

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK**

\_\_\_\_\_  
Jarrett Allen, on behalf of himself and all others  
similarly situated,

Plaintiff,

v.

THE CITY OF NEW YORK; Thomas G. Donlon,  
Interim Police Commissioner for the City of New  
York, in his official capacity; and Judith R.  
Harrison, Assistant Chief in the Criminal Justice  
Section of the New York City Police Department,  
in her official capacity,

Defendants.  
\_\_\_\_\_

Index No. \_\_\_\_\_

**SUMMONS**

TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the Complaint in this action, and to serve a copy of your answer on the Plaintiff's attorneys, The Legal Aid Society, within twenty (20) days after the service of this summons, exclusive of the day of service (or within thirty (30) days after service is complete if this summons is not personally delivered to you within the State of New York). In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

Plaintiff designates New York County as the place of trial. The basis of the venue is that New York County is the county in which the New York City Police Department maintains its principal place of business at One Police Plaza, as well as the county in which the claim arose.

Dated: October 31, 2024  
New York, N.Y.

Respectfully submitted,

By: /s/ Lindsey E. Smith  
Lindsey E. Smith  
Alexander Lesman  
Philip Desgranges  
THE LEGAL AID SOCIETY  
49 Thomas St., 10th Floor  
New York, NY 10013  
(212) 577-3367  
lsmith@legal-aid.org  
alesman@legal-aid.org  
pdesgranges@legal-aid.org

*Counsel for Plaintiff and the  
Putative Class*

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK**

\_\_\_\_\_  
Jarrett Allen, on behalf of himself and all others  
similarly situated,

Index No. \_\_\_\_\_

Plaintiff,

v.

**CLASS ACTION  
COMPLAINT**

THE CITY OF NEW YORK; Thomas G. Donlon,  
Interim Police Commissioner for the City of New  
York, in his official capacity; and Judith R.  
Harrison, Assistant Chief in the Criminal Justice  
Section of the New York City Police Department,  
in her official capacity,

Defendants.  
\_\_\_\_\_

**PRELIMINARY STATEMENT**

1. This class action, civil rights lawsuit challenges the New York City Police Department's (NYPD) policy and practice of indiscriminately handcuffing every person accused of a crime at the beginning of their arraignment and granting NYPD officers free rein to keep them cuffed for the arraignment's duration without having to explain their decisions or obtain court approval. The NYPD's arbitrary and unexplained use of handcuffs paints accused people as untrustworthy and dangerous in their first criminal court appearance, where their liberty is at stake, in violation of their due process rights.

2. Each day, the NYPD needlessly handcuffs hundreds of people, most of whom are Black and Hispanic, and marshals them into court with their arms bound behind their backs to stand before the judge who will determine whether to jail them pending trial, to restrict their freedom over concerns that they cannot be trusted to return to court, or to restrict their freedom over concerns that they present a danger to someone.

3. Under the NYPD's arraignment restraint policy, NYPD officers have discretion to remove the handcuffs they have placed on an individual only after they appear in cuffs before the arraignment judge. For unexplained reasons, NYPD officers exercise that discretion to keep nearly every person handcuffed during their arraignment.

4. Many New Yorkers are handcuffed during their arraignment only to walk out of the courtroom free from cuffs minutes later. Some must be released from cuffs once their arraignment ends because their charges are ineligible for bail or pretrial detention. Others must be released when the presiding judge decides not to set bail on their bail-eligible charges.

5. Moreover, the same people whom the NYPD handcuffs as if they are dangerous escape risks during their arraignments are routinely left uncuffed at later court proceedings. Nearly every person is presumptively uncuffed during their hours-long or days-long suppression hearing or trial, after almost universally being handcuffed during their minutes-long arraignment. The NYPD also routinely handcuffs children aged 13 to 17 during arraignment, the majority of whom will have their cases transferred to Family Court where restraints are presumptively prohibited.

6. The NYPD's arraignment handcuffing policy undermines the presumption of innocence for every accused person. Arraignment judges are human. As they make critical decisions about someone's liberty during arraignments, they are susceptible to the message that the NYPD conveys when it presents someone with their hands bound behind their back in handcuffs: that the NYPD finds them to be untrustworthy and dangerous.

7. The NYPD's arraignment handcuffing policy also robs primarily people of color of the dignity and self-respect of appearing in court as a free and innocent person, and it dehumanizes court users who, without the use of their hands, must rely on attorneys or court staff to pull their pants up, wipe their noses, or hold them upright should they have mobility impairments.

8. Through their arraignment restraint policy, the Defendants are violating the due process rights of every person arraigned on criminal charges in New York City. Plaintiff Jarrett Allen brings this class action lawsuit seeking injunctive and declaratory relief to end the NYPD's arbitrary handcuffing of New Yorkers at criminal court arraignments.

### **PARTIES**

9. Plaintiff Jarrett Allen is a 24-year-old African-American man born and raised in Harlem, New York City. Mr. Allen is awaiting arraignment in New York County Criminal Court, where, according to the NYPD's policy, he will imminently be escorted into the courtroom in handcuffs and appear handcuffed in front of the judge at the arraignment podium or table.

10. Defendant the City of New York (the "City") is a municipal corporation within the State of New York. The New York City Police Department is an agency of the City of New York. The City is responsible for the policy, practice, supervision, and implementation of all NYPD matters and is responsible for the appointment, training, supervision, and conduct of all NYPD personnel. In addition, the City is responsible for ensuring that NYPD personnel obey the laws of the United States and New York State.

11. Defendant Thomas G. Donlon is the Interim Police Commissioner of New York City. As Interim Commissioner, Donlon has final policymaking authority with respect to the NYPD. He is sued in his official capacity.

12. Defendant Judith R. Harrison is the Assistant Chief of the NYPD's Criminal Justice Bureau, which oversees and directs arrest-to-arraignment processing of everyone arrested in New York City. As the Assistant Chief, Harrison manages and sets policy for the NYPD and its personnel in the City's court sections, including the NYPD's use of restraints at arraignments. She is sued in her official capacity.

## FACTS

### *Arraignments Are a Critical Stage in a Criminal Case*

13. An arraignment marks the beginning of a criminal case, where a person who has been arrested is brought to court to face a judge for the first time, informed of the charges against them and their legal rights, and either released or jailed pending trial. From start to finish, arraignments typically last only a matter of minutes. On average in 2023, 388 people were arraigned every day across the five borough criminal courts of New York City.

14. At arraignments, judges are tasked with making a series of decisions that carry serious consequences for people accused of crimes. Judges can resolve the criminal case immediately by dismissing defective complaints or unjustified charges or by offering or accepting a plea agreement and imposing a criminal sentence. Judges can also reject proposed plea agreements that they deem inappropriate. In 2023, about 14% of all New York City arrests were resolved at arraignment.

15. When cases are not resolved at arraignment, judges make consequential decisions about what, if any, restrictions to impose on someone's pretrial liberty. For bail-eligible offenses, arraignments include a bail hearing where the judge must decide whether to set bail and, if so, in what amount, or may order the person be incarcerated without bail pending their trial. In setting bail, judges consider what amount will address their concern that the accused person will not return to court. But when bail is set, release is not guaranteed: thousands of people jailed in New York City are there because of unpaid bail.

16. For many people, being jailed pending trial often means spending months or even years in the notoriously dangerous Rikers Island jail system. Since the beginning of 2021, approximately 47 people have died either in the custody of the Department of Correction, which

operates the jails on Rikers Island, or shortly after their release, and the jail system is the current subject of multiple lawsuits over its hazards. Beyond the lost freedom and dangerous conditions, pretrial detention can cost people their jobs, housing, and even custody of their children.

17. When an accused person is not jailed pending trial, the arraignment judge may impose restrictive release conditions that limit their pretrial freedom. The type and degree of the restriction depends on the level of concern the judge has about the accused person returning to court. For example, the judge can impose electronic monitoring, where an ankle monitor tracks a person's every movement, and impose conditions on their whereabouts like home detention. The judge can also order the accused person to participate in supervised release, requiring them to check in with a social worker as frequently as once a week for the duration of the case. The judge can also restrict a person's ability to travel pending trial. Minor violations of these conditions—for example, missing a check-in or letting the battery on an electronic monitor fall below 10%—can result in arrest and detention.

18. An arraignment judge can also impose a no-contact order prohibiting the accused person from having any contact with someone based on perceived risk. These no-contact orders can render the accused person homeless, forcing them to leave their own home to avoid contact with someone they live with. They can also cost the accused person their job if they are ordered to stay away from a co-worker.

***The NYPD's Arbitrary, Unjustified Arraignment Restraint Policy***

19. The NYPD has legal and physical custody of the people it arrests and transports to arraignments until a judge either sets bail, orders other release conditions, or remands the person to the custody of the Department of Correction.

20. After a person is arrested and before they are arraigned, the NYPD typically

confines them in a police precinct and then transports them to a holding area in the courthouse where they will be arraigned. When it is time for a person's arraignment, NYPD officers escort the person out of the holding area, into the courtroom, and up to a podium or table in front of the judge. From the moment the accused person enters the court room, and throughout their time standing at the podium or table, the person is in view of the judge, attorneys, court officers, and the public.

21. The NYPD's policy is to handcuff each person's wrists behind their back when officers escort them to arraignment, from the moment the officers and the accused person enter the courtroom until they reach the arraignment podium or table before the judge. And their practice is to keep nearly all people handcuffed for the duration of the arraignment proceeding. The NYPD has had this policy and practice since at least May 2024. But the NYPD has taken a similar approach for most of the past three years.

22. Starting in or around 2021, the NYPD implemented a policy of handcuffing every person it transported to arraignment for the duration of their arraignment.

23. In 2023, The Legal Aid Society, the primary indigent defense provider in New York City, threatened to sue the NYPD to enjoin its universal handcuffing policy.

24. In November 2023, the NYPD rescinded this policy and issued a new directive affording individual NYPD officers the discretion to decide when to handcuff a person at arraignments. Chief Harrison communicated this new directive to the borough court section commanding officers for the New York City arraignment courts.

25. In a November 21, 2023 email, one of those commanding officers informed other NYPD personnel that "[a]s per Chief Harrison, we are no longer to handcuff every prisoner for arraignment as we were instructed by Chief Cassidy to do. Going forward, we are authorized to handcuff prisoners prior to arraignment only if it is justified."

26. In a December 20, 2023 email to Chief Harrison, another NYPD commanding officer confirmed that she informed supervisors assigned to the local arraignment court “that due to potential lawsuits defendants should not be arbitrarily handcuffed in the courtroom unless the defendants had propensity for violence or flight risk.”

27. During the time the NYPD’s new directive was supposed to be implemented across New York City, some boroughs saw no changes to handcuffing practices and others saw some. But on May 22, 2024, the NYPD issued a new restraint policy, reverting to indiscriminate and near-universal handcuffing at arraignments.

28. In the NYPD’s new arraignment restraint policy, Chief Harrison directs NYPD officers to handcuff every person the NYPD brings into court for their arraignment, and that “handcuffs should only be removed at or after the moment a prisoner appears in person before the judge and is present at the arraignment table/podium, absent exceptional circumstances.” Only “during the arraignment” may the NYPD officers exercise discretion “to remove the handcuffs or keep them on during the court arraignment.”

29. Under the NYPD’s current arraignment restraint policy, NYPD officers are not required to provide any individualized, on-the-record rationale to the court for keeping someone handcuffed throughout their arraignment or to obtain the court’s approval to keep them handcuffed.

30. The policy lists 13 nonexclusive factors which NYPD officers may consider when exercising their discretion. These factors include the seriousness of the charge, the “character of the prisoner,” their temperament, the person’s age, their “physical attributes,” whether the person has engaged in self-harm, the “likelihood of remand/bail,” the “nature and physical security of the courtroom,” and the “adequacy and availability of alternative security and safety measures,” among others. The NYPD’s factors are so vague and broad that NYPD officers can rely on them

to handcuff almost every accused person.

31. In practice, NYPD officer discretion results in near-universal handcuffing of people throughout their arraignments. In Manhattan, the vast majority of Legal Aid clients remain handcuffed during their arraignments, while in Brooklyn, the Bronx, Staten Island, and Queens, almost every single Legal Aid client remains handcuffed during their arraignments.

32. Though the NYPD's policy lists "likelihood of remand/bail" as a discretionary factor, NYPD officers have kept thousands of people handcuffed during their arraignments when they faced only non-bail-eligible charges—people whom those NYPD officers uncuffed and released in the courtroom moments after arraignment because they legally could not be detained pending trial.

33. While the exact number of people handcuffed on charges that are ineligible for bail is not reported, the number of arraigned misdemeanors serves as a barometer because the vast majority of misdemeanor charges are not bail-eligible. In 2023, of 141,761 criminal court arraignments in New York City on fingerprintable offenses, 104,528, or 74%, were for misdemeanors. After accounting for the non-violent felony charges that also are not bail-eligible, the NYPD's policy and practice may result in approximately 100,000 people needlessly being handcuffed for their minutes-long arraignment proceeding, only to be uncuffed and released once it concludes.

34. The NYPD also needlessly handcuffs people arraigned on bail-eligible offenses. In fact, every person whom the NYPD handcuffs at arraignment must remain free from restraints at their suppression hearing and at their trial unless the court orders otherwise, an order which must be based on an individualized finding of necessity.

35. Though the NYPD's policy lists the "adequacy and availability of alternative

security and safety measures” as a discretionary factor, NYPD officers routinely handcuff people for their minutes-long arraignment proceedings when those same people are routinely uncuffed for their hours-long or days-long suppression or trial. At those suppression hearings and trials, court officers are regularly required to deploy security measures that maintain safety and security in the courtroom without resorting to handcuffing the accused person.

36. When Legal Aid lawyers have questioned NYPD officers about why their clients remained handcuffed at arraignment, those officers refused to provide any explanation specific their clients. The officers merely informed Legal Aid lawyers that they are following the NYPD’s policy.

***The NYPD’s Arraignment Restraint Policy Harms New Yorkers***

37. The NYPD’s handcuffing of New Yorkers at their arraignments undermines their presumption of innocence and the integrity of the judicial system. The sight of someone with their hands cuffed behind their back conveys the unmistakable message to the judge and everyone else in the courtroom that the NYPD finds the person to be not only untrustworthy and dangerous, but also a flight risk—a key consideration in setting bail.

38. When people are arraigned, they face the risk that the judge will impose restrictions on their freedom, and that risk is only amplified by the NYPD’s arraignment restraint policy. Arraignment judges are human. They may be unconsciously influenced by the sight of someone in handcuffs as they decide whether to restrict that person’s freedom because they are dangerous to others or cannot be trusted to return to court.

39. A judge who views a handcuffed person as untrustworthy may be more willing to set high bail or impose restrictive conditions of release to ensure the person’s return to court. A judge who views a handcuffed person as dangerous may be more willing to impose a no-contact

order, even if the order forces the person out of their home and into a homeless shelter.

40. The NYPD's handcuffing policy also interferes with the accused person's right to counsel and ability to participate in their own defense. When someone is handcuffed at arraignments, they cannot get their attorney's attention by tapping them or gesturing toward them to communicate something privately. They are forced to say what they would like to say aloud and often in earshot of opposing counsel or the police.

41. The accused person also cannot accept key documents from their lawyer and review them to, for example, ensure the accuracy of the information that the judge will rely on to decide whether to impose bail. Nor can they hold onto copies of documents their attorneys would like to give them with their hands cuffed behind their backs. Instead, attorneys must put papers directly into clients' pants pockets or hand papers to the police to give clients later, which violates the client's privacy. The accused person also cannot sign important documents at the arraignment podium, like a HIPAA form that would allow their attorney to view their medical records to prepare their defense. When people are jailed pending trial, it may take days or weeks before they are able to sign and return a HIPAA form to their lawyer, delaying the preparation of their defense.

42. For many people, the most personal harm they experience is the humiliation and dehumanizing stigma caused by the NYPD handcuffing them in a courtroom in full view of the judge, other court personnel, the public, and even their family members who may attend their arraignment in a show of support.

43. A 2021 Report on Equal Justice in the New York State Courts revealed the "dehumanizing" and "demeaning cattle-call culture" in New York City criminal courts where the overwhelming majority of criminal litigants are people of color. The report found that "[t]he sad picture that emerges is, in effect, a second-class system of justice for people of color in New York

State.”

44. Like other dehumanizing aspects of the City’s court system, the NYPD’s policy of indiscriminate handcuffing at arraignments primarily harms people of color. According to the NYPD’s arrest data, more than 80% of the people the NYPD arrest for crimes in New York City are Black and Hispanic. The NYPD’s arraignment restraint policy treats nearly every person who has been arrested as untrustworthy and dangerous, thus it treats primarily people of color as untrustworthy and dangerous.

45. The NYPD’s arraignment restraint policy robs primarily people of color of the dignity and self-respect of appearing in court as a free and innocent person. During arraignments, Legal Aid attorneys have had to wipe a handcuffed client’s runny nose, place an earpiece for interpretation directly into a handcuffed client’s ear, and pull up the pants of a handcuffed client after they fell down because the NYPD confiscates the belt of every person arrested. One person who was not wearing underwear was left with his genitals exposed in the courtroom because he was not able to adequately hold up his own beltless pants while handcuffed behind his back.

46. The NYPD rarely makes exceptions to its dehumanizing handcuffing policy and practice, even for the most vulnerable New Yorkers. People who are elderly, visibly ill and weak, and with serious mobility impairments have all been handcuffed throughout their arraignments in recent months. For example, New Yorkers who need mobility aids to move around the courtroom are routinely handcuffed to their wheelchairs or crutches during their arraignments. In another example, a person with an above-elbow arm amputation had his non-amputated arm placed in a handcuff while an NYPD officer took the other cuff and pulled his arm to lead him to the arraignment podium.

47. The NYPD even indiscriminately handcuffs children at criminal court

arraignments. Handcuffing is especially traumatizing for children and young people. In a 2015 report on the impact of handcuffing youth in court, youth testified that being handcuffed in court made them feel like “animals” or “monsters.”

48. In 2021, the New York State Legislature prohibited the use of handcuffs on children and young people under 21 in Family Court, except in narrow circumstances where a judge determines on the record that handcuffs are necessary. But those protections do not apply to children arraigned in New York City’s adult criminal courts, including in specialty Youth Parts.

49. In New York City, children aged 13 to 17 accused of certain felonies can appear for arraignment in Youth Parts of the adult criminal court system on weekdays when the parts are open. They also appear for arraignment in the adult arraignment parts on nights and weekends when the Youth Parts are closed. In both circumstances, the NYPD applies its policy to indiscriminately handcuff children at their arraignments just like they do the adults. Most adolescent offenders (88%) and juvenile offenders (65%) are transferred after their arraignments from the adult criminal court system to the family court system, where handcuffing is generally prohibited, exposing the NYPD’s indiscriminate handcuffing of children at arraignments to be gratuitous harm.

***Plaintiff Jarrett Allen***

50. Jarrett Allen was arrested on October 30, 2024 and transported to New York County Criminal Court by the NYPD to be arraigned. He is represented on this criminal case by The Legal Aid Society.

51. As of this filing, Mr. Allen is awaiting arraignment in New York County Criminal Court, where, according to the NYPD’s policy, he will imminently be escorted into the courtroom in handcuffs and appear handcuffed in front of the judge at the arraignment podium or table. Under

the NYPD's policy, NYPD officers will then have sole discretion to keep Mr. Allen handcuffed until the end of his arraignment, without any individualized, on-the-record explanation by the NYPD officers or any individualized, on-the-record determination by the judge that handcuffing is necessary.

52. Mr. Allen is charged with one count of petit larceny and one count of criminal possession of stolen property. Under New York law, the arraigning judge must release Mr. Allen to the community while his case is pending. As a result, once Mr. Allen's arraignment is over, he will be uncuffed and released.

53. The New York County District Attorney has made an offer to resolve these charges with a plea to one count of disorderly conduct, a non-criminal disposition, upon completion of three sessions of a community-based diversion program called Manhattan Justice Opportunities. If the judge agrees to this disposition and Mr. Allen accepts it, he will have no criminal liability and his case will be sealed one year after the program is completed. Despite Mr. Allen's imminent release, he will be subject to the NYPD's arraignment restraint policy and handcuffed at his arraignment once he enters the courtroom.

54. This is Mr. Allen's first time being arrested. His rap sheet shows no criminal history, no history of attempting to escape police custody, and no history of violating court orders. Mr. Allen found the experience of being handcuffed in public to be humiliating. The handcuffs hurt his wrists, and it felt like a show.

55. Mr. Allen does not want to be handcuffed for show again. He is concerned that being forced to wear handcuffs in court will portray him as violent and dangerous before the judge, court personnel, and the public. He is concerned this will be another painful and humiliating experience before the public. Earlier that same day, at least one international tour group was

present observing arraignments in the public area of the very courtroom where Mr. Allen is waiting to be arraigned.

### **CLASS ACTION ALLEGATIONS**

56. Jarrett Allen brings this action on his own behalf and, pursuant to Article 9 of the New York Civil Practice Law and Rules, on behalf of all people who are or will be handcuffed by the NYPD at their criminal court arraignment in New York City based on the NYPD's arraignment restraint policy.

57. All five requirements of CPLR 901 are satisfied.

- a. *Numerosity*: Joinder of all class members is impracticable because of the size and changing composition of the class. Hundreds of people are arraigned each day in New York City.
- b. *Commonality*: There are questions of law and fact common to all members of the class that predominate over questions affecting only individual members, including but not limited to: whether the NYPD's arraignment restraint policy violates state due process protections.
- c. *Typicality*: The claims of the named Plaintiff are typical of those of the class. The named Plaintiff, like all class members, will be subjected to the Defendants' policies, actions or inaction, will be injured by them, and require similar relief.
- d. *Adequacy of Representation*: The named Plaintiff and class counsel will fairly and adequately represent the interests of the class. The named Plaintiff will suffer imminent injury and committed to obtaining declaratory and injunctive

relief that will benefit the entire class. The named Plaintiff's interests are not antagonistic to those of other class members. Putative class counsel have extensive experience in complex civil litigation, civil rights, and class action litigation.

- e. *Superiority*: A class action is superior to other available methods for the fair and efficient adjudication of this controversy, and will prevent the imposition of undue financial, administrative, and procedural burdens on the parties and the Court, which individual litigation of these claims would impose. Counsel anticipates no difficulty in the management of this action as a class action.

### **JURISDICTION AND VENUE**

58. The Court has jurisdiction over this action pursuant to CPLR §§ 301, 3001, & 3017.

59. Venue is proper in New York County as the county in which the New York City Police Department maintains its principal place of business, pursuant to CPLR § 505(a). Venue is also proper in New York County as the county in which the claim arose, pursuant to CPLR § 504(3).

### **CLAIM FOR RELIEF**

#### **Cause of Action**

#### **Violation of Article I § 6 of the New York State Constitution**

60. Defendants' actions or inactions alleged herein violate the due process rights of the named Plaintiff and the putative class under Article I § 6 of the New York State Constitution.

### **RELIEF REQUESTED**

**WHEREFORE**, Plaintiff respectfully requests that this Court:

- A. Assume jurisdiction over this matter;
- B. Certify this action as a class action pursuant to Article 9 of the New York Civil Practice Law and Rules;

- C. Declare that Defendants' policy and practice of presumptively handcuffing every person at arraignments and affording NYPD officers discretion to keep every person handcuffed for the duration of their arraignment absent any individualized, on-the-record judicial approval violates the due process clause of Article I § 6 of the New York State Constitution;
- D. Declare that no person may be restrained during their arraignment, including while they are brought into the courtroom, absent a special need specific to that person, which must be established in an individualized, on-the-record, judicial finding;
- E. Permanently enjoin Defendants from subjecting the Plaintiff and the putative class to the unconstitutional arraignment restraint policy and practice described here;
- F. Award the Plaintiff reasonable attorney's fees and costs pursuant to CPLR § 8601 and § 909; and
- G. Grant any other relief the Court deems just and proper.

Dated: October 31, 2024  
New York, N.Y.

Respectfully submitted,

By: /s/ Lindsey E. Smith  
Lindsey E. Smith  
Alexander Lesman  
Philip Desgranges  
THE LEGAL AID SOCIETY  
49 Thomas St., 10th Floor  
New York, NY 10013  
(212) 577-3367  
lsmith@legal-aid.org  
alesman@legal-aid.org  
pdesgranges@legal-aid.org

*Counsel for Plaintiff and the  
Putative Class*

On the Complaint: Maggie Hadley