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Contact:

Press@legal-aid.org

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Legal Aid, Cornell Law School First Amendment Clinic File Lawsuit to End DOCCS's Practice of Monitoring Calls Made by Incarcerated New Yorkers to Legal Aid-Operated Helplines

(NEW YORK, NY) — The Legal Aid Society, represented by The Cornell Law School First Amendment Clinic, announced the [filing](#) of a [lawsuit](#) seeking to end the New York State Department of Corrections and Community Supervision's (DOCCS) unlawful practice of monitoring calls made by people incarcerated in New York prisons to Legal Aid-operated helplines.

The complaint alleges that, by subjecting the helpline calls to surveillance, DOCCS is effectively preventing timely, candid communications between incarcerated people and their attorneys in violation of Legal Aid's First Amendment rights.

Legal Aid currently operates two telephone helplines that provide free legal assistance to thousands of incarcerated individuals each year. Through the helplines, current and prospective Legal Aid clients may call to speak with legal staff to obtain legal advice, referrals, advocacy, and representation at no cost. The helplines offer incarcerated people assistance with issues such as reports of sexual assault, abuse or brutality by prison staff, and serious medical needs requiring prompt intervention.

Notably, the helplines serve as the only practical means through which Legal Aid can provide immediate assistance to incarcerated people with urgent and time-sensitive concerns, as scheduling a legal call or in-person visit can take weeks or months.

DOCCS's surveillance of the helplines, therefore, poses serious safety concerns, as individuals may not feel comfortable disclosing sensitive information related to their safety or the safety of others on a monitored phone line, even if the situation requires prompt attention. Those with complaints about DOCCS staff, moreover, may also refrain from voicing valid concerns over the helpline due to fears of retaliation.

The lawsuit, filed in the U.S. District Court for the Southern District of New York, argues that DOCCS's surveillance of the sole means of real-time communication between Legal Aid staff and their clients impairs Legal Aid's ability to deliver the effective legal advocacy that incarcerated New Yorkers are entitled to and seeks to permanently end the monitoring and recording of calls made to the helplines.

"In order for The Legal Aid Society to deliver effective legal assistance to incarcerated New Yorkers, our attorneys must be allowed to communicate with clients in a timely, confidential manner," said **Mary Lynne Werlwas, Director of the Prisoners' Rights Project at The Legal Aid Society**. "DOCCS's practice of surveilling these helpline calls does nothing to enhance prison safety. Instead, it takes away the only immediate,

direct line of assistance that incarcerated people are offered and hinders our attorneys' and paralegals' ability to provide incarcerated people with confidential legal advice.”

“DOCCS is doing something the First Amendment plainly forbids: surveilling the way a legal organization speaks with the people it serves,” said **Daniela del Rosario Wertheimer, Stanton Fellow with the Cornell Law School First Amendment Clinic**. “The predictable result is silence — callers who fear retaliation say nothing, or don’t call at all, and those with the most urgent needs go unheard. We are asking the court to end this government surveillance.”

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The Legal Aid Society is a nonprofit law firm that exists for one simple yet powerful reason: to ensure that New Yorkers are not denied their right to equal justice because of poverty. For 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 the people we serve and helps improve our communities.
www.legalaidnyc.org

The Cornell Law School First Amendment Clinic provides our students with hands-on litigation experience while vigorously protecting our clients' free speech rights and providing vital legal support to local journalism outlets and journalists.
<https://cornell1a.law.cornell.edu>