

No. 19-1015

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

LEVI FRASIER
PLAINTIFF-APPELLEE,
V.

DENVER POLICE OFFICERS
CHRISTOPHER L. EVANS, CHARLES C. JONES, JOHN H. BAUER, RUSSELL BOTHWELL,
AND JOHN ROBLEDO

DEFENDANTS-APPELLANTS

On Appeal from the United States District Court for the District of Colorado
The Honorable Robert E. Blackburn
District Court No. 15-cv-01759-REB-KLM

**BRIEF *AMICI CURIAE* OF THE REPORTERS COMMITTEE FOR
FREEDOM OF THE PRESS AND 38 MEDIA ORGANIZATIONS
IN SUPPORT OF PLAINTIFF-APPELLEE SEEKING AFFIRMANCE**

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STATEMENT OF INTEREST

Pursuant to Federal Rule of Appellate Procedure 29, the Reporters Committee for Freedom of the Press and 38 other organizations, through undersigned counsel, respectfully submit this brief as *amici curiae* in support of Plaintiff-Appellee Levi Frasier (“Frasier”).

Amici are news media organizations, publishers, and groups dedicated to protecting the First Amendment interests of the press and the public. A full list of *amici* is provided in Appendix A to this brief.¹ *Amici* have a strong interest in ensuring that the public’s and the news media’s First Amendment right to photograph and film the police performing their official duties in public is fully protected. Ordinary members of the public are increasingly the first to record breaking news, and *amici* and the public at large have a substantial interest in such user-generated content. The media relies on photographs and videos recorded by individuals to report the news and to shed light on how police officers are performing their official duties.

Defendants-Appellants argue that the First Amendment right to record police officers was not clearly established in the Tenth Circuit as of August 2014. Defs.-

¹ Pursuant to Fed. R. App. P. 29(a)(4)(E) *amici* state as follows: (1) no party’s counsel authored this brief in whole or in part; (2) no party or party’s counsel contributed money that was intended to fund preparing or submitting this brief; and (3) no person—other than the *amici curiae*, their members, or their counsel—contributed money that was intended to fund preparing or submitting this brief.

Appellants' Opening Br. at 21. To the contrary, this Court should find that the right is and was clearly established, and *amici* write to urge the Court to do so.²

SOURCE OF AUTHORITY TO FILE

Pursuant to Fed. R. App. P. 29(a)(2), this brief is filed with the consent of all parties.

² *Amici* do not address Defendants-Appellants' arguments that the district court erred in determining that the officers' conduct violated Frasier's right to be free from retaliation, or that district court erred in denying qualified immunity to the officers as to Frasier's civil conspiracy claims. These arguments are fully addressed in Frasier's brief. By not addressing these arguments, *amici* intend only to avoid unnecessary duplication of Frasier's arguments, and do not concede that Defendants-Appellants' arguments are correct.

SUMMARY OF THE ARGUMENT

The Court should hold that the First Amendment protects the right to record police in public during the performance of their official duties and that the right was clearly established at the time of Frasier's encounter with Defendants. Defs. Corrected App. V at 139. Recognizing this clearly established right will benefit police officers and ordinary members of the public alike, and by extension the news media who rely on recordings of police officers to report the news in communities across this country.

Numerous other federal appellate courts have expressly recognized that members of the public possess a qualified right, grounded in the First Amendment, to photograph and record the police in public places, subject to reasonable time, place, and manner restrictions. The correctness of this trend is buttressed by the foundational principle articulated by the Supreme Court that the constitutional protections for free speech and for the press were fashioned to assure the unfettered interchange of ideas for bringing about political and social changes desired by the people. *See N.Y. Times Co. v. Sullivan*, 376 U.S. 254, 269 (1964).

For the reasons set forth herein, *amici* respectfully urge this Court to affirm the district court's holding that Defendants-Appellants are not entitled to qualified immunity and recognize that the First Amendment protects the right to record police officers in the performance of their official duties in public.

ARGUMENT

I. Protecting the public’s and media’s ability to gather and share material of public interest is a central purpose of the First Amendment.

Even before the American Revolution, commentators noted the importance of government officials operating in sunlight rather than in secrecy. As one Whig commentator wrote:

That Men ought to speak well of their Governours is true, while their Governours deserve to be well spoken of; but to do publick Mischief, without hearing of it, is only the Prerogative and Felicity of Tyranny . . . The Administration of Government, is nothing else but the Attendance of the Trustees of the People upon the Interest and Affairs of the People: And as it is the Part and Business of the People, for whose Sake alone all publick Matters are, or ought to be transacted, to see whether they be well or ill transacted; so it is the Interest, and ought to be the Ambition, of all honest Magistrates, to have their Deeds openly examined, and publickly scann’d.

Thomas Gordon, Silence Dogood No. 8, *The New England Courant* (Boston), July 9, 1722. (Cato’s letters No. 15).

The founders also recognized this principle and embodied it in the First Amendment. A principal purpose of the First Amendment’s guarantee of freedom of speech and of the press is to secure the right to discuss public events and the conduct of government actors, as doing so facilitates the ability of the citizenry to serve as a check on government power. *See Mills v. State of Ala.*, 384 U.S. 214, 218–19 (1966) (“Whatever differences may exist about interpretations of the First Amendment, there is practically universal agreement that a major purpose of that Amendment was to protect the free discussion of governmental affairs.”). In the

19th century, legal scholars explained that the evils the First Amendment sought to prevent “were not the censorship of the press merely, but any action of the government by means of which it might prevent such free and general discussion of public matters as seems absolutely essential to prepare the people for an intelligent exercise of their rights as citizens.” Thomas M. Cooley, *A Treatise on Constitutional Limitations* (1868) at 422.

Thus, the First Amendment’s scope “encompasses a range of conduct related to the gathering and dissemination of information” and also prohibits the government from “limiting the stock of information from which members of the public may draw.” *First Nat’l Bank v. Bellotti*, 435 U.S. 765, 783 (1978).

Gathering information about government officials in a form that can readily be disseminated to others “serves a cardinal First Amendment interest in protecting and promoting the free discussion of governmental affairs.” *Glik v. Cunniffe*, 655 F.3d 78, 82 (1st Cir. 2011) (quoting *Mills*, 384 U.S. at 218). And as the Supreme Court has recognized, the press plays a critical role in acquiring and publishing information about matters of public concern. *See Mills*, 384 U.S. at 219 (“The Constitution specifically selected the press, which includes not only newspapers, books, and magazines, but also humble leaflets and circulars . . . to play an important role in the discussion of public affairs.”) (discussing *Lovell v. City of Griffin*, 303 U.S. 444 (1938)).

II. By filming matters of public interest, including police conduct, individuals can provide both the public and the news media with important, relevant, and newsworthy material.

The nature of media, technology, and disseminating the news has changed vastly since the founding of this country, but what has remained constant is the need for the news media to report on matters of public concern, including by going straight to the source. Today, the first source of information from the scene of a newsworthy event is often an average person with a smartphone. These individuals play a significant role in monitoring the functioning of government, particularly when they serve as a source for the news media, who can distribute the information more broadly. *See* Claire Wardle et al., *Amateur Footage: A Global Study of User-Generated Content in TV and Online-News Output*, A Tow/Knight Report, at 5 (2014), <https://perma.cc/9T68-STT3>.

News organizations use content generated by members of the public on a daily basis and, as a result, are able to produce stories that otherwise would not, or could not, be told. *Id.* at 2. A study of eight popular news websites, for example, showed that the sites collectively used 237 items of user-created video per day, with *The New York Times* using on average 20 pieces per day. Pete Brown, *A Global Study of Eyewitness Media in Online Newspaper Sites*, Eyewitness Media Hub, at 9 (2015), <https://perma.cc/WE4Z-MDXP>. User-generated video is an increasingly important source of information for members of the news media and

has helped journalists expose governmental abuse. See Seth F. Kreimer, *Pervasive Image Capture and the First Amendment: Memory, Discourse, and the Right to Record*, 159 U. Pa. L. Rev. 335, 341 (2011) (“In public discourse, pervasive image capture allows its users to hold public actors accountable and to participate effectively in public dialogue.”).

Even before the age of the smartphone, recordings of police made by non-journalists were critical to the news media’s ability to inform the public. George Holliday’s video of the 1991 police beating of Rodney King in Los Angeles is perhaps the most famous example of video captured by a member of the public and used by the media to inform the broader public. See Paul Pringle and Andrew Blankstein, *King Case Led to Major LAPD Reforms*, L.A. Times (June 17, 2012), <https://perma.cc/EWF9-GPQD>. After Los Angeles Police Department (“LAPD”) officials rejected Holliday’s attempts to provide them with his footage, Holliday delivered the footage to KTLA, a local TV news station. KTLA broadcast the footage the following night, setting in motion a sequence of events that resulted in the video being seen by millions and spurring reforms within the LAPD, *id.*— reforms that likely would not have occurred (at least not until much later) absent Holliday’s recording. See Report of the Independent Commission on the Los Angeles Police Department at ii (1991) (explaining that whether there even would have been an investigation into the LAPD without the video is doubtful, since the

efforts of Rodney King’s brother to file a complaint were hampered and the report of the officers was falsified).

As scholar Valecia J. Battle has explained, recordings of the police—and the broadcasting of those recordings by the news media—has long impacted societal issues like racial equality and civil liberties. In her article *Drop the Phone and Step Away from the Weapon: The First Amendment, the Camera Phone, and the Movement for Black Lives*, she writes about how in the 1950s and 1960s, “placing Jim Crow in the living rooms” of American families motivated individuals to travel to the South and join the burgeoning civil rights movement. 60 How. L.J. 531, 532–33 (2017). She describes how the phenomenon of filming and broadcasting police-community relations “has always been a way to use speech to combat that oppression and contribute to the marketplace of ideas of how our America should be.” *Id.*

Even the International Association of Chiefs of Police (“IACP”) has recognized that recordings of police officers benefit the public, providing relevant and important information. IACP has developed a training toolkit addressing “the public’s *right* to record police officers.” See The International Association of Chiefs of Police (IACP), *Public Recording of Police*, <https://perma.cc/SGH6-5EGR> (emphasis added). The toolkit states that “[r]ecording the actions and activities of police officers in the performance of their public duties is a form of

speech, protected by the First Amendment to the U.S. Constitution, through which individuals may gather and disseminate information of public concern.” IACP, *Public Recording of Police*, <https://perma.cc/2QYW-MB39>.

Indeed, video footage of police officers recorded by bystanders using their smartphones have regularly allowed news organizations to inform the public. *See Glik*, 655 F.3d at 84 (taking judicial notice of how the “proliferation of electronic devices with video-recording capability means that many of our images of current events come from bystanders with a ready cell phone or digital camera”). For example, on April 12, 2017, two officers kicked Demetrius Bryan Hollins in the head and punched him in the face during a traffic stop in Lawrenceville, Georgia. *See* Gabe Gutierrez and Eoghan Macguire, *Georgia Driver Demetrius Hollins Had Earlier 'Encounter' With Fired Cop*, NBC News (Apr. 14, 2017), <https://perma.cc/45ZQ-3X5L>. Cell phone video recorded by a witness, posted on social media, and reported on by the news media shows Hollins getting out of the car with his hands up; yet, one of the officers wrote in his police report that Hollins resisted arrest. *See* Victor Blackwell, *Georgia Student in Police Beating Video Says he Feared for his Life* (Apr. 17, 2017), <https://perma.cc/S3L2-9733>. While video showed the officer striking Hollins with his elbow, this was not mentioned in the police report. *Id.* The Gwinnett County Police Department fired the officers, *id.*, and they have since been indicted on nearly a dozen criminal charges, *see* CBS

News, *2 ex-cops indicted for allegedly stomping, hitting handcuffed man* (Mar. 1, 2018), <https://perma.cc/5595-R7DE>.

In the instant case, Frasier provided footage to his local Fox News station, which aired several stories about the case. *See, e.g.*, Chris Halsne and Chris Koeberl, *Denver Police accused of using excessive force, illegal search*, Fox 31 (Nov. 24, 2014), <https://perma.cc/YC9V-W4G6>. The footage even spurred passage of a bill in the state legislature to protect the right to record police. C.R.S. § 16-3-311; C.R.S. § 13-21-128 (eff. May 20, 2016); *see* Chris Halsne, *Colorado legislators target police harassment of citizen video*, Fox 31 (Feb. 11, 2015), <https://perma.cc/F82A-N52A>.

III. There is a broad consensus among federal appellate courts that the First Amendment protects an ordinary person’s right to film the police publicly performing their duties.

Courts all over the country recognize the constitutional nature of the right to film public officials, including police officers. Indeed, “most courts of appeal . . . have acknowledged that the First Amendment broadly protects the right to make audio or visual recordings of police activity.” Clay Calvert, *The Right to Record Images of Police in Public Places: Should Intent, Viewpoint, or Journalistic Status Determine First Amendment Protection?*, 64 UCLA L. Rev. Discourse 230, 236–37 (2016).

The federal courts of appeals for the First, Third, Fifth, Seventh, and Eleventh Circuits have all expressly recognized the First Amendment right to record the police in public, and the Ninth Circuit has recognized a First Amendment right to film matters of public interest, which would include police officers performing their duties.³ In *Glik v. Cunniffe*, the First Circuit considered the specific question of whether there exists a constitutionally protected right to videotape police carrying out their duties in public, stating that “[b]asic First Amendment principles, along with case law from this and other circuits, answer that question unambiguously in the affirmative.” 655 F.3d 78, 82 (1st Cir. 2011). The Third Circuit has similarly held that “recording police activity in public falls squarely within the First Amendment right of access to information. As no doubt the press has this right, so does the public.” *Fields v. City of Philadelphia*, 862 F.3d 353, 359 (3d Cir. 2017). The Fifth Circuit has also recognized a First Amendment right, subject to reasonable time, manner, and place restrictions, to photograph or videotape police conduct in *Turner v. Lieutenant Driver*, 848 F.3d 678, 688 (5th Cir. 2017). The Fifth Circuit in *Turner* also noted that “[i]n addition to the First Amendment’s protection of the broader right to film, the principles

³ The First, Seventh, Ninth, and Eleventh Circuits recognized the First Amendment right to record the police in public prior to Frasier’s encounter with Defendants-Appellants.

underlying the First Amendment support the particular right to film the police.” *Id.* at 689.

The Seventh Circuit has held that the “act of making an audio or audiovisual recording is necessarily included within the First Amendment's guarantee of speech and press rights as a corollary of the right to disseminate the resulting recording” where the plaintiff sought to make audiovisual recordings of police officers performing their duties in public places. *Am. Civil Liberties Union of Illinois v. Alvarez*, 679 F.3d 583, 595 (7th Cir. 2012). In *Smith v. City of Cumming*, 212 F.3d 1332 (11th Cir. 2000), the Eleventh Circuit also recognized a First Amendment right, subject to reasonable time, manner, and place restrictions, to photograph or videotape police conduct. And the Ninth Circuit, in *Fordyce v. City of Seattle*, 55 F.3d 436, 439 (9th Cir. 1995), recognized a “First Amendment right to film matters of public interest” in the context of a man who “was videotaping people on the streets of Seattle,” including police, during a public protest march.

Despite this overwhelming agreement among the federal courts of appeals,⁴ Defendants-Appellants argue that there lacks a “robust consensus” on the issue,

⁴ In addition, in 2012 and 2013, the Department of Justice publicly recognized a First Amendment right to film and photograph police officers when the officers are performing their duties in public places. *See, e.g.*, Statement of Interest of the United States, *Garcia v. Montgomery County*, 8:12-cv-03592-JFM (D. Md. Mar. 4, 2013), ECF No. 15 (stating that recording a police officer performing duties on a

citing to cases within the Tenth Circuit that they claim do not support a right to film the police in public. *See* Defs.-Appellants' Opening Br. at 27. The cases cited by Defendants-Appellants, however, are easily distinguishable.

In *Mocek v. City of Albuquerque*, 813 F.3d 912 (10th Cir. 2015), cited by Defendants-Appellants, the plaintiff attempted to film TSA agents at an airport. The Court held in that case that an airport is a nonpublic forum, where restrictions on expressive activity need only satisfy a requirement of reasonableness. *Id.* at 930. In contrast, here, Frasier filmed police officers in a traditionally public forum: the street. *See* Defs. Corrected App. V at 26 (stating that the incident took place near the corner of Alameda Boulevard and Federal Boulevard in Denver, Colorado, near a Walgreens).

Defendants-Appellants also cite *McCormick v. City of Lawrence, Kansas*, 130 F. App'x 987, 988 (10th Cir. 2005), which is also distinguishable. The plaintiffs in *McCormick* “resort[ed] to personal epithets [which] meant that they were ‘engaged in fighting words,’ rather than protected speech,” which was in part responsible for the failure of their First Amendment claims. *Id.* at 988. Nowhere

public street constitutes “core First Amendment conduct”); Statement of Interest of the United States, *Sharp v. Baltimore City Police Dep’t, et al.*, 1:11-cv-02888-BEL (D. Md. Jan. 10, 2012), ECF No. 24 (stating that the right to record police officers while performing duties in a public place is both “required by the Constitution” and “consistent with our fundamental notions of liberty” and accountability).

in the record does it show that Frasier used “fighting words” or engaged in any other similar conduct.

Finally, Defendants-Appellants’ attempt to rely on *Sandberg v. Englewood, Colorado*, 727 F. App’x 950 (10th Cir. 2018), also fails. As the Court explained in *Sandberg*, part of the reason it ruled against Sandberg was because all of the cases to which he cited were “factually distinguishable,” considering that they all “involve a bystander or third party recording the police, and do not involve the person who is the subject of the police action.” *Id.* at 963. Unlike Sanders, Frasier *was* a bystander filming a third-party’s interaction with the police. Thus, Defendants-Appellants’ reliance on this case, too, is misplaced.

IV. The Court should hold that it was and is clearly established that the First Amendment protects the right of members of the public to record police officers in the public performance of their duties.

Amici agree with Frasier that Defendants-Appellants are not entitled to qualified immunity in this case because they had actual knowledge that the First Amendment protects the public’s right to film police and because it was clearly established in August 2014 that bystanders have a First Amendment right to record police officers performing their public duties. *See* Defs. Corrected App. V at 55; *see also* Pl.’s Resp. Br. *Amici* do not address the specific issue of qualified immunity as applied to Defendants-Appellants based on their actual knowledge of the First Amendment right to record police, as Frasier already fully discusses this

issue in his brief. Pl.'s Resp. Br. at 29. But *amici* urge the Court to hold that there is a First Amendment right to record police officers in public that was clearly established in 2014 and remains clearly established today. Recognizing that the First Amendment protects an individual's right to film the police performing their official duties in public will enhance not only the news media's reporting on matters of public concern, but also the richness of our discussion of public affairs.

CONCLUSION

For the foregoing reasons and the reasons stated in Frasier's brief, the Court should affirm the district court's ruling that Defendants-Appellants are not entitled to qualified immunity on Frasier's First Amendment claim.

Respectfully submitted,

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APPENDIX A: DESCRIPTIONS OF *AMICI*

The Reporters Committee for Freedom of the Press is a voluntary, unincorporated nonprofit 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.

With some 500 members, **American Society of News Editors** (“ASNE”) is an organization that includes directing editors of daily newspapers throughout the Americas. ASNE changed its name in April 2009 to American Society of News Editors and approved broadening its membership to editors of online news providers and academic leaders. Founded in 1922 as American Society of Newspaper Editors, ASNE is active in a number of areas of interest to top editors with priorities on improving freedom of information, diversity, readership and the credibility of newspapers.

The Associated Press Media Editors is a nonprofit, tax-exempt organization of newsroom leaders and journalism educators that works closely with The Associated Press to promote journalism excellence. APME advances the principles and practices of responsible journalism; supports and mentors a diverse

network of current and emerging newsroom leaders; and champions the First Amendment and promotes freedom of information.

Association of Alternative Newsmedia (“AAN”) is a not-for-profit trade association for approximately 110 alternative newspapers in North America. AAN newspapers and their websites provide an editorial alternative to the mainstream press. AAN members have a total weekly circulation of seven million and a reach of over 25 million readers.

Boston Globe Media Partners, LLC publishes The Boston Globe, the largest daily newspaper in New England.

The California News Publishers Association (“CNPA”) is a nonprofit trade association representing the interests of over 1300 daily, weekly and student newspapers and news websites throughout California.

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 Colorado Broadcasters Association (“CBA”) is a non-profit trade association formed in 1949. The CBA's mission is to build a stronger broadcast industry. The CBA represents broadcasters, both public and private, interacts with state and national officials and trade groups to further the business of broadcasting, and works to provide public media access to the courts and fights to open public records. Among its many activities, the CBA is probably best known for its annual “Awards Of Excellence,” which honor broadcasters’ service to their communities.

The Colorado Freedom of Information Coalition (“CFOIC”) is a nonpartisan alliance of groups, news organizations and individuals dedicated to ensuring the transparency of state and local governments in Colorado by promoting freedom of the press, open courts and open access to government records and meetings. CFOIC helps Coloradans understand and use the Colorado Open Records Act, the Colorado Criminal Justice Records Act and the Colorado Open Meetings Law, as well as the rules governing court access. CFOIC also monitors Colorado legislation, judicial decisions and violations of the state’s open government laws.

The Colorado Independent is a statewide online news source founded in 2006 and re-established in 2013. The Colorado Independent's award-winning team of veteran investigative and explanatory reporters and news columnists aims to amplify the voices of Coloradans whose stories are unheard, shine light on the

relationships between people, power and policy, and hold public officials to account.

The Colorado Press Association is a trade association dedicated to the preservation, progression and modernization of Colorado's newspaper and related industries. It is organized to represent the common interests of Colorado's news organizations.

The Colorado Sun is an online news outlet based in Denver, Colorado. It is a journalist-owned, ad-free news outlet that strives to cover all of Colorado so that our state—our community—can better understand itself.

Digital First Media publishes The Denver Post, the San Jose Mercury News, the East Bay Times, St. Paul Pioneer Press, and the Detroit News and other community papers throughout the United States, as well as numerous related online news sites.

The E.W. Scripps Company serves audiences and businesses through local television, with 52 television stations in 36 markets. Scripps also owns Newsy, the next-generation national news network; podcast industry leader Stitcher; national broadcast networks Bounce, Grit, Escape, Laff and Court TV; and Triton, the global leader in digital audio technology and measurement services. Scripps serves as the long-time steward of the nation's largest, most successful and longest-running educational program, the Scripps National Spelling Bee.

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, we resist excessive government secrecy (while recognizing the need to protect legitimate state secrets) and censorship of all kinds.

First Look Media Works, Inc. is a non-profit digital media venture that produces The Intercept, a digital magazine focused on national security reporting. First Look Media Works operates the Press Freedom Defense Fund, which provides essential legal support for journalists, news organizations, and whistleblowers who are targeted by powerful figures because they have tried to bring to light information that is in the public interest and necessary for a functioning democracy.

Freedom of the Press Foundation is a non-profit organization that supports and defends public-interest journalism focused on transparency and accountability. The organization works to preserve and strengthen First and Fourth Amendment rights guaranteed to the press through a variety of avenues, including public advocacy, legal advocacy, the promotion of digital security tools, and crowd-funding.

Gannett Co., Inc. is a leading news and information company which publishes USA TODAY and more than 100 local media properties. Each month more than 125 million unique visitors access content from USA TODAY and Gannett's local media organizations, putting the company squarely in the Top 10 U.S. news and information category.

The International Documentary Association (IDA) is dedicated to building and serving the needs of a thriving documentary culture. Through its programs, the IDA provides resources, creates community, and defends rights and freedoms for documentary artists, activists, and journalists.

The Investigative Reporting Program (IRP) at UC Berkeley's Graduate School of Journalism is dedicated to promoting and protecting the practice of investigative reporting. Evolving from a single seminar, the IRP now encompasses a nonprofit newsroom, a seminar for undergraduate reporters and a post-graduate fellowship program, among other initiatives. Through its various projects, students have opportunities to gain mentorship and practical experience in breaking major stories for some of the nation's foremost print and broadcast outlets. The IRP also works closely with students to develop and publish their own investigative pieces. The IRP's work has appeared on PBS Frontline, Univision, Frontline/WORLD, NPR and PBS NewsHour and in publications such as Mother Jones, The New

York Times, Los Angeles Times, Time magazine and the San Francisco Chronicle, among others.

The Investigative Reporting Workshop, a project of the School of Communication (SOC) at American University, is a nonprofit, professional newsroom. The Workshop publishes in-depth stories at investigativereportingworkshop.org about government and corporate accountability, ranging widely from the environment and health to national security and the economy.

The McClatchy Company is a 21st century news and information leader, publisher of iconic brands such as the Miami Herald, The Kansas City Star, The Sacramento Bee, The Charlotte Observer, The (Raleigh) News and Observer, and the (Fort Worth) Star-Telegram. McClatchy operates media companies in 28 U.S. markets in 14 states, providing each of its communities with high-quality news and advertising services in a wide array of digital and print formats. McClatchy is headquartered in Sacramento, Calif., and listed on the New York Stock Exchange under the symbol MNI.

The Media Institute is a nonprofit research foundation specializing in communications policy issues founded in 1979. The Media Institute exists to foster three goals: freedom of speech, a competitive media and communications industry,

and excellence in journalism. its program agenda encompasses all sectors of the media, from print and broadcast outlets to cable, satellite, and online services.

MPA – The Association of Magazine Media (“MPA”) is the largest industry association for magazine publishers. The MPA, established in 1919, represents over 175 domestic magazine media companies with more than 900 magazine titles. The MPA represents the interests of weekly, monthly and quarterly publications that produce titles on topics that cover news, culture, sports, lifestyle and virtually every other interest, avocation or pastime enjoyed by Americans. The MPA has a long history of advocating on First Amendment issues.

The National Freedom of Information Coalition is a national nonprofit, nonpartisan organization of state and regional affiliates representing 45 states and the District of Columbia. Through its programs and services and national member network, NFOIC promotes press freedom, litigation and legislative and administrative reforms that ensure open, transparent and accessible state and local governments and public institutions.

The National Press Club is the world’s leading professional organization for journalists. Founded in 1908, the Club has 3,100 members representing most major news organizations. The Club defends a free press worldwide. Each year, the

Club holds over 2,000 events, including news conferences, luncheons and panels, and more than 250,000 guests come through its doors.

The National Press Club Journalism Institute is the non-profit affiliate of the National Press Club, founded to advance journalistic excellence for a transparent society. A free and independent press is the cornerstone of public life, empowering engaged citizens to shape democracy. The Institute promotes and defends press freedom worldwide, while training journalists in best practices, professional standards and ethical conduct to foster credibility and integrity.

The National Press Photographers Association (“NPPA”) is a 501(c)(6) non-profit organization dedicated to the advancement of visual journalism in its creation, editing and distribution. NPPA’s members include television and still photographers, editors, students and representatives of businesses that serve the visual journalism industry. Since its founding in 1946, the NPPA has vigorously promoted the constitutional rights of journalists as well as freedom of the press in all its forms, especially as it relates to visual journalism. The submission of this brief was duly authorized by Mickey H. Osterreicher, its General Counsel.

The New York Times Company is the publisher of *The New York Times* and *The International Times*, and operates the news website nytimes.com.

The News Media Alliance is a nonprofit organization representing the interests of online, mobile and print news publishers in the United States and

Canada. Alliance members account for nearly 90% of the daily newspaper circulation in the United States, as well as a wide range of online, mobile and non-daily print publications. The Alliance focuses on the major issues that affect today's news publishing industry, including protecting the ability of a free and independent media to provide the public with news and information on matters of public concern.

The Online News Association is the world's largest association of digital journalists. ONA's mission is to inspire innovation and excellence among journalists to better serve the public. Membership includes journalists, technologists, executives, academics and students who produce news for and support digital delivery systems. ONA also hosts the annual Online News Association conference and administers the Online Journalism Awards.

Radio Television Digital News Association ("RTDNA") is the world's largest and only professional organization devoted exclusively to electronic journalism. RTDNA is made up of news directors, news associates, educators and students in radio, television, cable and electronic media in more than 30 countries. RTDNA is committed to encouraging excellence in the electronic journalism industry and upholding First Amendment freedoms.

Reporters Without Borders has been fighting censorship and supporting and protecting journalists since 1985. Activities are carried out on five continents

through its network of over 130 correspondents, its national sections, and its close collaboration with local and regional press freedom groups. Reporters Without Borders currently has 15 offices and sections worldwide.

Reuters, the world's largest international news agency, is a leading provider of real-time multi-media news and information services to newspapers, television and cable networks, radio stations and websites around the world. Through Reuters.com, affiliated websites and multiple online and mobile platforms, more than a billion professionals, news organizations and consumers rely on Reuters every day. Its text newswires provide newsrooms with source material and ready-to-publish news stories in twenty languages and, through Reuters Pictures and Video, global video content and up to 1,600 photographs a day covering international news, sports, entertainment, and business. In addition, Reuters publishes authoritative and unbiased market data and intelligence to business and finance consumers, including investment banking and private equity professionals.

The Society of Environmental Journalists is the only North-American membership association of professional journalists dedicated to more and better coverage of environment-related issues.

Society of Professional Journalists ("SPJ") is dedicated to improving and protecting journalism. It is the nation's largest and most broad-based journalism organization, dedicated to encouraging the free practice of journalism and

stimulating high standards of ethical behavior. Founded in 1909 as Sigma Delta Chi, SPJ promotes the free flow of information vital to a well-informed citizenry, works to inspire and educate the next generation of journalists and protects First Amendment guarantees of freedom of speech and press.

TEGNA Inc. owns or services (through shared service agreements or other similar agreements) 49 television stations in 41 markets.

The Tully Center for Free Speech began in Fall, 2006, at Syracuse University's S.I. Newhouse School of Public Communications, one of the nation's premier schools of mass communications.

VICE Media is the world's preeminent youth media company. It is a news, content and culture hub, and a leading producer of award-winning video, reaching young people on all screens across an unrivaled global network.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Brief *Amici Curiae* of the Reporters Committee for Freedom of the Press and 38 Media Organizations in Support of Plaintiff-Appellee Seeking Affirmance was served electronically, by the Appellate E-Filing System, on May 6, 2019 upon the following:

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