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NEW JERSEY OFFICE OF THE PUBLIC DEFENDER SUES
NEW JERSEY STATE POLICE OVER FAILURE TO TIMELY EXPUNGE THE
RECORDS OF ALMOST 50,000 NEW JERSEYANS

October 23, 2023, TRENTON, NJ – The New Jersey Office of the Public Defender today announced that it filed a class action lawsuit against the New Jersey State Police to require it to stop unlawfully disclosing the criminal records of tens of thousands of individuals in violation of their court-ordered expungements. New Jersey has been on the forefront of expanding opportunities for people to expunge their criminal records, and the courts have ordered the records of thousands of New Jerseyans expunged. Once an expungement is granted, the New Jersey State Police is charged with removing such offenses from background checks. But the State Police’s extreme delays in processing expungement orders and sealing individuals’ criminal records is frustrating the law’s goals of allowing reformed and rehabilitated New Jerseyans to be freed from the collateral consequences of their past lives.

In 2019, the State Police received access to \$15 million in taxpayer money to support swift processing of expungement orders and yet, the agency has a significant backlog of unprocessed orders, recently estimated to consist of almost 50,000 cases. Individuals have waited many months, even over a year, for the State Police to process their expungement orders. This means that potential employers and other organizations that run background checks can learn about a person’s criminal history in contravention of the court orders expunging those records. This impacts their ability to obtain employment, housing, licenses, and other opportunities.

Since 2018, attorneys and law students at The Expungement Law Project at Rutgers Law School have helped hundreds of people obtain criminal expungements. Professor Meredith

L. Schalick, Director, Expungement Law Project Rutgers Law School said, “During that time, we have watched the New Jersey State Police go from taking about four months to comply with an order and delete the necessary data, to now taking almost two years to comply with orders. This increased delay is unacceptable and inexplicable given that the New Jersey State Police received \$15 million from taxpayers to improve and modernize their expungement processing systems in 2019. Since the Federal Bureau of Investigations and private background companies get their data from the New Jersey State Police, the delay in processing expungement orders prevents people from applying for and obtaining new employment and housing opportunities. New Jersey can do better for people seeking a second chance, and the New Jersey State Police should be held accountable for failing to do their job.”

For example, a court expunged Plaintiff A.A.’s offenses in December of 2021. He has been waiting since then for them to be removed from his record. During the almost two-year delay, he has been turned away from multiple community volunteer positions to coach his son’s youth sports teams after the NJSP revealed his expunged criminal history in response to background checks. Plaintiff C.C., whose expungement order was issued in September 2022, had her expunged criminal history disclosed in September 2023 when she applied for a massage therapy license. A six-month delay in processing B.B.’s expungement order cost him a job at a casino. The other Plaintiffs named in the Complaint—D.D., E.E., and F.F.—have experienced similar delays that have prevented them from obtaining jobs and licenses.

The Plaintiffs, and other class members, have worked hard to reform themselves, overcoming poverty, addiction, and other past trauma, but find themselves unable to move forward with their lives due to the State Police’s failure to process their expungement orders in a timely manner. “Expungement can help remove barriers and provide important opportunities for people with past justice involvement to move their lives forward. The New Jersey State Police’s failure to timely comply with expungement orders, however, stalls this relief for the thousands of petitioners whose expungement applications have been granted by the court, potentially resulting in lost employment, volunteer, educational and other opportunities. People who need their records expunged should not have to wait more years for the relief they are entitled to by law,” said Akil Roper, Senior Vice President of Legal Services of New Jersey.

The delay also has devastating consequences for those waiting for expungement under New Jersey’s vacatur law, which allows victims of human trafficking to move to vacate and expunge any criminal charges if they can show that, at the time of the offense, it was a result of their trafficked status. “When petitioners must wait months, or even years, after receiving their final order for expungement before their record is actually cleared, then justice is denied: economic justice when they are turned down from jobs, housing justice when turned away by landlords, and social justice when they cannot participate meaningfully in their communities until the stigma of having a criminal record is finally cleared. The stigma is an especially painful reminder of victimization for survivors of human trafficking, many of whom are also waiting for the NJ State Police to comply with orders clearing their trafficking-related records under New Jersey’s vacatur law,” said Karen Robinson, managing attorney of Volunteer Lawyers for Justice, a nonprofit legal

services organization based in Newark whose mission is to ensure access to justice for people experiencing poverty. VLJ's ReLeSe (Reentry Legal Services) and New Jersey Trafficking Survivors' Legal Assistance Programs help indigent individuals clear criminal records through expungement and vacatur. "To add insult to injury, there is no way to even know when an expungement order is complied with since the NJ State Police no longer issues confirmation letters, and the Administrative Office of the Courts removed the notification feature in e-courts," Robinson added.

People with prior convictions on their records remain trapped by the system long after they have paid their debts to society. New Jersey's expungement laws were designed to reduce the harmful effects of mass incarceration and create pathways to opportunities for those who, in the past, have been found guilty of certain offenses. "Expungements provide limited relief from the devastating effects of mass incarceration. While we should be striving to avoid saddling people with the burdens of incarceration and criminal convictions, where we cannot, expungements lift barriers to employment, housing, and family stability that keep people from full re-entry after incarceration and disproportionately harm people of color. When the State Police fail to timely process expungement orders, they violate the law and undermine those laudable policy objectives," said Alexander Shalom, Director of Supreme Court Advocacy at the American Civil Liberties Union of New Jersey.

Attorneys Michael Noveck, Assistant Deputy Public Defender; Alexander Geisel, Legal Fellow; and Fletcher Duddy, Deputy Public Defender, are spearheading the litigation for the New Jersey Office of the Public Defender. "We hope this lawsuit moves the State Police to action and provides a pathway to relief for thousands of New Jerseyans who cannot move forward with their lives until the State Police complies with judicial expungement orders," said Noveck. "If the State Police do not act swiftly, then we are prepared to vindicate our clients' rights with the Court."

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Additional quotes and interviews with petitioners are available upon request. All plaintiffs have been anonymized in the complaint and will only speak to reporters on the condition that they remain anonymous.