
IN THE SUPREME COURT OF ILLINOIS

THE CITY OF CHICAGO,

Petitioner/Appellee,

vs.

FRATERNAL ORDER OF POLICE,
CHICAGO LODGE NO. 7

Respondent/Appellant

On appeal from the Appellate Court of Illinois,
First District, No. 1-17-2907
There heard on appeal from the Circuit Court of Cook County, Illinois
No. 2016 CH 9793
Honorable Sanjay T. Tailor, Judge Presiding

**MOTION OF PROPOSED AMICI CURIAE
THE REPORTERS COMMITTEE FOR FREEDOM OF THE PRESS
AND 19 NEWS MEDIA ORGANIZATIONS FOR LEAVE TO FILE BRIEF
IN SUPPORT OF THE CITY OF CHICAGO SEEKING AFFIRMANCE**

Natalie J. Spears
Gregory R. Naron
Julius C. Carter
Dentons U.S. LLP
233 South Wacker Drive, Suite 5900
Chicago, IL 60606-6361
(312) 876-2556

Counsel for Amici

Pursuant to Illinois Supreme Court Rule 345, the Reporters Committee for Freedom of the Press (the “Reporters Committee”) and 19 other organizations (collectively, “Amici”) move for leave to file the attached brief in support of the City of Chicago. The City of Chicago consents to the filing of this amicus brief; the Fraternal Order of Police, Chicago Lodge No. 7 does not consent.

ARGUMENT

This Court has authority to accept briefs of amici curiae, which it grants in its discretion. *See* Ill. Sup. Ct. R. 345(a); *see also* *Donna M. Kinkel, etc., v. Cingular Wireless, L.L.C.*, No. 100925, 2006 WL 8458036, at *1 (Ill. Jan. 11, 2006); *Lakewood Nursing & Rehab. Ctr., LLC v. Dep’t of Pub. Health*, 2019 IL 124019, ¶ 12; *Karas v. Strevell*, 227 Ill. 2d 440, 450 (2008) (noting grants of amicus briefs). A motion for leave to file an amicus brief must identify the interest of the applicant and explain how it will assist the Court. Ill. Sup. Ct. R. 345(a).

Statement of Amici’s interest:

Amici are news media organizations, publishers, and other organizations dedicated to defending the freedom of information and newsgathering rights of journalists. As such, Amici have a strong interest in this case, which concerns the preservation—and consequently access to—historic law enforcement records. Members of the press rely on public records laws like Illinois’ Freedom of Information Act, 5 ILCS §140/1, *et seq.*, to obtain information on the conduct of government actors, including police officers, to educate the public about issues bearing directly on their communities. Access to and reporting on such information allows for informed discourse about matters of public concern, which is essential to a robust democracy. *See, e.g., Rushton v. Dep’t*

of Corr., 2019 IL 124552 ¶ 23; *Richmond Newsp., Inc. v. Virginia*, 448 U.S. 555, 572 (1980) (“People in an open society do not demand infallibility from their institutions, but it is difficult for them to accept what they are prohibited from observing”). Amici submit this motion to highlight the press’s unique role and interest in preserving public records related to police misconduct.

Amici’s brief will assist the Court in its resolution of this matter:

Amici’s brief draws upon their expertise in public records laws and their practical experience gathering and reporting the news. Specifically, Amici’s brief discusses how a state’s public records obligations may not be subjugated to incompatible contracts, Br. of Amici Curiae The Reporters Committee for Freedom of the Press and 19 Other News Media Organizations in Support of the City of Chicago Seeking Affirmance (“Amici Br.”) at 2–4; explains how members of the news media, and by extension, the public at large, tangibly benefit by accessing public records explicitly subject to disclosure under freedom of information laws, Amici Br. at 8–12; and broadly discusses the “important role in the discussion of public affairs” that members of the news media are able to fulfill when they have access to government records—including those related to police misconduct. *Mills v. Alabama*, 384 U.S. 214, 219 (1966). Amici respectfully submit that the perspective and emphasis they will bring to bear in their brief is not only helpful, but important to the Court’s deliberations.

For these reasons, Amici respectfully request that the Court grant leave to file the attached amicus brief.

Respectfully submitted,

/s/ Natalie J. Spears
Natalie J. Spears

Dentons U.S. LLP
233 South Wacker Drive, Suite 5900
Chicago, IL 60606-6361
(312) 876-2556
natalie.spears@dentons.com

Counsel for Amici

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion of Amici Curiae The Reporters Committee for Freedom of the Press and 19 Other News Media Organizations for Leave to File Brief in Support of the City of Chicago Seeking Affirmance, and attachments thereto, was filed electronically on February 13, 2020, with the Supreme Court of Illinois using the Court's electronic filing system and that the same was emailed to the following counsel of record:

Justin Houppert
Assistant Corporation Counsel
City of Chicago
30 N. LaSalle Street, Suite 800
Chicago, IL 60602
312-744-0468
justin.houppert@cityofchicago.org

Counsel for Petitioner/Appellee
Brian C. Hlavin

Baum Sigman Auerbach & Neuman,
Ltd.
200 West Adams Street, Suite 2200
Chicago, IL 60606
312-236-4316
bhlavin@baumsigman.com

Counsel for Respondent/Appellant

Within five days of acceptance by the Court, the undersigned also states that she will cause thirteen copies of the Brief to be mailed with postage prepaid addressed to:

Clerk's Office - Springfield
Supreme Court Building
200 E. Capitol Ave.
Springfield, IL 62701

Under penalties by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this notice of filing and certificate of service are true and correct.

/s/ Natalie J. Spears

Natalie J. Spears

Counsel of record for amici curiae

EXHIBIT

No. 124831

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Natalie J. Spears
Gregory R. Naron
Julius C. Carter
Dentons U.S. LLP
233 South Wacker Drive, Suite 5900
Chicago, IL 60606-6361
(312) 876-2556

Counsel for Amici

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INTRODUCTION AND STATEMENT OF INTEREST

Amici are news media organizations, publishers, and groups dedicated to protecting the freedom of information interests of the press and the public.¹ Amici write to emphasize the importance of press and public access to historic law enforcement records, including Complaint Register (“CR”) records, under the Illinois Freedom of Information Act, 5 ILCS §140/1, *et seq.* (“FOIA” or the “Act”). Access to such records makes it possible for journalists and news organizations to report on matters of significant public concern and, accordingly, enables public oversight of government agencies and officials.

Amici frequently rely on public records, including those obtained pursuant to FOIA, to report on police-community relations and to shed light on the conduct of law enforcement. Members of the news media, including Amici, play a key role in fulfilling FOIA’s promise of “enabl[ing] the people to fulfill their duties of discussing public issues fully and freely, making informed political judgments[,] and monitoring government to ensure that it is being conducted in the public interest.” 5 ILCS §140/1. As such, Amici have a strong interest in this case.

This Court should affirm the decision below that correctly vacated an arbitration award requiring the City of Chicago (the “City”) to destroy records of alleged police misconduct that are more than five years old. That arbitration award is in direct conflict with Illinois’ strong public policy requiring the proper maintenance of important public records for the benefit of the public. The award also impermissibly subjugates FOIA—a state law—to a contract, sacrificing the interests of citizens who are entitled to

¹ A full list of Amici is provided in Appendix A to this brief.

information about the operations of their government, including about the law enforcement officers sworn to serve them.

Access to the records sought to be preserved by the City in this case will enable members of the news media—and other members of the public, including social science researchers and historians—to analyze and report on issues critical to Chicago’s communities, while providing oversight, fostering accountability, and building institutional trust. Accordingly, for the reasons herein, Amici urge the Court to affirm the decision of the First District Appellate Court vacating the arbitration award as contrary to public policy.

ARGUMENT

The records-destruction provision found in section 8.4 of the Collective Bargaining Agreement (“CBA”) between the City and the Fraternal Order of Police (“FOP”) is fundamentally at odds with Illinois’ well-established policy of government transparency, which is necessary to ensure government accountability to the public. In addition to fundamental legal principles that require vacation of the arbitration award, enforcement of the CBA would hinder public understanding about police discipline and accountability, currently and historically, stifling informed public discourse about issues relating to law enforcement in Chicago.

I. Government entities may not contract out of their statutory public records obligations.

The Fraternal Order of Police argues, in effect, that the CBA should function as a FOIA exemption for records of police misconduct that are more than five years old. Br. of Resp’t/Appellant at 24–46. FOP seeks this result despite the fact that neither private parties nor the judiciary may create FOIA exemptions; that a power is solely within the

prerogative of the Legislature. *See, e.g., Fagel v. Dep't of Transp.*, 2013 IL App (1st) 121841, ¶ 35, *appeal denied*, 996 N.E.2d 12 (Ill. 2013) (stating that an agency's concern, no matter how legitimate, about misuse of information gathered under FOIA "is not an exemption under section 7 of FOIA," and therefore "declin[ing] to create such an exemption."). The public's right to information under FOIA may not be bargained away.

While FOP attempts to confer legislative status on a single section of the CBA, that provision does not have the power to modify the disclosure, disposal, or retention requirements of Illinois' public records laws. It is axiomatic that a statute's plain text is binding: "We may not depart from a statute's plain language by reading into it exceptions, limitations, or conditions the legislature did not express." *Kalven v. City of Chicago*, 2014 IL App (1st) 121846, ¶ 12, 7 N.E.3d 741, 745. This fundamental precept is regularly applied in the public records context. *See id.*; *see also Milner v. Dep't of Navy*, 562 U.S. 562 (2011)

As this Court recently observed, "governmental entities must not be permitted to avoid their disclosure obligations" by way of private contracts. *Rushton v. Dep't of Corr.*, 2019 IL 124552 ¶ 23. Consistent with that observation, courts from around the country that have addressed the interaction between contracts, like the CBA, and state public records laws have consistently held that a contract cannot override a statutory mandate of access. For example, in *State ex rel. Dispatch Printing Co. v. Wells*, 18 Ohio St. 3d 382, 384 (1985), the Ohio Supreme Court held that a contractual provision between a city and its employees could not alter the duties of the city to provide access to public records under that state's public records law. In *New Mexico Foundation for Open Government v. Corizon Health*, No. A-1-CA-35951, 2019 WL 4551658 (N.M. Ct. App.

Sept. 13, 2019), the court explained that attempting to circumvent a citizen’s right of access to public records by way of contracts was a practice that stood to “thwart the very purpose of [the] Public Records Act and [would] mark a significant departure from New Mexico’s presumption of openness at the heart of New Mexico access law.” *Id.* at *5. And *New Orleans Bulldog Society v. Louisiana Society for the Prevention of Cruelty to Animals*, 2015-1351 (La. App. 4 Cir. 9/7/16), also made clear that Louisiana’s “Public Records Law cannot be circumscribed by a contract.”²

In sum, the overwhelming weight of persuasive authority supports the conclusion reached by this Court in *Rushton*: government agencies cannot contract away their public records obligations under FOIA. Because the public’s statutory right of access to the records in this case must prevail over any conflicting provision of the CBA, this Court should affirm the vacation of the arbitration award.

II. This Court should affirm the Appellate Court’s decision to vacate the arbitration award as violative of public policy.

The Fraternal Order of Police asks the Court to hold that a provision of a collective bargaining agreement controls over a duly enacted statute passed by the Illinois Legislature. While FOP argues judicial review of an arbitration award is limited, Pet. for Leave to Appeal at 8, courts “may refuse to enforce contracts that violate law or public policy[.]” *see, e.g., United Paperworkers, Int’l Union v. Misco, Inc.*, 484 U.S. 29, 42 (1987), as FOP acknowledges, *see* Pet. for Leave to Appeal at 9. Specifically, denial of

² *See also Spectraserv, Inc. v. Middlesex Cty. Utils. Auth.*, 7 A.3d 231, 242 (N.J. Super. Ct. App. Div. 2010) (third party’s interest did not supersede a records custodian’s obligation to produce non-exempt documents under New Jersey’s Open Public Records Act); *SWB Yankees LLC v. Wintermantel*, 615 Pa. 640, 659 (2012) (government agencies must not “be free to contract away the public access requirements of the [law]”).

enforcement of an arbitration award is warranted when the award is “clearly contrary to what the constitution, the statutes or the decisions of the courts have declared to be the public policy or unless they are manifestly injurious to the public welfare.” *Fosler v. Midwest Care Ctr. II, Inc.*, 398 Ill. App. 3d 563, 571 (2nd Dist. 2010). The threshold question in such an inquiry is whether a well-defined and dominant public policy can be identified; if so, the court must determine whether the arbitral award violated such policy. *Am. Federation of State, Cty. & Mun. Emps. v. Dep’t of Cent. Mgmt. Servs.*, 173 Ill. 2d 299, 307–08 (1996) (“*AFSCME*”).

Here, the Appellate Court correctly relied on the Local Records Act, the State Records Act, and, of course, FOIA in concluding that “[t]hese statutes clearly show that Illinois recognizes a public policy favoring the proper retention of important government records for the benefit of the public.” Op. at ¶32.

- A. Illinois statutes evidence a strong, well-defined public policy interest in the retention of important public records by agencies to ensure government transparency.

Illinois law contains a multitude of legislative mandates and statements of purpose clearly expressing that the public policy of this State is to properly preserve important public records for the benefit of the public. Of particular relevance here is the provision of the Local Records Act vesting the Local Records Commission with the ultimate authority to determine what records should be maintained or destroyed. *See* 50 ILCS §205/10. As stated by the court below, the arbitration award “ignored the requirements of the Local [Records] Act and obviates the local record commission’s authority to determine what records should be destroyed or maintained[,]” as “the award required the City to destroy records related to alleged police misconduct without regard

to the statute’s explicit concerns for those records’ ‘administrative, legal, research or historical value.’” Op. at ¶ 36; *see also, e.g.*, 5 ILCS §160/17 (“Regardless of other authorization to the contrary . . . no record shall be disposed of by any agency of the State, unless approval of the State Records Commission is first obtained.”); 5 ILCS §160/3 (“[State] records may not be mutilated, destroyed, transferred, removed, or otherwise damaged or disposed of, in whole or in part, except as provided by law.”).

In addition to this statutory mandate, the CBA provision flies directly in the face of the public policy explicitly stated in Section 1 of the FOIA, 5 ILCS §140/1:

Pursuant to the fundamental philosophy of the American constitutional form of government, it is declared to be the public policy of the State of Illinois that all persons are entitled to full and complete information regarding the affairs of government and the official acts and policies of those who represent them as public officials and public employees consistent with the terms of this Act. Such access is necessary to enable the people to fulfill their duties of discussing public issues fully and freely, making informed political judgments and monitoring government to ensure that it is being conducted in the public interest.

The General Assembly hereby declares that it is the public policy of the State of Illinois that access by all persons to public records promotes the transparency and accountability of public bodies at all levels of government. It is a fundamental obligation of government to operate openly and provide public records as expediently and efficiently as possible in compliance with this Act.

The State’s strong policy of openness and transparency in government enunciated in FOIA has been repeatedly cited by this Court. *See, e.g., Rushton v. Dep’t of Corr.*, 2019 IL 124552 ¶ 23 (stating about the FOIA that “it is expressly based on a policy of *full, complete disclosure* regarding the affairs of government to promote accountability in government and an informed citizenry” (emphasis added) (quoting *Bowie v. Evanston Cmty. Consol. School Dist. No. 65*, 128 Ill. 2d 373, 378–79 (1989)); *Stern v. Wheaton-Warrenville Community Unit Sch. Dist. 200*, 233 Ill.2d 396 (2009); *S. Illinoisan v. Dep’t.*

of Pub. Health, 218 Ill.2d 390 (2006); *Ill. Educ. Ass'n v. Ill. State Bd. of Educ.*, 204 Ill.2d 456 (2003).

Thus, as much as FOP insists that “the City and the lower Courts . . . [have] failed to give due regard to the strong public policy embodied in the Illinois Public Labor Relations Act, 5 ILCS §5/1, *et seq.* and the Uniform Arbitration Act, 710 ILCS §5/1, *et seq.*, favoring collective bargaining and the enforcement of labor arbitration awards[,]” Br. of Resp’t/Appellant at 24, the specific CBA provision at issue is directly contrary to the letter and spirit of the Illinois FOIA, 5 ILCS §140/1, *et seq.*; the State Records Act, 5 ILCS §160/1, *et seq.*; and the Local Records Act, 50 ILCS §205/1, *et seq.* Any general policy preference for the enforcement of contracts like the CBA is negligible when a contract’s specific provisions contravene the express terms of duly enacted laws that affect and benefit the public as a whole. Indeed, the standard FOP urges this Court to apply—that the exception to enforcement of arbitration awards can be “invoked only when a contravention of public policy is clearly shown[,]” Br. of Resp’t/Appellant at 26—is *easily* satisfied here. Illinois’ public policy clearly and unequivocally favors of government transparency and records preservation.

Indeed, the records here are particularly infused with public interest. As this Court has emphasized, a police officer’s duties are “peculiarly ‘governmental’ in character and highly charged with the public interest;” as such,

the public has a far greater interest in the qualifications and conduct of law enforcement officers, even at, and perhaps especially at, an ‘on the street’ level than in the qualifications and conduct of other comparably low-ranking government employees performing more proprietary functions. The abuse of a patrolman's office can have great potentiality for social harm

Coursey v. Greater Niles Twp. Pub. Corp., 40 Ill.2d 257, 265 (1968); *see also Cassidy v. Am. Broad. Cos., Inc.*, 60 Ill. App. 3d 831, 839 (1st Dist. 1978) (“the conduct of a policeman on duty is legitimately and necessarily an area upon which public interest may and should be focused”); *Meiners v. Moriarity*, 563 F.2d 343, 352 (7th Cir. 1977) (emphasizing public interest in performance of federal agents “whose decisions to search and to arrest directly and personally affect individual freedoms”).

- B. Press and public access to current and historical CR files serves the State’s strong public policy interest in government transparency by ensuring that citizens are informed about the actions of law enforcement.

This State’s strong public policy favoring the retention of important records by government agencies for the benefit of the public is clear, and that policy is not an arid platitude: members of the news media, like Amici, know first-hand the important, concrete public benefits afforded by retention and disclosure of law enforcement records like those at issue here.

In a speech to the Chicago City Council following the release of dashboard camera footage showing the murder of teenager Laquan McDonald by Chicago police, then-Mayor Rahm Emanuel called for an end to the “tendency to ignore” and the “tendency to deny” incidents of police misconduct within Chicago, acknowledging that reform first requires confronting reality. Brent McDonald, *Chicago Mayor Apologizes*, *The New York Times* (Dec. 9, 2015), <https://perma.cc/Y2FB-DSBL> at 1:25–2:02. Retention and disclosure of records concerning potential or actual incidents of police misconduct, including historical incidents, is essential to understanding that reality. Indeed, the January 13, 2017 report issued by the Department of Justice following its investigation of the Chicago Police Department’s use-of-force policies concluded that

section 8.4's "document destruction provision not only may impair the investigation of older misconduct, but also deprives [the Department] of important discipline and personnel documentation that will assist in monitoring historical patterns of misconduct." Department of Justice, *Investigation of the Chicago Police Department* (Jan. 13, 2017), <https://perma.cc/F9GM-L24K>.

Just as the CBA's record destruction provision obstructed the ability of the Department of Justice to conduct its work, so too does it damage the ability of the press to inform the public. Members of the news media play a key role in equipping citizens with the information they need to meaningfully participate in public debate and hold government agencies and officials accountable. Journalists and news organizations rely on access to public records laws like FOIA to perform that important function:

Although open records statutes allow nearly anyone to ask for government information, the media has assumed the role of "surrogate" of the public to disseminate information and hold government officials accountable, often using FOIA statutes [T]he task [of acting as government watchdogs] has fallen to the media, which act as a sort of independent auditor of the government on behalf of the people

Laura Danielson, *Giving Teeth to the Watchdog: Optimizing Open Records Appeals Processes to Facilitate the Media's Use of FOIA Laws*, 2012 Mich. St. L. Rev. 981, 989–90 (2012); *see also* Derigan Silver, *The News Media and the FOIA*, 21 Comm. L. & Pol'y 493, 493–94 (2016) (discussing the legislative history of the federal Freedom of Information Act, stating that "the law was intended to help the media inform the public about government operations and thus advance democratic participation in government and facilitate the press's ability to act as a check on government abuse, two of the most fundamental theories concerning the role of freedom of expression and the press in a democratic society").

Access to government records concerning police misconduct, in particular, has made possible powerful journalism covering issues important to communities across Illinois and the nation. The Citizens Police Data Project published by the Invisible Institute contains misconduct records of Chicago police officers in a comprehensive, searchable format, that has enabled important reporting and analysis. The data covers more than 30,000 officers and almost 23,000 complaints between 2000 and 2018. *See* Invisible Institute, *Citizens Police Data Project* (last updated July 2018), <https://perma.cc/EF6M-W47N>. The virtues of public access to this data are multifaceted:

Rather than resulting in salacious gossip of isolated instances of misconduct[,] . . . [a] creative publication like Citizens Police Data Project stimulates helpful public debate over systemic reform. An informed debate about a police disciplinary system may question whether certain types of misconduct have too broad a range of penalties. It may question whether a type of lenient penalty is too often the outcome for serious misconduct like false statements. It may question whether certain types of misconduct, like unlawful stops, come more often from particular commands The Chicago database is the type of publication that empowers communities to push reforms with data-driven analysis . . . and to make systemic change.

Cynthia H. Conti-Cook, *A New Balance: Weighing Harms of Hiding Police Misconduct Information from the Public*, 22 CUNY L. Rev. 148, 174–75 (2019).

Reporting based on the Citizens Police Data Project has revealed striking trends in how misconduct spreads by way of example when new officers are exposed to the problematic tendencies of other officers. *See, e.g.,* Rob Arthur, *Bad Chicago Cops Spread Their Misconduct Like a Disease*, *The Intercept* (Aug. 16, 2018), <https://perma.cc/3SQU-524T> (“The data shows that [officers prone to misconduct] also may be teaching their colleagues bad habits The officers who had been exposed to the . . . misconduct-prone cops . . . went on to show complaint rates nine times higher over the next ten years than those who hadn’t.”). Indeed, abundant in the data are

examples of young officers whose trajectories bent toward misconduct after exposure to officers with histories of misconduct.

For example, one new officer who joined the department in 2001 received two complaints in his first three years on the force; both times, he was exonerated. *Id.* In 2004, just after completing his third year on the job, the officer was accused of using excessive force. *Id.* He was listed on the complaint with four other officers, two of whom had multiple other complaints against them. *Id.* From that point on, his complaint rate skyrocketed (with more allegations than 93% of other officers), and his use-of-force rate increased as well—from fewer than two incidents per year to six in 2014. *Id.* That officer was Jason Van Dyke, who was convicted of the 2014 murder of teenager Laquan McDonald in 2019. This is just one of the many stories that can only be told only when the public and the press have access to the type of records at issue in this case.

Presently, a consent decree between the State of Illinois and the City entered earlier this year responds to the concerning trends illuminated by the Citizens Police Data Project by formalizing an “early intervention” prescription to “proactively identify at-risk behavior by officers” in an effort to stem the injurious ripple effect of officer misconduct. *Illinois v. City of Chicago*, Case No. 1:17-cv-06260, N.D. Ill., Dkt. 703-1, Consent Decree, issued Jan. 31, 2019. The Invisible Institute used the Citizens Police Data Project to provide statistical analysis in support of the plaintiffs in *Campbell v. City of Chicago*, Case No. 17-cv-4467, N.D. Ill., the case which led Illinois Attorney General Lisa Madigan to seek development and implementation of the current consent decree between the State and the City of Chicago. *See* Jamie Kalven, *Chicago Faces a Defining*

Moment in Police Reform and Civil Order, The Intercept (Aug. 15, 2018),
<https://perma.cc/38EX-S48S>.

Just last year in California, the state legislature voted to pass S.B. 1421, a new law which, according to its author, “open[s] up some transparency to help rebuild that trust between law enforcement and communities.” Liam Dillon, *Bid to open California’s secret police misconduct files takes major step forward*, Los Angeles Times (Aug. 16, 2018), <https://perma.cc/6CSP-4EH5> (quoting Sen. Nancy Skinner (D-Berkeley)). Senate Bill 1421 amended California Penal Code section 832.7 to allow the release of records relating to officer misconduct and discipline that had been treated as confidential under California law for decades. Hopeful about the possibilities of meaningful reporting and accountability now made possible by S.B. 1421 is the California Reporting Project—a cooperative comprised of over 40 news organizations—which is using public records laws to learn about previously-secret police misconduct. The California Reporting Project (last visited Dec. 22 2019), <https://perma.cc/UHE7-XGQJ>.

The California Reporting Project has obtained files from approximately 2,000 cases of police misconduct and serious use of force. See First Amendment Coalition, *California Reporting Project Wins 2019 FAC Award For Police Accountability Coverage* (Dec. 2 2019), <https://perma.cc/Z5PY-4SRE>. The Project’s reporting about a Burlingame, California police officer who solicited sexual relations from a woman he had arrested led the San Mateo County District Attorney to consider reopening a criminal investigation into the officer. Alex Emslie, *et al.*, *San Mateo County DA considering reopening criminal investigation into fired Burlingame cop*, The Mercury News (Jan. 8, 2019), <https://perma.cc/94YY-AMXQ>. In addition to stories about individual incidents

of misconduct, the California Reporting Project is allowing news outlets to analyze the patterns detected in public records to determine many misconduct-prone officers remain on the force and how many Californians are killed by police. *See* Tony Biasotti, *Calif. newsrooms team up to handle police misconduct records dump*, Columbia Journalism Review (March 27, 2019), <https://perma.cc/FFV6-7RH5>.

When members of the news media can obtain and report on records reflecting the conduct of law enforcement personnel, they can tell stories that have a meaningful impact. The Court, accordingly, should affirm the vacation of the arbitration award because it contravenes this State's public policy favoring the retention of important records by government agencies for the benefit of the public, undercutting the ability of journalists and news organizations to keep the public informed about the actions of government agencies and officials, including law enforcement.

CONCLUSION

For the foregoing reasons, the Court should vacate the arbitration award as violative of public policy.

Dated: February 13, 2020

Natalie J. Spears
Gregory R. Naron
Julius C. Carter
Dentons U.S. LLP
233 South Wacker Drive, Suite 5900
Chicago, IL 60606-6361
(312) 876-2556

Counsel for Amici Curiae

RULE 341(c) CERTIFICATION

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages containing the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 3,896 words.

- APPENDIX -

LIST OF AMICI

Chicago Tribune Company, LLC, published the Chicago Tribune, one of the largest daily newspapers in the United States. Its popular news and information website, www.chicagotribune.com, attracts a national audience.

The Associated Press ("AP") is a news cooperative organized under the Not-for-Profit Corporation Law of New York. The AP's members and subscribers include the nation's newspapers, magazines, broadcasters, cable news services and Internet content providers. The AP operates from 280 locations in more than 100 countries. On any given day, AP's content can reach more than half of the world's population.

Sun-Times Media, LLC d/b/a the Chicago Sun-Times Newspaper publishes the Chicago Sun-Times, a newspaper formed in 1948 from the merger of the Chicago Sun and Chicago Daily Times, that is circulated throughout the City of Chicago and suburbs as well as related news websites in the internet. The newspaper has won eight Pulitzer Prizes and has a tradition of fostering in-depth investigative reporting regarding issues of local and regional interest. Consequently, the freedom of speech and the press in Illinois is a core interest of the Sun-Times, and it seeks to participate as amicus curiae to defend important First Amendment free speech principles.

The E.W. Scripps Company serves audiences and businesses through local television, with 60 television stations in 42 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.

Gannett is the largest local newspaper company in the United States. Our 260 local daily brands in 46 states and Guam — together with the iconic USA TODAY — reach an estimated digital audience of 140 million each month.

The Illinois Broadcasters Association (“IBA”) is the leading advocate for the Illinois broadcast industry and is actively engaged in shaping public policy to create positive legal and regulatory environments for its radio and television station members. For over 60 years, the IBA has been Illinois’ sole trade association providing broadcast news, advertising and content to metropolitan areas and rural communities alike.

The Illinois Press Association (“IPA”) is the largest state press organization in the United States. Founded in 1865 near the end of the Civil War, the IPA’s members include nearly all of the more than 450-plus newspapers in Illinois. Throughout its long history, the IPA has been dedicated to promoting and protecting the First Amendment interests of newspapers and citizens before the Illinois legislature and Illinois courts.

The Marshall Project is a nonpartisan, nonprofit news organization that seeks to create and sustain a sense of national urgency about the U.S. criminal justice system. We achieve this through award-winning journalism, partnerships with other news outlets and public forums. In all of our work we strive to educate and enlarge the audience of people who care about the state of criminal justice.

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, California.

MediaNews Group Inc. publishes the Mercury News, the East Bay Times, St. Paul Pioneer Press, The Denver Post, the Boston Herald and the Detroit News and other regional and community papers throughout the United States, as well as numerous related online news sites.

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.

National Newspaper Association is a 2,000 member organization of community newspapers founded in 1885. Its members include weekly and small daily newspapers across the United States. It is based in Pensacola, FL.

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 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 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.

ProPublica is an independent, nonprofit newsroom that produces investigative journalism in the public interest. It has won five Pulitzer Prizes, most recently the 2019 prize for feature writing and the 2017 Pulitzer gold medal for public service. ProPublica is supported primarily by philanthropy and offers its articles for republication, both through its website, propublica.org, and directly to leading news organizations selected for maximum impact. ProPublica's first regional operation, ProPublica Illinois, began publishing in late 2017, and was honored (along with the Chicago Tribune) as a finalist for the 2018 Pulitzer Prize for Local Reporting.

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.

Reveal from The Center for Investigative Reporting, founded in 1977, is the nation's oldest nonprofit investigative newsroom. Reveal produces investigative journalism for its website <https://www.revealnews.org/>, the Reveal national public radio show and podcast, and various documentary projects. Reveal often works in collaboration with other newsrooms across the country.

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.

IN THE SUPREME COURT OF ILLINOIS

THE CITY OF CHICAGO,

Petitioner/Appellee,

v.

FRATERNAL ORDER OF POLICE
CHICAGO LODGE NO. 7,

Respondent/Appellant.

On Appeal from the Appellate Court of
Illinois, First District, No. 1-17-2907

There on appeal from the Circuit Court
of Cook County, No. 2016 CH 9793

Hon. Sanjay T. Tailor, Judge Presiding

NOTICE OF FILING

TO: (SEE ATTACHED SERVICE LIST)

PLEASE TAKE NOTICE that on February 13, 2020, we electronically filed with the Clerk of the Supreme Court of Illinois the **Motion of The Reporters Committee for Freedom of the Press and 19 News Media Organizations for Leave to File a Brief of Amici Curiae in Support of Petitioner-Appellee, The City of Chicago**, in this matter in accordance with Illinois Supreme Court Rules, a copy of which has been served upon you via the Court's electronic filing system and by email.

DATED: February 13, 2020

Respectfully submitted,

By: /s/ Natalie J. Spears

Natalie J. Spears
Gregory R. Naron
Julius C. Carter
DENTONS US LLP
233 South Wacker Drive, Suite 5900
Chicago, IL 60606
(312) 876 - 8000
natalie.spears@dentons.com
gregory.naron@dentons.com
julius.carter@dentons.com

Counsel for Amici

CERTIFICATE OF SERVICE

I, Natalie Spears, an attorney, do hereby certify that I have caused a true and correct copy of the foregoing **NOTICE OF FILING AND MOTION OF THE REPORTERS COMMITTEE FOR FREEDOM OF THE PRESS AND 19 NEWS MEDIA ORGANIZATIONS FOR LEAVE TO FILE A BRIEF OF AMICI CURIAE IN SUPPORT OF PETITIONER-APPELLEE, THE CITY OF CHICAGO**, to be served upon the following counsel of record, via the Supreme Court of Illinois' electronic filing system and via email, on this 13th day of February, 2020:

Justin Houppert
Assistant Corporation Counsel
City of Chicago
30 N. LaSalle Street, Suite 800
Chicago, IL 60602
312-744-0468
justin.houppert@cityofchicago.org

Counsel for Petitioner/Appellee

Brian C. Hlavin
Baum Sigman Auerbach & Neuman, Ltd.
200 West Adams Street, Suite 2200
Chicago, IL 60606
312-236-4316
bhlavin@baumsigman.com

Counsel for Respondent/Appellant