

23-7640

**IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

SEANPAUL REYES,

Plaintiff-Appellee,

– v. –

CITY OF NEW YORK,

Defendants-Appellant.

*On Appeal from the United States District Court
for the Southern District Of New York*

**BRIEF OF AMICUS CURIAE THE LEGAL AID SOCIETY
IN SUPPORT OF PLAINTIFF-APPELLEE FOR AFFIRMATION**

Philip Desgranges
Shona Hemmady
THE LEGAL AID SOCIETY
49 Thomas Street, 10th Floor
New York, N.Y. 10013
Tel: (212) 577-3367
pdesgranges@legal-aid.org
shemmady@legal-aid.org

Dated: May 16, 2024
New York, N.Y.

*Counsel for Amicus Curiae
The Legal Aid Society*

TABLE OF CONTENTS

TABLE OF AUTHORITIES..... ii

CORPORATE DISCLOSURE STATEMENT 1

INTEREST OF THE AMICUS CURIAE2

PRELIMINARY STATEMENT4

ARGUMENT5

 I. THE NEW YORK STATE AND NEW YORK CITY RIGHT TO RECORD ACTS UNAMBIGUOUSLY CODIFY BROAD RIGHTS TO RECORD THE POLICE, INCLUDING WITHIN PRECINCTS.5

 II. THE PUBLIC HAS A STRONG INTEREST IN RECORDING LAW ENFORCEMENT IN POLICE PRECINCTS. 10

 A. Recording How Officers Interact with Members of the Public Seeking Services in Precinct Lobbies Advances Transparency and Accountability. 10

 B. The NYPD’s Use of Police Precincts for Community Forums and Similar Public Events Further Supports the Public’s Interest in Recording at Precincts To Ensure Government Transparency..... 15

CONCLUSION 17

CERTIFICATE OF COMPLIANCE 19

TABLE OF AUTHORITIES

Cases

<i>Alvarez v. Garland</i> , 33 F.4th 626, 641 (2d Cir. 2022)	8
<i>An v. City of New York</i> , No. 16 CIV. 5381 (LGS), 2017 WL 2376576 (S.D.N.Y. June 1, 2017)	3
<i>Antonyuk v. Chiumento</i> , 89 F.4th 271 (2d Cir. 2023)	17
<i>Friends of E. Hampton Airport v. Town of East Hampton</i> , 841 F.3d 133 (2d Cir. 2016)	17
<i>Loughrin v. United States</i> , 573 U.S. 351 (2014)	8
<i>Nat’l Ass’n of Mfrs. v. Dep’t of Defense</i> , 583 U.S. 109 (2018).....	5
<i>Nwozuzu v. Holder</i> , 726 F.3d 323 (2d Cir. 2013)	5
<i>Reyes v. City of New York</i> , No. 23-CV-6369 (JGLC), 2023 WL 7212192 (S.D.N.Y. Nov. 2, 2023)	5, 6, 10
<i>Rodney v. City of New York</i> , No. 1:22-cv-01445 (S.D.N.Y. Feb. 22, 2022).....	14, 15
<i>United States ex rel. Weiner v. Siemens AG</i> , 87 F.4th 157 (2d Cir. 2023)....	5, 7, 8, 9
<i>Williams v. Taylor</i> , 529 U.S. 362 (2000).....	8

Statutes and Local Laws

N.Y. Civ. Rights Law § 79-p.....	6, 8, 9, 10
N.Y. Penal Law § 195.05	9
N.Y.C. Admin. Code § 14-189.....	6, 8, 9, 10

Rules

22 N.Y.C.R.R. § 29.19
7 N.Y.C.R.R. § 200.39

Other Authorities

10th Precinct, N.Y. CITY POLICE DEP’T.
<https://www.nyc.gov/site/nypd/bureaus/patrol/precincts/10th-precinct.page>..... 15

19th Precinct, N.Y. CITY POLICE DEP’T.
<https://www.nyc.gov/site/nypd/bureaus/patrol/precincts/19th-precinct.page>..... 15

23rd Precinct, N.Y. CITY POLICE DEP’T.
<https://www.nyc.gov/site/nypd/bureaus/patrol/precincts/23rd-precinct.page> 15

9th Precinct, N.Y. CITY POLICE DEP’T.
<https://www.nyc.gov/site/nypd/bureaus/patrol/precincts/9th-precinct.page>..... 15

Behind-the-Scenes Tour @ NYPD 26th Precinct, New York Adventure Club,
<https://www.nyadventureclub.com/event/behind-the-scenes-tour-nypd-26th-precinct-registration-63333095995>..... 16

City Tops Off Structural Steel for New 116th Precinct in Southeast Queens, NEW YORK CITY DEPARTMENT OF DESIGN AND CONSTRUCTION, Aug. 22, 2022,
<https://www.nyc.gov/site/ddc/about/press-releases/2022/pr-082222-116th-precinct.page> 16

De Blasio Administration Begins Construction on New 40th Precinct Station

House, N.Y. CITY OFFICE OF THE MAYOR, July 10, 2018.

<https://www.nyc.gov/office-of-the-mayor/news/346-18/de-blasio-administration-begins-construction-new-40th-precinct-station-house>..... 16

N.Y.C. COUNCIL, Summary of Int. 721-B,

<https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3371660&GUID=CC E66ABB-0E5C-4FB0-A21F-F9CB0BE4D6EA>..... 7

NYPD 105th Precinct, FACEBOOK (Apr. 24, 2024)

<https://www.facebook.com/NYPD105pct/posts/pfbid02F9JjNQe36fQrZwMMrffaTgx7N22opouDAwjJK63q9EiXcjqq9K77sQATvvxEd5N4l>..... 16

NYPD 74th Precinct, FACEBOOK (Aug. 24, 2023)

<https://www.facebook.com/NYPD75pct/posts/pfbid02FsRQECypKuyoDwDwiRqvZTQQhMAeUZAqF7WythLEeW9HdGYwt3Pnw9jgMcgZQHAcl>..... 16

N.Y. STATE SENATE, Sponsor Memo, N.Y. Legis. S3253A Reg. Sess. 2019-2020

(2019), <https://www.nysenate.gov/legislation/bills/2019/S3253> 7

Tour of the NYPD 10th Precinct, GREENWICH VILLAGE CHELSEA CHAMBER OF

COMMERCE, <https://greenwichvillagechelseacc.glueup.com/event/tour-of-the-nypd-10th-precinct-60650/> 16

CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rules of Appellate Procedure 29(a)(4)(A) and 26.1(a), *amicus curiae* The Legal Aid Society discloses that it has no parent corporation and that no publicly held corporation owns 10% or more of its stock.

INTEREST OF THE AMICUS CURIAE

The Legal Aid Society is the nation’s oldest and largest private non-profit legal services agency, dedicated since 1876 to providing quality legal representation to low-income New Yorkers.¹ It has served as the primary public defender in New York City since 1965 and, each year, represents tens of thousands of people who are arrested and unable to afford private counsel. Legal Aid’s Special Litigation Unit brings civil rights litigation on behalf of Legal Aid’s public defense clients when government officials, especially the police, have violated those clients’ civil rights. Legal Aid, on behalf of its current and future clients, has a strong interest in the vindication of civil rights and the interpretation of statutes that support or frustrate such vindication.

Legal Aid has a long history of protecting people’s right to record the police to advance transparency and accountability where police officers abuse their power. In 2016, Legal Aid brought *An v. City of New York* to challenge the New York City Police Department’s (“NYPD”) widespread practice of interfering with people who record the police in public by blocking their cameras, ordering them to stop

¹ The parties consent to the filing of this brief. Pursuant to Federal Rule of Appellate Procedure 29(c)(5), The Legal Aid Society states that no counsel for a party authored this brief in whole or in part, and no such counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than the *amicus curiae*, its members, or its counsel made a monetary contribution intended to fund the preparation or submission of this brief.

recording, or arresting them. *An v. City of New York*, No. 16 CIV. 5381 (LGS), 2017 WL 2376576 (S.D.N.Y. June 1, 2017). As part of the *An* settlement, the NYPD agreed to issue a revised patrol guide section regarding the public's right to record police activity and train its staff on the public's right to record. *See* Joint Appendix, Docket No. 37.1, A38, Stipulation of Settlement (Oct. 9, 2018). In 2020, Legal Aid, in coalition with Communities United for Police Reform, advocated for the passage of the New York State and New York City Right to Record Acts to protect New Yorkers who record police activities. In this brief, Legal Aid seeks to provide the Court with additional information and context, including recent examples illustrating the public's interest in recording their interactions with police officers in precinct lobbies and how the NYPD's blanket ban on recording in precincts harms that interest.

PRELIMINARY STATEMENT

This case is about the NYPD's efforts to restrict the right to record law enforcement through its policy banning all recording in police precincts, including where officers routinely interact with the public, despite clear statutes that prohibit this restriction. The right to record the police is critical to law enforcement transparency and accountability. In 2020, both the New York State legislature and the New York City Council enacted laws to establish a broad right to record law enforcement to promote transparency and combat police misconduct. These laws came in the wake of nationwide racial justice protests following the murder of George Floyd by members of law enforcement, a murder captured on a bystander's cell phone. The New York State and New York City Right to Record Acts (State and City RTRAs) protect the right of New Yorkers to record law enforcement in all but limited, specified exceptions in each statute. But the NYPD's blanket ban bars recording in any part of a police precinct, *see* Joint Appendix, A47-A51, preventing New Yorkers from photographing reports or complaints they submit to the police, recording their interactions with officers when they are denied services, or even recording officers' responses to questions during a precinct community forum.

The District Court held that the NYPD's blanket ban on recording in police precincts likely violated the Right to Record Acts and granted a preliminary injunction enjoining the NYPD from enforcing its policy inconsistent with those

Acts. *Reyes v. City of New York*, No. 23-CV-6369 (JGLC), 2023 WL 7212192, *13 (S.D.N.Y. Nov. 2, 2023). This Court should affirm the District Court’s preliminary injunction because the Right to Record Acts unambiguously create a broad right to record with only limited exceptions, none of which exempt police precincts, and because the strong public interest in law enforcement transparency and accountability is harmed by the NYPD’s blanket ban on all precinct recordings.

ARGUMENT

I. THE NEW YORK STATE AND NEW YORK CITY RIGHT TO RECORD ACTS UNAMBIGUOUSLY CODIFY BROAD RIGHTS TO RECORD THE POLICE, INCLUDING WITHIN PRECINCTS.

The text of the State and City RTRAs unambiguously codify a broad right to record the police with very limited and specific exceptions, none of which exempt police precincts. As this Court explained, “[w]here statutory text is ‘unambiguous, our inquiry begins with the statutory text, and ends there as well.’” *United States ex rel. Weiner v. Siemens AG*, 87 F.4th 157, 161 (2d Cir. 2023) (per curiam) (quoting *Nat’l Ass’n of Mfrs. v. Dep’t of Defense*, 583 U.S. 109, 127 (2018)). Under well-established rules of statutory construction, this Court must “construe the statute according to the plain meaning of its words” where the statutory terms are unambiguous, and it may only “consider legislative history and other tools of statutory interpretation” if the terms are ambiguous. *Nwozuzu v. Holder*, 726 F.3d 323, 327 (2d Cir. 2013). Because the text of both the State and City RTRAs are

unambiguous, this Court should affirm the lower court’s finding that “the broad, straightforward provisions of the Right to Record Acts mean what they say: people can record the police.” *Reyes*, 2023 WL 7212192, at *11.

The broad sweep of the State and City RTRAs is evident in their text. Under the State RTRA, “[a] person not under arrest or in the custody of a law enforcement official has the right to record law enforcement activity.” N.Y. Civ. Rights Law § 79-p(2) (Recording Certain Activities).² The State RTRA does not include a police precinct exception to this right to record. Rather, the only exception is when a person engages in actions that “physically interfere with law enforcement activity or otherwise constitute a crime defined in the penal law involving obstructing governmental administration.” N.Y. Civ. Rights Law § 79-p(2). The City RTRA has a similarly broad scope. Under the City RTRA, “[a] person may record police activities.” N.Y.C. Admin. Code § 14-189(b). The City RTRA also does not include a precinct exception to the right to record, only exceptions where a person “engage[s] in actions that physically interfere with an official and lawful police function” or where an officer must interfere with the right to record to “enforc[e] any other provision of law.” *Id.*

² There are two separate laws numbered as N.Y. Civ. Rights Law § 79-p – “Recording Certain Activities” and “Gender Neutral Single-Occupancy Bathroom Facilities.” We are referencing the former.

The terms of the State or City RTRA are unambiguous. Thus, the NYPD's blanket ban on recording law enforcement activity in precinct lobbies violates the clear text of the State and City RTRAs establishing the public's broad right to record police activity. This Court may properly end its inquiry here because the text of both statutes is clear. In addition, "this plain language reading accords with the statute[s]' purpose." *Weiner*, 87 F.4th at 162. The State RTRA's purpose is "to unambiguously affirm, by statutory enactment, the right of New Yorkers to record, with expressed exceptions, the actions of persons acting under the color of law."³ The City RTRA's purpose is to "codify a person's right to record New York City police officers or peace officer acting in their official capacity, with limited exceptions."⁴ The purposes of both statutes align with a plain reading of their text, which leads to one inescapable conclusion: that the Right to Record Acts protect the right to record in all but the limited, specified exceptions in each statute.

In its brief, the City of New York argues for (i) a police precinct exception to the State and City RTRAs and (ii) a narrow reading of both Acts, limiting them to cover only the First Amendment right to record the police in public. *See Br.* for Appellant at 44-52, 28-29, 55-61, Docket No. 39.1. The City's first argument fails

³ N.Y. STATE SENATE, Sponsor Memo, N.Y. Legis. S3253A Reg. Sess. 2019-2020 (2019), <https://www.nysenate.gov/legislation/bills/2019/S3253>.

⁴ N.Y.C. COUNCIL, Summary of Int. 721-B, <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3371660&GUID=CCE66ABB-0E5C-4FB0-A21F-F9CB0BE4D6EA>.

because the State and City legislatures created certain exceptions to the right to record and did not include a precinct exception. Statutory construction principles instruct courts to generally “assume that the choice [made by the legislature] was deliberate.” *Alvarez v. Garland*, 33 F.4th 626, 641 (2d Cir. 2022).

The City’s second argument that both laws merely codify the First Amendment right to record in public ignores the statutory text. Accepting that argument would require the Court to render superfluous provisions in each RTRA which state that the rights provided are “in addition to all rights, procedures, and remedies available under the United States Constitution.” N.Y. Civ. Rights Law § 79-p(4); N.Y.C. Admin. Code § 14-189(d). It is a “‘cardinal principle’ of interpretation that courts ‘must give effect, if possible, to every clause and word of a statute.’” *Loughrin v. United States*, 573 U.S. 351, 358 (2014) (quoting *Williams v. Taylor*, 529 U.S. 362, 404 (2000)). This Court could not give effect to the “in addition to” clauses of the RTRAs if it adopted the City’s reading that these laws extend no further than the First Amendment. *See Weiner*, 87 F.4th at 162 (declining to adopt Defendants’ reading of a statute that would “render the plain language of [the statute] superfluous.”).

Finally, the City argues that applying the plain meaning of the RTRAs would lead to absurd outcomes. *See Br. for Appellant* at 52-54. It claims that the text of the RTRAs would allow someone to bring a phone into a state prison and record

corrections officers, allow someone to bring a phone into a state or municipal courtroom and record court officers, and allow someone to bring a phone in the non-public areas of a precinct to record police officers. *Id.* But each of these hypothetical scenarios could be prevented by the exceptions in both RTRAs. *See Weiner*, 87 F.4th at 162 (rejecting Defendants’ appeal to the absurdity doctrine where the Defendants’ hypothetical absurd results would be mitigated under the Court’s interpretation of the statute).

Under the RTRAs, corrections officers could stop someone from recording in state prisons because possessing a cell phone or recording device in a prison is unlawful. 7 N.Y.C.R.R. § 200.3; *see also* N.Y. Civ. Rights Law § 79-p(2) (prohibiting recording that would constitute a crime involving obstructing governmental administration, which N.Y. Penal Law § 195.05(2) states may be based on “any independently unlawful act”); N.Y.C. Admin. Code § 14-189(b). Similarly, court officers could prevent the recording of a courtroom proceeding, even criminal sentencings, because that act is independently unlawful unless the person recording first obtains judicial permission. *See* 22 N.Y.C.R.R. § 29.1; *see also* N.Y. Civ. Rights Law § 79-p(2); N.Y.C. Admin. Code § 14-189(b). And, finally, police officers could prevent someone from recording in the non-public areas of the police precinct where such recording constitutes a crime involving obstructing

governmental administration or other violation of law. *See* N.Y. Civ. Rights Law § 79-p(2); N.Y.C. Admin. Code § 14-189(b).

II. THE PUBLIC HAS A STRONG INTEREST IN RECORDING LAW ENFORCEMENT IN POLICE PRECINCTS.

The lower court found that Plaintiff Reyes made “a strong showing of irreparable harm” because the City’s policy of arresting people for recording law enforcement activities in a precinct lobby frustrates government transparency and accountability. *Reyes*, 2023 WL 7212192, at *12. It further found that the balance of equities and the public interest favor a preliminary injunction because “[l]aw enforcement is part of the democratic system of government and the public has a legitimate interest in seeing how law enforcement operates.” *Id.* (citing cases). Nonetheless, the City contends in its brief that recording law enforcement activities in police precincts has no connection to these “soaring democratic ideals” and does not “actually promote transparency in government.” Br. of Appellant at 35-36. The City is wrong. As explained below, the public has a strong interest in transparency concerning their interactions with law enforcement in precinct lobbies and at precinct community forums.

A. Recording How Officers Interact with Members of the Public Seeking Services in Precinct Lobbies Advances Transparency and Accountability.

Police precincts are one of the most significant contact points between the public and local law enforcement. Individuals seek to record in precinct lobbies for several reasons: to record proof of their complaints, to record the responses of law

enforcement officials, and to record police misconduct. When members of the public are denied services or even assaulted in precinct lobbies, the video recordings may serve as their only proof to hold the responsible officers accountable. As the individual examples below illustrate, recording interactions with police officers in precinct lobbies is a critical tool to shed light on how officers interact, sometimes inappropriately, with members of the public.

Shawn Jobe, September 2023

Shawn Jobe was arrested for recording officers in the 84th Precinct in Brooklyn on September 18, 2023. He began recording because police officers refused to give him a complaint form to fill out against the officers who, he believed, had wrongfully arrested him the previous week and had failed to return \$700 in cash officers took from him when he was arrested.

Mr. Jobe first tried to retrieve his \$700 at the Brooklyn Property Clerk's office but an officer instructed him to return the following week. When he returned the next Monday, another officer told him that they could not return his money and that he would instead have to go to the 84th Precinct. At the 84th Precinct, Mr. Jobe again tried to retrieve his money. While there, he also followed up on a previous request for a complaint form for the officers who arrested him. An officer there instructed him to go back to the Property Clerk's office for his money. At this point, Mr. Jobe

began recording his interaction with the officers at the 84th Precinct to have proof that his attempt to retrieve his cash and obtain a complaint form had been denied.

Mr. Jobe filmed two videos of his interactions with the officers in the precinct. In his [first video](#), an officer repeated instructions that he return to the Property Clerk's office (referred to by its address as "11 Front Street"), where they would write him a check for his cash. In his [second video](#), an officer directed him to stop recording because it was a crime. Mr. Jobe said he had the right to record, and he asked the officer why he refused to give him a complaint form when he initially requested one. But the officer changed the topic, again directing him to stop recording because it was a crime. Mr. Jobe then repeatedly asked for the penal code for the crime, but the officer would not provide any. Instead, the officer arrested Mr. Jobe on charges of obstructing governmental administration, trespass, and disorderly conduct.

Legal Aid represented Mr. Jobe on his criminal charges, which were all adjourned in contemplation of dismissal to be ultimately dismissed and sealed on May 19, 2024. Mr. Jobe's phone was seized for at least two months and held as "evidence" until he was finally able to retrieve his phone and his two videos of the precinct incident.

C.C., March 2024

A current Legal Aid client, C.C. was assaulted by the NYPD for recording officers in a precinct in Brooklyn on March 25, 2024 when he tried to retrieve his car and the property in it after an arrest for reckless driving.⁵ At the precinct, he received a bag of his property but found that some of that property, including cash, was missing. When he asked the officers to return it, they showed him a photo of what they claimed was all of his stored property, a photo which did not include the missing items.

At this point, C.C. began to record the officers and ultimately made two videos while seeking an explanation for his missing belongings. In his [first video](#), the officers appear agitated and repeatedly tell him that he is not allowed to record in the precinct. One officer grabbed and twisted his right arm, while other officers grabbed and twisted his other arm to stop his recording. In his [second video](#), an officer smacked his phone to stop his recording and threatened that “if you continue with this course of action, there’s gonna be a reaction.” C.C. then stopped recording. He still has not received his missing property.

⁵ C.C. wishes to remain anonymous, so we have not included any identifying details, including his name or the precinct name. But he wanted the Court and the public to see how officers assaulted him for simply attempting to record their response to his questions.

Patricia Rodney, December 2020

Patricia Rodney is involved in an ongoing civil lawsuit against NYPD officers after she was assaulted for telling officers she was recording them while asking for a copy of a missing object report she had filed. *Rodney v. City of New York*, No. 1:22-cv-01445 (S.D.N.Y. Feb. 22, 2022). Ms. Rodney is a diabetic woman who had lost her glucometer. Second Am. Compl. ¶ 30, ECF No. 90, *Rodney v. City of New York*, 1:22-cv-01445 (S.D.N.Y. Jun. 27, 2022). When she sought to get a new device from her insurance, the insurance company informed her that they required a police report before they would send her a replacement. *Id.* Ms. Rodney went to the 62nd Precinct on November 30, 2020 and requested a report. *Id.* at ¶ 34. She then filled out the report and asked for a copy that she could fax to her insurance company. *Id.* at ¶ 36. The officer told her he could not give her a copy and to return to the precinct on December 2 to retrieve the report. *Id.* at ¶ 37–38.

Ms. Rodney returned to the precinct on December 2, but different police officers refused to give her the copy she requested. *Id.* at ¶ 40, 42-43. At this point, she told officers she was recording the interaction on her cell phone, even though she was not actually recording. *Id.* at ¶ 54. Body-worn camera [footage](#) shows what happened next. Ms. Rodney stood against the wall in the vestibule of the precinct surrounded by multiple officers. Officers told her that she can't record in the precinct, and she responded that "I'm allowed" and continued to hold her phone as though

she were recording them, leading to the officers becoming angry and hostile. *Id.* at ¶ 55, 45. They demanded that she leave and, when she said no, they pushed her face-down to the ground and handcuffed her. *Id.* at ¶ 59, 45. On the body-worn camera footage, Ms. Rodney repeatedly cries out that, “I’m a diabetic, that’s why I need that paper.” *Id.* at 45. In the process of arresting her, the officers fractured Ms. Rodney’s elbow. *Id.* at ¶ 59–63. Ms. Rodney was arrested and charged with resisting arrest, among other charges. These charges were all adjourned in contemplation of dismissal at arraignment. *Id.* at ¶ 70–74.

B. The NYPD’s Use of Police Precincts for Community Forums and Similar Public Events Further Supports the Public’s Interest in Recording at Precincts to Ensure Government Transparency.

The NYPD’s blanket ban on recording in any police precinct is incompatible with the many public-facing, community functions that take place in precincts. The police regularly invite members of the public to precincts for various purposes, including community forums. Indeed, many NYPD precincts hold monthly Community Council meetings where members of the public are invited to attend conversations about public safety, specific neighborhood concerns, and other related policing issues.⁶ The NYPD has been expanding the use of precincts as community

⁶ *See, e.g.*, 9th Precinct, N.Y. CITY POLICE DEP’T.

<https://www.nyc.gov/site/nypd/bureaus/patrol/precincts/9th-precinct.page>; 10th Precinct, N.Y. CITY POLICE DEP’T.

<https://www.nyc.gov/site/nypd/bureaus/patrol/precincts/10th-precinct.page>; 19th

meeting spaces, with new precincts being built to serve as community hubs.⁷ Several precincts also hold community events such as precinct tours, youth athletics league meetings, teen volunteering and leadership events, back-to-school giveaways, and informative crime prevention workshops in their precinct buildings.⁸

With the NYPD's expanded use of police precincts as community meeting spaces, the public's encounters with law enforcement at police precincts has increased, as has their interest in transparency and accountability regarding those

Precinct, N.Y. CITY POLICE DEP'T.

<https://www.nyc.gov/site/nypd/bureaus/patrol/precincts/19th-precinct.page>; 23rd Precinct, N.Y. CITY POLICE DEP'T.

<https://www.nyc.gov/site/nypd/bureaus/patrol/precincts/23rd-precinct.page>, among others also available through this site.

⁷ *De Blasio Administration Begins Construction on New 40th Precinct Station House*, N.Y. CITY OFFICE OF THE MAYOR (Jul. 10, 2018),

<https://www.nyc.gov/office-of-the-mayor/news/346-18/de-blasio-administration-begins-construction-new-40th-precinct-station-house>; *see also City Tops Off Structural Steel for New 116th Precinct in Southeast Queens*, NEW YORK CITY DEPARTMENT OF DESIGN AND CONSTRUCTION (Aug. 22, 2022),

<https://www.nyc.gov/site/ddc/about/press-releases/2022/pr-082222-116th-precinct.page>.

⁸ *Tour of the NYPD 10th Precinct*, GREENWICH VILLAGE CHELSEA CHAMBER OF COMMERCE, <https://greenwichvillagechelseacc.glueup.com/event/tour-of-the-nypd-10th-precinct-60650/>; NYPD 74th Precinct, FACEBOOK (Aug. 24, 2023),

<https://www.facebook.com/NYPD75pct/posts/pfbid02FsRQECypKuyoDwDwiRqvZTQqhMAeUZAqF7WythLEeW9HdGYwt3Pnw9jgMcgZQHAcl> (back to school giveaway); NYPD 105th Precinct, FACEBOOK (Apr. 24, 2024),

<https://www.facebook.com/NYPD105pct/posts/pfbid02F9JjNQe36fQrZwMMrffaTgx7N22opouDAwjJK63q9EiXcjqq9K77sQATvvxEd5N4l> (Youth Leadership Council meeting); *Behind-the-Scenes Tour @ NYPD 26th Precinct*, New York Adventure Club, <https://www.nyadventureclub.com/event/behind-the-scenes-tour-nypd-26th-precinct-registration-63333095995>.

encounters. But the NYPD’s blanket ban on recording in precincts denies the public transparency regarding how officers are exercising their responsibilities or the representations that officers make at public, community events. Because of the harmful impact of this policy on the public, the lower court’s grant of preliminary relief is especially appropriate here.⁹

CONCLUSION

For these reasons, *amicus curiae* The Legal Aid Society urges this Court to affirm the District Court’s preliminary injunction.

⁹ The City argues that the lower court’s injunction enjoining its blanket ban is overbroad because the relief flows to the public, not just Reyes. Br. of Appellant at 65-67. But the City ignores that this Court has routinely permitted similar injunctions. *See, e.g., Antonyuk v. Chiumento*, 89 F.4th 271 (2d Cir. 2023) (affirming lower court’s grant to an individual plaintiff of a preliminary injunction enjoining all enforcement of certain provisions of New York’s Concealed Carry Improvement Act based on the likelihood of the statute violating plaintiff’s Second Amendment rights); *Friends of E. Hampton Airport v. Town of East Hampton*, 841 F.3d 133, 155 (2d Cir. 2016) (“Because plaintiffs are thus likely to succeed on their . . . claim, they are entitled to a preliminary injunction barring enforcement of all three challenged Local Laws.”). Leaving in place an unlawful City policy serves no public interest. On the contrary, it encourages a flood of duplicative litigation challenging the same unlawful policy.

Dated: May 16, 2024
New York, N.Y.

Respectfully Submitted,

/s/ Philip Desgranges

Philip Desgranges

Shona Hemmady

THE LEGAL AID SOCIETY

49 Thomas Street, 10th Floor

New York, N.Y. 10013

Tel: (212) 577-3367

pdesgranges@legal-aid.org

shemmady@legal-aid.org

*Counsel for Amicus Curiae The Legal
Aid Society*

CERTIFICATE OF COMPLIANCE

I certify that this brief complies with Federal Rule of Appellate Procedure 32(a)(7)(B) because it contains 4,231 words, excluding the portions of the brief exempted by Rule 32(f). I further certify that this brief complies with the typeface and type-style requirements of Rule 32(a)(5)–(6) because it is printed in a proportionally spaced 14-point font, Times New Roman.

/s/ Philip Desgranges
Philip Desgranges

Counsel for Amicus Curiae