arguments by the NYPD and Legal Aid's pro bono partner, Orrick, Herrington & Sutcliffe, the Appellate Court affirmed the lower court's decision, finding that the NYPD had failed to prove the request was overly burdensome, and further finding that the responsive records could be delivered on a rolling basis, thus mitigating the NYPD's claimed burden.

“In a world of increasing police surveillance budgets, the Appellate Court's decision is a win for the bare minimum required for accountability: transparency,” said **Jerome D. Greco, The Legal Aid Society's Director of Digital Forensics**. “For years the NYPD has often hidden its purchases of surveillance tools, depriving the public the ability to scrutinize and challenge its decisions. To further limit the NYPD's ability to conduct its surveillance decisions in the shadows, the City Council needs to pass legislation to close any loopholes the NYPD claims exist in the POST Act.”

“This ruling reinforces the fundamental principle that the public must be able to examine how the NYPD uses taxpayer dollars, particularly when those funds are spent on powerful surveillance technologies that impact civil liberties,” said **Duncan Hosie, who briefed and argued the appeal as an associate at Orrick**. “Government transparency isn't optional — it's essential for maintaining public trust and democratic oversight. We are lucky LAS initiated this action and stayed with it over years of NYPD stonewalling.”

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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 nearly 150 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. <https://www.legalaidnyc.org>