Mugshots in Media

Gov. Andrew Cuomo recently proposed a change in New York’s freedom of information law that would block the public release of criminal mugshots and arrest records. Cuomo cited the rise of websites that post the information and then demand payment from the person in question to take the photo or booking information down. Mugshots remain in the public record, even if charges are dropped or the person has served their sentence.¹

The stated intention of the new law is to prevent the exploitation of arrested persons online. Groups that advocate for the rights of the formerly incarcerated support this law, and suggest that these photos can be used to damage the reputation of the arrested persons for the rest of their lives in exchange for little public benefit, but the new law is contentious for several reasons. Public information advocates argue that the current arrangement serves two purposes: to inform citizens of potentially dangerous criminals in their neighborhoods, and as a method of holding law enforcement accountable by ensuring that their arrests remain public.

"It's not happy news that the governor wants to encourage secret arrests," said Diane Kennedy, president of the New York News Publishers Association. "Seems like an excellent way to ensure that the arrests of powerful, politically connected people remain secret. It also would allow arrests of suspected pedophiles and rapists to remain secret. That doesn't seem to serve the public very well."

Further, the new law complicates the matter by stopping short of a full ban on the public release of mugshots, but rather leaves the decision up to local police departments. Under the law, releasing mugshots is permissible when it “serves a law enforcement purpose.” For example, if the police are requesting the public assistance in the arrest of a fugitive. Kennedy said it would be better for the state to ban websites from charging fees to someone who requests to have their photograph removed from the internet. She said the state attorney general's office also could be tasked with pursuing legal action against any companies that don't abide by such a law.

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Case from the 2020 Regional Intercollegiate Ethics Bowl.

¹ Lyons, Brendan (Jan. 18, 2019) “Cuomo proposes ban on release of mugshots, arrest info.” Times Union