D0066229

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT DIVISION ONE

FARHAD FREDERICKS,

Petitioner,

v.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

Respondent,

CITY OF SAN DIEGO; POLICE CHIEF WILLIAM M. LANSDOWNE, IN HIS OFFICIAL CAPACITY,

Real Parties in Interest.

Following Denial of Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief
The Honorable Ronald S. Prager, Presiding
Case No. 37-2013-00070216

APPLICATION OF THE REPORTERS COMMITTEE FOR FREEDOM OF THE PRESS AND 6 MEDIA AND TRANSPARENCY ORGANIZATIONS FOR PERMISSION TO FILE BRIEF AS *AMICI CURIAE* IN SUPPORT OF PETITIONER AND *AMICI CURIAE* BRIEF

REPORTERS COMMITTEE FOR FREEDOM OF THE PRESS
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CERTIFICATE OF INTERESTED ENTITIES OR PERSONS (CAL. RULES OF COURT, RULE 8.208)

Pursuant to California Rules of Court, rule 8.208, *amici* make the following disclosures:

The Reporters Committee for Freedom of the Press is an unincorporated association of reporters and editors with no parent corporation and no stock.

Californians Aware is a nonprofit organization with no parent corporation and no stock.

California Newspaper Publishers Association is a mutual benefit corporation organized under state law for the purpose of promoting and preserving the newspaper industry in California.

First Amendment Coalition is a nonprofit organization with no parent company. It issues no stock and does not own any of the party's or amicus' stock.

MediaNews Group, Inc., dba Digital First Media, is a privately held company. No publicly-held company owns ten percent or more of its equity interests.

Los Angeles Times Communications LLC is a subsidiary of Tribune Publishing Company. Tribune Publishing Company is publicly held. Oak-

tree Tribune, L.P. owns 10 percent or more of Tribune Publishing Company's stock.

The McClatchy Company is publicly traded on the New York Stock Exchange under the ticker symbol MNI. Contrarius Investment Management Limited owns 10% or more of the common stock of The McClatchy Company.

DATED: September 11, 2014

Respectfully submitted,

REPORTERS COMMITTEE FOR FREEDOM OF THE PRESS

By: _____
Katie Townsend

Counsel for *Amici Curiae*

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Pursuant to California Rule of Court 8.200, subd. (c), the Reporters Committee for Freedom of the Press, Californians Aware, the California Newspaper Publishers Association ("CNPA"), MediaNews Group, Inc., dba Digital First Media ("Digital First Media"), First Amendment Coalition, the *Los Angeles Times* and The McClatchy Company respectfully request permission to file the attached brief as *amici curiae* in support of Petitioner.

The Reporters Committee for Freedom of the Press is a voluntary, unincorporated association of reporters and editors that works to defend the First Amendment rights and freedom of information interests of the news media. The Reporters Committee has provided representation, guidance and research in First Amendment and Freedom of Information Act litigation since 1970.

Californians Aware is a nonpartisan nonprofit corporation organized under the laws of California and eligible for tax exempt contributions as a 501 (c) (3) charity pursuant to the Internal Revenue Code. Its mission is to foster the improvement of, compliance with and public understanding and use of, the California Public Records Act and other guarantees of the public's rights to find out what citizens need to know to be truly self-governing, and to share what they know and believe without fear or loss.

The California Newspaper Publishers Association is a nonprofit trade association representing the interests of nearly 850 daily, weekly and student newspapers throughout California. For over 130 years, CNPA has worked to protect and enhance the freedom of speech guaranteed to all citizens and to the press by the First Amendment of the United States Constitution and Article 1, Section 2 of the California Constitution. CNPA has dedicated its efforts to protect the free flow of information concerning government institutions in order for newspapers to fulfill their constitutional role in our democratic society and to advance the interest of all Californians in the transparency of government operations.

Digital First Media's more than 800 multi-platform products reach 61 million Americans each month across 18 states, including the Los Angeles News Group and the Bay Area News Group which provide 47 daily and weekly newspapers in California.

First Amendment Coalition is a nonprofit public interest organization dedicated to defending free speech, free press and open government rights in order to make government, at all levels, more accountable to the people. The Coalition's mission assumes that government transparency and an informed electorate are essential to a self-governing democracy. To that end, it resists excessive government secrecy (while recognizing the need to protect legitimate state secrets) and censorship of all kinds.

Los Angeles Times Communications LLC publishes the *Los Angeles Times*, the largest metropolitan daily newspaper in the country. The *Los Angeles Times* operates the website www.latimes.com, a leading source of national and international news.

The McClatchy Company, through its affiliates, is the third-largest newspaper publisher in the United States with 30 daily newspapers and related websites as well as numerous community newspapers and niche publications. The McClatchy Company is owner of *The Sacramento Bee*, *The Fresno Bee*, *The Modesto Bee*, *Merced Sun-Star* and *The (San Luis Obispo) Tribune*.

The arguments of the aforementioned media and transparency organizations will assist the Court in deciding this matter.[1] As representatives and members of the news media who routinely rely on the PRA to gather information concerning government agencies and officials in order to report it to the public, and groups dedicated to government transparency, they have a unique understanding of the potential impact of any decision limiting public access. Among other things, they are well-positioned to inform

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[1] Pursuant to California Rule of Court 8.200(c)(3), undersigned counsel certify that this brief was not authored in whole or in part by any party or any counsel for a party in the pending appeal, and that no person or entity other than *amici* made any monetary contribution intended to fund the preparation or submission of this brief.

the Court of the numerous, significant news stories concerning law enforcement in communities throughout California that would go unreported were the press unable to obtain information from state and local police agencies under Government Code section 6254, subd. (f)(2), simply because that information is more than 60 days old.

Accordingly, the Reporters Committee and the other aforementioned media and transparency organizations respectfully request that the Court permit them to submit the attached brief as *amici curiae*. In addition, given the importance of this matter to the press and the public, and because they believe that their participation in oral argument will aid the Court, these organizations respectfully request the opportunity to be heard at oral argument.

DATED: September 11, 2014

Respectfully submitted,

REPORTERS COMMITTEE FOR FREEDOM OF THE PRESS

By: _____
Katie Townsend

Counsel for *Amici Curiae*

BRIEF OF *AMICI CURIAE* IN SUPPORT OF PETITIONER

I. INTRODUCTION

In California, "access to information concerning the conduct of the people's business is a fundamental and necessary right" guaranteed by statute, Gov. Code, § 6250, and by California's Constitution, *see* Cal. Const., art. I, § 3 subd. (b). California's Public Records Act (the "PRA"), Gov. Code, § 6250, *et seq.*, is the means by which the press and the public exercise that fundamental right, which is rooted in the recognition that a functioning democratic government must be open to public scrutiny. The PRA is thus a powerful mechanism for ensuring "the accountability of government to the public." (*Register Div. of Freedom Newspapers Inc. v. County of Orange* (1984) 158 Cal.App.3d 893, 901 ("*Freedom Newspapers*").)

The Petition pending before this Court presents three issues concerning the interpretation of the PRA with significant ramifications for the right of the press and the public to access information about how state and local law enforcement agencies are conducting "the people's business." (Gov. Code, § 6250.) All three issues involve important questions of law that should be resolved in favor of public access. (*See* Cal. Const., art. I, § 3, subd. (b)(2) [expressly requiring that the right of access in the PRA be "broadly construed," and any limitation on public access be "narrowly construed"].) *Amici* write separately to address the first issue presented: Whether under Government Code section 6254, subd. (f)(2), a local law en-

forcement agency may permissibly deny the public access to information concerning any "complaint[] or request[] for assistance received by the agency" that is more than sixty (60) days old. (*See* Pet. at p. 1; *see also* Order at pp. 1–2.)

Journalists regularly and necessarily rely on requests for information made under the provisions of the PRA to report on the actions of state and local government officials and agencies, including law enforcement agencies. Any rule permitting such agencies to impose an arbitrary 60 day cut-off for access to information under Government Code section 6254, subd. (f)(2), is not only inconsistent with the express language and purpose of the PRA, but it will also have far-reaching, damaging effects on the ability of the press to gather and report information of vital public concern.

Within the last few years alone, journalists have used records obtained from California law enforcement agencies under the PRA to write stories about police misclassification of violent crimes, the impact of race on police stops, and the high number of court summonses issued by school police to youth. Stories like these, which are discussed in more detail below, exemplify how journalists rely on the PRA to report on law enforcement activities, and bring matters of crucial importance to the attention of the public.

For the reasons set forth herein, *amici* urge this Court to grant the relief sought by Petitioner.

II. ARGUMENT

A. A Categorical 60 Day Limitation On Public Access To Information Under Section 6254, Subdivision (f)(2), Conflicts With The Express Language And Purpose Of The PRA

As the California Supreme Court has stated, "[i]mplicit in the democratic process is the notion that government should be accountable for its actions. In order to verify accountability, individuals must have access to government files." (*CBS, Inc. v. Block* (1986) 42 Cal.3d 646, 651–52 ("*Block*").) The PRA was enacted for "the explicit purpose of 'increasing freedom of information' by giving the public 'access to information in possession of public agencies.'" (*Id.*, citations omitted). "*Maximum disclosure* of the conduct of governmental operations was to be promoted by the Act." (*Id.*, citations omitted; emphasis added.)

Accordingly, under California law, "[a]ll public records are subject to disclosure unless the [PRA] expressly provides otherwise." (*American Civil Liberties Union of Northern California v. Superior Court* (2011) 202 Cal.App.4th 55, 67, citations omitted ("*ACLU*").) And any express limitation on the public's right of access under the PRA must be "construed narrowly." (*Id.*; *see also* Cal. Const., art. I, § 3 subd. (b)(2).)[2] While agencies

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[2] In 2004, California voters approved Proposition 59, enshrining the public's right of access in California's Constitution, and mandating—as a matter of state constitutional law—that the access to government information afforded under the PRA be construed "broadly." (*See* Cal. Const., art. I, § 3 subd. (b)(2).) California appellate courts have viewed

[Footnote continued on next page]

may adopt regulations regarding procedures for making records and information available to the public, such regulations must be consistent with the PRA, and "reflect the intention of the Legislature to make the records accessible to the public." (Gov't Code, § 6253, subd. (a)–(b).)

Subdivision (f) of section 6254 exempts from the requirements of the PRA certain "records of complaints to, or investigations conducted by . . . any state or local police agency."[3] Notwithstanding that exemption, however, the PRA expressly mandates that state and local law enforcement agencies make public, among other things, the following information — "except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation":

[Footnote continued from previous page]

that constitutional amendment as an "endorse[ment]" of the strong "policy of transparency" underpinning the PRA. (*ACLU, supra*, 202 Cal.App.4th at p. 67, n 2.)

[3] This exemption is not a prohibition on the disclosure of such records. To the contrary, state and local law enforcement agencies may make such records available to the public at their discretion. (*See Black Panther Party v. Kehoe* (1974) 42 Cal.App.3d 645, 656 [stating that the "14 categories of disclosure-exempt material" identified in section 6254 "do not prevent an agency from opening its records to public inspection (unless some other statute forbids it"; the exemptions "are permissive, not mandatory; they permit nondisclosure but do not prohibit disclosure"].)

> Subject to the restrictions imposed by Section 841.5 of the Penal Code, the time, substance, and location of all complaints or requests for assistance received by the agency and the time and nature of the response thereto, including, to the extent the information regarding crimes alleged or committed or any other incident investigated is recorded, the time, date, and location of occurrence, the time and date of the report, the name and age of the victim, the factual circumstances surrounding the crime or incident, and a general description of any injuries, property, or weapons involved. . . .

(Gov't Code, § 6254, subd. (f)(2).)

Nothing in this provision expressly limits the information that must be made public under section 6254, subd. (f)(2) to "contemporaneous," as opposed to "historical," information, as the Superior Court's ruling below suggests. (*See* Order at p. 1.) And nothing in this provision, or in the PRA generally, imposes a 60 day limit on the public's right of access to the information identified in section 6254, subd. (f)(2). To the contrary, the language of this subdivision, which mandates access to "the time, substance and location of *all* complaints or requests for assistance received" by a state or local law enforcement agency is expansive. (Gov't Code, § 6254, subd. (f)(2), emphasis added.) There is simply no basis in the language of the statute (or its legislative history) for the City, or any other municipality or

local law enforcement agency, to read into section 6254, subd. (f)(2) a 60 day limitation on access.[4]

In short, far from being an express limitation set forth in the PRA, the 60 day limit placed on the public's right of access to information under section 6254, subd. (f)(2), by the Superior Court is unsupported by the statutory language and finds no support in the legislative history of the PRA. Indeed, it directly conflicts with "the strong legislative policy favoring access" that is embodied in the PRA, *ACLU, supra*, 202 Cal.App.4th at p. 67, and, as discussed in more detail in Section II.C, below, substantially undermines the PRA's purpose of ensuring that the government remains accountable to the public.

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[4] The California Supreme Court previously rejected a request to insert a temporal limitation into the PRA exemption for "investigatory files" set forth in section 6254, subd. (f). (*Williams v. Superior Court (Freedom Newspapers, Inc.)* (1993) 5 Cal.4th 337.) Notably, "[i]n considering the scope of the exemption," the Court "turn[ed] first to the language of the statute," noting that "nothing therein purports to place a time limit on the exemption for investigatory files," and explaining that it "is not the province of courts 'to insert what has been omitted.'" (*Id.* at p. 357 citations omitted.) For this same reason, this Court should reject the Superior Court's imposition of a temporal limitation on the information that state and local law enforcement agencies are required to disclose under section 6254, subd. (f)(2). (*See id.* at p. 361 ["Unless [the legislature's] judgment runs afoul of the Constitution it is not our province to declare that the statutorily required disclosures are inadequate *or that the statutory exemption from disclosure is too broad*." Emphasis added.].)

B. *Kusar* Cannot Be Read To Authorize Law Enforcement Agencies To Impose A Categorical 60 Day Limitation On Public Access To Information Under Section 6254, Subdivision (f)(2)

The Superior Court's Order, and the return filed by Real Party in Interest the City of San Diego (hereinafter, the "City"), rest almost exclusively on the court of appeal's decision in *County of Los Angeles v. Superior Court of Los Angeles County (Kusar)* (1993) 18 Cal.App.4th 588 ("*Kusar*"). (*See* Order at p. 1; City's Return at pp. 4–5.)[5] Yet, contrary to the City's arguments, *Kusar* does not support a 60 day limitation on the public's right of access to information under section 6254, subd. (f)(2).

As noted above, in 2004, California voters approved an amendment to the California Constitution that ensured that the public's right of access to information concerning "the people's business" was "enshrined in the State Constitution . . . ." (*International Federation of Professional & Tech-*

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[5] Both the Superior Court and the City also cite *MinCal Consumer Law Group v. Carlsbad Police Department* (2013) 214 Cal.App.4th 259, 263 (hereinafter, "*MinCal*") for the proposition that a 30-day limitation on the public's right of access to information under section 6254, subd. (f)(2), is permissible under the PRA. (*See* Order at p. 1; City's Return at p. 5 [arguing, on the basis of *MinCal*, that "[t]he City's sixty-day interpretation of "contemporaneous" is clearly reasonable and not arbitrary, or an abuse of discretion, as it is twice as long as courts have deemed to satisfy the *Kusar* requirement"].) Any reliance on that decision, however, is misplaced. As the City acknowledges, *id.*, the court of appeal in *MinCal* dismissed the petitioner's appeal for lack of jurisdiction; it <u>*never addressed*</u>—not even in dicta—the propriety of a 30-day limitation on the public's right of access to information under section 6254, subd. (f)(2). (*See MinCal, supra*, 214 Cal.App.4th at p. 263.)

nical Engineers, Local 21, AFL–CIO v. Superior Court (2007) 42 Cal.4th 319, 329.) Among other things, Proposition 59 made it a constitutional requirement that the provisions of the PRA that grant public access to information—provisions like section 6254, subd. (f)(2)—be interpreted "broadly," and that any "authority" limiting public access be interpreted "narrowly." (*See* Cal. Const., art. I, § 3 subd. (b)(2).)

The Superior Court incorrectly deemed Proposition 59 irrelevant to its analysis, concluding that the following portion of the constitutional amendment approved by voters meant that it was intended to have no impact on *Kusar*:

> [t]his subdivision does not repeal or nullify, expressly or by implication, any *constitutional or statutory exception* to the right of access to public records or meetings of public bodies that is in effect on the effective date of this subdivision, including, but not limited to, any statute protecting the confidentiality of law enforcement and prosecution records.

(Cal. Const., art I, § 3, subd. (b)(5), emphasis added; *see* Order at p. 2.) The "contemporaneous" rule of *Kusar* that is relied upon by the City, however, is neither a constitutional nor statutory exception to the public's right of access. *Kusar* was a *judicial decision* that interpreted language in section 6254, subd. (f). Put simply, Article 1, section 3, subd. (b)(5) is inapplicable here.

Article I, section 3, subd. (b)(2), on the other hand, plainly applies, not only to the PRA provision at issue, but to *Kusar* as well. It states, in pertinent part:

> [a] statute, court rule, *or other authority* including those in effect on the effective date of this subdivision, shall be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access.

(Cal. Const., art I, § 3, subd. (b)(2), emphasis added.)

Thus, because *Kusar* is judicial authority that serves to limit the public's right of access under the PRA, the passage of Proposition 59 requires courts to *narrowly construe* its holding. And, because section 6254, subd. (f)(2) "further the people's right of access" it must be interpreted "broadly." Instead, the Superior Court below broadly applied *Kusar* and narrowly construed section 6254, subd. (b)(2)'s affirmative grant of public access when it applied a 60 day limit to information available under that subdivision. (*See* Order at p. 2.) That is precisely the opposite of what the California Constitution requires.

Moreover, the unusual facts of *Kusar* —which involved a civil litigant's efforts to circumvent the denial of a motion to compel in a separate civil proceeding by seeking ten years of information pertaining to arrests made by two deputy sheriffs through a PRA request, *see Kusar, supra*, 18 Cal.App.4th at pp. 590–91 — provide an additional reason for courts to interpret its holding narrowly. The court of appeal in *Kusar* expressly stated

that the real purpose of the PRA request at issue in that case was to "discover indirectly information of the kind governed" by other statutes, namely sections of the Penal Code and Evidence Code. (*Id.* at p. 559.) Therefore, the court said it would not interpret the PRA "in a way that authorizes the circumvention of rulings of a court made pursuant to important discovery statutes protecting the confidentiality of law enforcement information." (*Id.* at 600.) However, that reasoning does not apply in this case, where there is no other way for Petitioner to access the records requested, and there is no attempt to circumvent established legal procedures. Nor is that reasoning applicable to journalists who submit requests under the PRA for information from law enforcement agencies in order to report on matters of public concern. Moreover, the petitioner's request for records in *Kusar*, was directed at the conduct of two specific officers; broad dicta in that decision should not be read to limit the public's right of access to information that does not relate to any specific, identified law enforcement personnel—like that sought by Petitioner—to 60 days.

In sum, in light of Proposition 59's post-*Kusar* constitutional mandate, the Superior Court erred as a matter of law when it concluded that law enforcement agencies may impose a categorical 60 day cut-off on the public's right of access to information section 6254, subd. (f)(2).

C. Limiting PRA Requests Under Section 6254, Subdivision (f)(2), To 60 Days Will Fundamentally Impair The Ability Of The Press And The Public To Understand The Workings Of Their Government

Limiting the ability of the public to access law enforcement records that are older than 60 days under the PRA would have a devastating effect on the ability of the press to perform its fundamental role of keeping citizens informed about the actions of their government. Reporters in California, like reporters around the nation, routinely rely on freedom of information laws like the PRA to access governmental records and information in order to bring important issues to the attention of the public. Without the ability to obtain information that is older than 60 days, the press and, accordingly, the public will be deprived of information that is vital to the functioning of a robust democratic society.

California journalists rely on the PRA to gain access to public records and information in connection with day-to-day reporting, as well as more in-depth and investigative stories. Often it is crucial for reporters to have access to records that are older than 60 days in order to gather enough information to identify trends and systemic issues. This is particularly true when it comes to reporting on law enforcement. Petitioner points to one example of a recent news story that demonstrates how vital it is for the press to have access to long-term data from California's law enforcement agencies in order to report on matters of public concern. (Pet.'s Reply Br.

at p. 5.) Yet, as illustrated by several other recent reports by members of the California media, there are numerous examples of powerful, important news stories that would not have been possible had public access to information been subject to a 60 day cut-off.

In August 2014, the *Los Angeles Times* reported that the Los Angeles Police Department ("LAPD") had misclassified over 1,000 violent crimes over a one year period between 2012 and 2013, resulting in inaccurate information being presented to the public regarding the crime rate in Los Angeles. (Ben Poston & Joel Rubin, *LAPD Misclassified Nearly 1,200 Violent Crimes as Minor Offenses*, L.A. Times (Aug. 9, 2014, 6:04 PM), http://lat.ms/1lT9MBW.) The investigative journalism that exposed these errors was only possible because of "the California Public Records Act, [through which the *Los Angeles Times*] obtained computerized crime data for more than 94,000 incidents recorded by the Los Angeles Police Department in the year ending Sept. 30, 2013." (Ben Poston & Joel Rubin, *LAPD's misclassified incidents: How we reported this story*, L.A. Times, (Aug. 9, 2014, 6:04 PM), http://lat.ms/1ul6ucf.) It was only by examining the information that they obtained through the PRA that the journalists were able to determine that there had been widespread misclassification of violent crimes. (*Id.*)

Significantly, the policies of the LAPD made it difficult for the reporters to get the information they needed: the reporters had to make two

separate PRA requests over the period of a year in order to build their data set, and their ability to identify further historical trends was limited by the LAPD's refusal to divulge data back to 2000. (*Id.*) Nevertheless, after the reporters questioned the LAPD about the underreporting of violent crimes, the police department took steps to improve the accuracy of its reporting. (Poston & Rubin, *LAPD Misclassified Nearly 1,200 Violent Crimes as Minor Offenses*, *supra.*)

Another California media organization recently obtained and analyzed information it obtained under the PRA to report on the relationship between police stops in San Francisco and race. "[I]n response to a public records request," a reporter was able to obtain information on the race of persons stopped by the San Francisco police from January to December of 2013, a 12 month period. (Vivian Ho, *Police rarely analyze, share racial data on stops*, SFGate, (Aug. 19, 2014, 8:04 AM), http://bit.ly/1nL9jgO.) The story showed that while San Francisco police were collecting stop data, they did not have the resources to analyze it. *Id.* It was up to the reporter who requested the data to scrutinize the numbers and inform the public that African American drivers made up 17% of stops, while only comprising 6% of the city's population. *Id.* Without the reporter's PRA request, and her ability to obtain a year's worth of data in response to that request, the analysis of stops conducted by the San Francisco police department would not have been possible.

The Los Angeles school police also recently came under public scrutiny as a result of data obtained under the PRA that was analyzed and reported on by researchers and journalists. This data, "obtained as a result of a public records request," showed that the school police issued more than 33,500 court summonses to youths between 10 and 18 over a three year period from 2009-2011. (Susan Ferriss, *School discipline debate reignited by new Los Angeles Data*, The Center for Public Integrity, (Apr. 24, 2012, 3:56 PM), http://bit.ly/1osjI19; Vanessa Romo, *LA School Police ticket more than 33,000 students, many are middle schoolers*, 89.3 KPCC Southern California Public Radio, (April 27, 2012), http://bit.ly/1qEDkn7.) Almost a quarter of those citations were issued to middle school students, with some being issued to students as young as seven years old. The data obtained through the PRA request also showed that black and Latino students were given a disproportionate number of tickets compared to white students, and that the citations were concentrated in low-income areas. (Susan Ferriss, *Los Angeles school police citations draw federal scrutiny*, The Center for Public Integrity, (May 21, 2012, 6:00 AM), http://bit.ly/1lTalf9.)

The information that was obtained highlighted a trend of police and court involvement in minor events that used to be handled by school officials: an incident as minor as school ground scuffle over a basketball game resulted in a 12 year old being arrested and taken away in handcuffs to be

fingerprinted and photographed at the local police station. (*Id.*) After the extent of police involvement was revealed, students and parents held protests, eventually leading to discussions between the police and the community. (*See id.*) That information has become an important source of facts in an ongoing conversation that most recently has resulted in Los Angeles school officials deciding to change its policies. (*See* Jennifer Medina, *Los Angeles to Reduce Arrest Rate in Schools*, The New York Times, (Aug. 18, 2014), http://nyti.ms/1wfTJ1S.) Under the new policy, law enforcement will no longer give citations for minor incidents. (*See id.*)

If law enforcement agencies are only required to disclose information relating to police activities within 60 days of a request, stories like these will not be possible. Indeed, to impose this kind of limit on the ability of journalists to access information would create a paradoxical situation where, in order to analyze data from law enforcement for trends over any extended period of time, journalist would have to know what trend they were looking for in advance. And even then, they would be able to obtain only prospective, not retrospective, information relating to that trend. Moreover, additional information would have to be requested every 60 days until a sufficient amount of data was collected.[6] Such a situation would un-

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[6] The extreme suggestion by the City of San Diego that public access to information under section 6254, subd. (f)(2) could be limited to infor-

[Footnote continued on next page]

dercut the entire rationale of the PRA: ensuring "the accountability of government to the public." (*Freedom Newspapers*, *supra*, 158 Cal.App.3d at p. 901.)

III. CONCLUSION

For the reasons set forth herein, *amici* respectfully urge this Court to grant the relief requested by Petitioner.

DATED: September 11, 2014

Respectfully submitted,

REPORTERS COMMITTEE FOR FREEDOM OF THE PRESS

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Jim Ewert
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mation from the last *24 hours*, City's Informal Resp. to Pet. for Extraordinary Writ at p. 4, is particularly troubling. Such an interpretation would lead to a nightmarish situation where reporters desiring meaningful information on a specific topic would be forced to file a new PRA request *every day*.

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CERTIFICATE OF COMPLIANCE

Pursuant to Rule 8.204(c) of the California Rules of Court, we hereby certify that this brief contains 3,794 words, including footnotes. In making this certification, I have relied on the word count function of the computer program used to prepare the brief.

DATED: September 11, 2014

Respectfully submitted,

REPORTERS COMMITTEE FOR FREEDOM OF THE PRESS

By: _____
Katie Townsend

Counsel for *Amici Curiae*

CERTIFICATE OF SERVICE

I am employed by the Reporters Committee for Freedom of the Press, and am a member of the bar of this Court. My business address is 1101 Wilson Boulevard, Suite 1100, Arlington, Virginia 22209. I am over the age of 18, and not a party to the above-captioned action.

On September 11, 2014, I served the foregoing document entitled

APPLICATION OF THE REPORTERS COMMITTEE FOR FREEDOM OF THE PRESS AND 6 MEDIA AND TRANSPARENCY ORGANIZATIONS FOR PERMISSION TO FILE BRIEF AS *AMICI CURIAE* IN SUPPORT OF PETITIONER; PROPOSED *AMICI CURIAE* BRIEF

on the following parties by enclosing it in sealed envelopes, addressed as follows, and taking the action described below:

Honorable Judge Ronald S. Prager
Superior Court of California, County of San Diego
330 West Broadway, Department 71
San Diego, California 92101
Respondent

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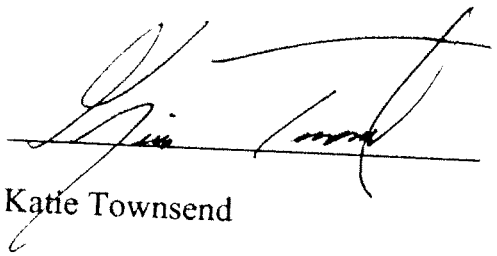
City of San Diego and Chief William M. Lansdowne

BY FEDEX NEXT DAY DELIVERY: By placing the document listed above in sealed envelopes with shipping pre-paid, and depositing said envelopes in a collection box for next day delivery to the person(s) at the address(es) set forth above via Federal Express.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on September 11, 2014



Katie Townsend