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(On appeal from King County Superior Court
Case No. 21-2-02468-4 SEA)

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

JANE AND JOHN DOES, 1 through 6,

Appellants,

v.

SEATTLE POLICE DEPARTMENT, et al.,

Respondents/Cross-Appellants.

BRIEF OF AMICI CURIAE THE REPORTERS
COMMITTEE FOR FREEDOM OF THE PRESS AND 24
MEDIA AND TRANSPARENCY ORGANIZATIONS

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I. INTEREST OF AMICI CURIAE

Amici curiae are the Reporters Committee for Freedom of the Press (“Reporters Committee”), Allied Daily Newspapers of Washington, The Associated Press, The Center for Investigative Reporting (d/b/a Reveal), The E.W. Scripps Company, First Amendment Coalition, Gannett Co., Inc., Los Angeles Times Communications LLC, The Media Institute, Media Law Resource Center, Mother Jones, MPA - The Association of Magazine Media, National Association of Black Journalists, National Press Club Journalism Institute, The National Press Club, National Press Photographers Association, News Leaders Association, News Media Alliance, Radio Television Digital News Association, The Seattle Times Company, Society of Professional Journalists, TEGNA Inc., Washington Coalition for Open Government, Washington Newspaper Publishers Association, and the Washington State Association of Broadcasters.

Lead amicus the Reporters Committee is an unincorporated nonprofit association, founded by leading journalists and media lawyers in 1970, when the nation’s news media faced an unprecedented wave of government subpoenas forcing reporters to name confidential sources. Today, its attorneys provide pro bono legal representation, amicus curiae support, and other legal resources to protect First Amendment freedoms and the newsgathering rights of journalists.¹

Amici and the reporters and media outlets whose interests they represent rely on access to public records concerning the conduct of government agencies and officials—including police officers and police oversight boards—to report on matters of public concern. Transparency is critical to ensuring that the public has the information it needs to evaluate the conduct of the law enforcement officers sworn to serve their

¹ Full descriptions of the other amici are included below as Appendix A.

communities, and to ensure that investigations into potential misconduct are conducted effectively and fairly.

Amici write to emphasize the importance of access to these records, including the identities of the investigated officers, to the news media and the public and to provide the Court with examples of how information gleaned from such records has produced powerful reporting that has led to institutional reforms and helped increase public trust in law enforcement agencies.

II. INTRODUCTION

Enacted by voters in 1972, the Public Records Act (the “PRA” or the “Act”), Ch. 42.56 RCW recognizes the fundamental principle that the people must “remain[] informed so that they may maintain control over the instruments that they have created.” RCW 42.56.030. As this Court has recognized, the intent of the PRA is “nothing less than the preservation of the most central tenets of representative government, namely, the sovereignty of the people and the accountability to the

people of public officials and institutions.” *Gendler v. Batiste*, 174 Wn.2d 244, 251-52, 274 P.3d 346, 349 (2012) (quoting *Progressive Animal Welfare Soc. v. Univ. of Washington*, 125 Wn.2d 243, 251, 884 P.2d 592 (1994) (hereinafter, “PAWS”)).

Here, Respondents/Cross-Appellants Sam Sueoka and three others (collectively the “Requesters”), submitted requests to the Seattle Police Department (“SPD”) pursuant to the PRA seeking information about investigations into the potential involvement of six off-duty Seattle police officers in the violent riot that took place at the U.S. Capitol on January 6, 2021 (the “Records”). CP 6-7 at ¶ 24-27. The six officers, proceeding under the pseudonyms Jane and John Does 1-6 (collectively the “Doe Officers”) filed a motion in the King County Superior Court (“Superior Court”) seeking to enjoin release of the Records. CP 15. The Doe Officers argue that releasing the Records would invade their privacy rights, thus purportedly exempting the Records from disclosure under

RCW 42.56.240(1) and RCW 42.56.230(3). CP 68 at ¶ 39; CP 70-71 at ¶ 52.

The Superior Court denied the motion, finding that the Doe Officers did not demonstrate even a likelihood of success on the merits of their claims, CP 410; RP 30, thus not even requiring the court to reach the question of whether the Doe Officers met the heightened standard required to enjoin release of a public record. *See* RCW 42.56.540; *Lyft, Inc. v. City of Seattle*, 190 Wn.2d 769, 418 P.3d 102 (2018).

Amici agree with Requester Sam Sueoka that the Doe Officers cannot demonstrate that releasing the Records would constitute an invasion of privacy as defined under the PRA and that the Records are not exempt from disclosure, including under any PRA privacy-based exemption. *See* RCW 42.56.050 (“A person’s ‘right to privacy,’ . . . is invaded or violated only if disclosure of information about the person: (1) Would be highly offensive to a reasonable person, **and** (2) is not of legitimate concern to the public.”) (emphasis added).

Amici also agree with Requestor Sueoka that the Doe Officers' attendance at a highly publicized public rally that instigated a violent storming of the U.S. Capitol—and the subsequent investigation into the Doe Officers' potential involvement—does not implicate their protected political speech rights under the First Amendment or the Washington Constitution. The Doe Officers are being investigated for their potential involvement in the storming of the U.S. Capitol, not for their political beliefs. Fundamentally, attendance at a *public demonstration* that drew a crowd of thousands and was covered by media outlets around the nation is a public act and not, as the Doe Officers contend, private activity. *See, e.g., John Doe No. 1 v. Reed*, 561 U.S. 186, 228, 130 S. Ct. 2811, 2837, 177 L. Ed. 2d 493 (2010) (Scalia, J., concurring) (“Requiring people to stand up in public for their political acts fosters civic courage, without which democracy is doomed . . . This does not resemble the Home of the Brave.”).

Amici instead write to emphasize the substantial public interest served when the news media and public have access to—and report on—records reflecting government agencies’ efforts to investigate and address police officer misconduct, like the Records at issue here. Access to records of police misconduct investigations has made possible powerful reporting, both in Washington and across the nation, and has served as a catalyst for important community dialogue and reform efforts.

The Doe Officers contend that there is no legitimate public interest in the release of the Records or of the identities of any of the Doe Officers unless there is a substantiated finding of misconduct at the conclusion of the investigation. CP 43. The Doe Officers are incorrect. As a preliminary matter, investigations into the conduct of law enforcement officers—including where claims of misconduct are not substantiated—are matters of vital public concern. The public has a legitimate interest in evaluating whether police oversight

boards are fairly and effectively investigating incidents of potential misconduct. And without access to records involving unsubstantiated claims, the public cannot do so—to the detriment of the public and law enforcement officers alike.

Further, public access to the names of officers investigated for misconduct is an essential component of the public's ability to carry out this oversight role. As evidenced by reporting in Washington and throughout the country, *see* Section I.A, *infra*, access to the names of officers investigated for misconduct—even when such allegations are not substantiated—helps the public to evaluate the efficacy of the disciplinary process.

For example, without access to officer names, the public has no insight into whether certain officers have been the subject of multiple misconduct investigations or whether police oversight boards are effectively evaluating and responding to repeated misconduct complaints, particularly when such complaints are deemed unsubstantiated. Indeed, as Division

Two of the Court of Appeals has recognized, the names of police officers accused of non-sexual misconduct is “a matter of legitimate public concern,” even when such allegations are found to be unsubstantiated. *City of Fife v. Hicks*, 186 Wn. App. 122, 143, 345 P.3d 1, 11 (2015); *see also West v. Port of Olympia*, 183 Wn. App. 306, 315, 333 P.3d 488, 492 (2014) (finding that disclosure of unfounded allegations of theft by a public employee, while embarrassing, were not an invasion of the employee’s privacy rights that would justify redaction of the employee’s identity).

Significantly, both of these decisions recognize that this Court’s prior holdings that the public has no legitimate interest in the identity of a public employee accused of an unsubstantiated allegation of wrongdoing are limited to cases involving alleged sexual misconduct, and do not apply when other types of wrongdoing have been alleged. *See West*, 183 Wn. App. at 315-16 (distinguishing *Bellevue John Does 1–11 v. Bellevue Sch. Dist. # 405*, 164 Wn.2d 199, 189 P.3d 139 (2008)

and *Bainbridge Island Police Guild v. City of Puyallup*, 172 Wn.2d 398, 259 P.3d 190 (2011)); *City of Fife*, 186 Wn. App. at 141-42 (same; holding public had legitimate interest in identity of police officer named in report concluding allegations of discrimination and dishonesty were “unfounded”).

These decisions are in keeping with the PRA’s mandate that courts must “take into account the policy . . . that free and open examination of public records is in the public interest, even though such examination may cause inconvenience or embarrassment to public officials or others.” *Gendler*, 174 Wn.2d at 252 (quoting RCW 42.56.550(3)). They also squarely recognize that transparency into investigations of both substantiated and unsubstantiated police misconduct helps build institutional trust and provides a valuable opportunity to identify areas for improvement or reform.

The timely release of the Records at issue here is essential to ensure that the press is able to meaningfully inform Washingtonians on matters of the highest public concern:

whether and to what extent any of the Doe Officers may have participated in the unprecedented attack on the U.S. Capitol, and whether the Office of Police Accountability effectively and fairly conducted its investigations of the Doe Officers.

For these reasons, Amici respectfully urge the Court to affirm the order of the Superior Court denying the Doe Officers' motion to enjoin disclosure of the Records.

III. STATEMENT OF THE CASE

On January 6, 2021, the Doe Officers attended a political rally in Washington, D.C. (the "Rally"). CP 4 at ¶ 14.

The Rally was held in support of then-President Donald Trump's allegations of election fraud in connection with the 2020 Presidential election. *See* Dan Barry & Sheera Frenkel, *"Be There. Will Be Wild!": Trump All but Circled the Date*, N.Y. Times (Jan. 6, 2021, updated July 27, 2021), <https://perma.cc/WYA2-P36M>. At the conclusion of the Rally, thousands of attendees violently stormed the U.S. Capitol in an attempt to halt certification of the election results (the "Capitol

Riot”). *Id.*; Elise Takahama & Lewis Kamb, *Seattle Police Officers Who Were in DC During Riot at US Capitol Placed on Administrative Leave*, *Seattle Times* (Jan. 8, 2021), <https://perma.cc/G8WG-J4MK>.

In the aftermath of the Capitol Riot, the SPD required all officers who attended the Rally to report their attendance. CP 4 at ¶ 17. The SPD’s Office of Policy Accountability (“OPA”) opened investigations to determine if any of the Doe Officers engaged in criminal activity or violated the standards of conduct set forth in the SPD Manual in connection with the Rally or the Capital Riot. CP 5 at ¶ 18.

Requesters submitted public records requests to the SPD seeking access to the Records under the PRA. CP 6-7 at ¶ 24-27. The SPD then informed the Doe Officers of its intent to release the Records to the Requesters. CP 7 at ¶ 28.

In response, the Doe Officers filed a complaint for declaratory and injunctive relief in the Superior Court seeking to enjoin release of the Records. CP 1, 15. The Superior Court

issued an order denying the Doe Officers’ request for a preliminary injunction but granted a stay to allow the Doe Officers to pursue an emergency appeal. CP 410. The Doe Officers appealed the order to the Washington Court of Appeals, and, on August 4, 2021, this Court granted Requester Sam Sueoka’s motion to transfer the appeal to this Court.

IV. THE PUBLIC HAS A VITAL INTEREST IN RECORDS OF BOTH SUBSTANTIATED AND UNSUBSTANTIATED POLICE MISCONDUCT INVESTIGATIONS.

The PRA serves as “a strongly-worded mandate for broad disclosure of public records.” *Hearst Corp. v. Hoppe*, 90 Wn.2d 123, 127, 580 P.2d 246 (1978). The principles of transparency and accountability underlying the PRA and other freedom of information laws form the bedrock of our democracy. *See, e.g., NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 242, 98 S. Ct. 2311, 2327, 57 L. Ed. 2d 159 (1978) (“[A]n informed citizenry [is] vital to the functioning of a democratic society [and is] needed to check against

corruption”). As this Court has recognized, “[w]ithout . . . the [PRA], government of the people, by the people, for the people, risks becoming government of the people, by the bureaucrats, for the special interests ‘A popular Government, without popular information, or the means of acquiring it, is but a Prologue to a Farce or a Tragedy; or, perhaps both.’” *PAWS*, 125 Wn.2d at 251 (quoting James Madison, “Letter to W.T. Barry, Aug. 4, 1822, 9 *The Writings of James Madison* 103 (Gaillard Hunt, ed. 1910)).

The Doe Officers’ efforts to broadly shield their identities and any Records of pending or unsubstantiated investigations into their potential involvement in a violent attack on our nation’s capital, stands in stark contrast to these principles.

As law enforcement officers, the Doe Officers are public servants who, when on-duty, wield tremendous power to detain, arrest, jail, and, in extreme circumstances, employ deadly force in connection with their duties. Accordingly, the public has a

strong, legitimate interest in knowing whether the peace officers sworn to protect their communities have themselves engaged in criminal activity or participated in activities, such as a violent attack on the U.S. Capitol, that not only violate the SPD code of conduct, but also raise broader questions about those peace officers' fitness to serve.

More broadly, there is also a strong public interest in ensuring that the OPA investigation process functions thoroughly and fairly. If the public is unable to access information that would permit it to determine, for example, why complaints against a police officer were deemed unsubstantiated, the public cannot hold any government agency, including the OPA or the SPD, accountable. And, without access to the names of officers investigated for potential misconduct, the public cannot know, for example, how many times an officer has been investigated or for what actions he or she has been investigated. Thus, the public cannot evaluate whether police oversight boards are effectively addressing

instances of repeated misconduct or proactively identifying troubling trends in officer behavior.

Access to the Records at issue here will enable the news media to meaningfully report on the results of the OPA's investigation, thus allowing the public to evaluate the effectiveness of the investigatory process, the evidence collected, and the reasoning behind the OPA's conclusions.

Access to the Doe Officers' identities will further aid the public both by enabling it to monitor future reports of possible misconduct regarding them, and also by building the public's confidence that their conduct was subjected to a thorough investigation.

As evidenced by examples of reporting on police misconduct investigations nationwide, such transparency benefits both law enforcement and the communities they serve. It helps to identify and remedy improprieties in the disciplinary process and helps bolster public trust in the integrity of investigations conducted by oversight boards such as the OPA.

A. News reporting on records of police misconduct investigations helps the public evaluate the work of police oversight boards and identify areas for reform.

The May 2020 murder of George Floyd by Derek Chauvin, a Minneapolis police officer with numerous past misconduct complaints, underscores the value of effective public oversight of investigations into officer misconduct. See Shaila Dewan & Serge F. Kovalski, *Thousands of Complaints Do Little to Change Police Ways*, N.Y. Times (updated June 8, 2020), <https://perma.cc/XS5L-F2HJ>. Indeed, with respect to law enforcement in particular, “the awesome powers exercised by police create a compelling need for public oversight and review of a police department’s internal investigations.” *Worcester Telegram & Gazette Corp. v. Chief of Police of Worcester*, 787 N.E.2d 602, 605 (Mass. App. Ct. 2003).

Investigative reporting made possible by access to such records—including where claims of misconduct were found to

be unsubstantiated—aids the public in fulfilling this vital oversight role and, in many cases, drives meaningful reforms.

For example, in 2018 BuzzFeed News published and analyzed a collection of disciplinary findings for approximately 1,800 named New York Police Department (“NYPD”) officers, including records of disciplinary proceedings in which officers were found not guilty. Kendall Taggart & Mike Hayes, *Here’s Why BuzzFeed News Is Publishing Thousands of Secret NYPD Documents*, BuzzFeed News (Apr. 16, 2018), <https://perma.cc/XK2L-9NZB>. BuzzFeed’s reporting based on these records revealed unequal and inconsistent application of NYPD disciplinary policies, *id.*, prompting the commission of an independent panel to investigate the NYPD’s disciplinary system. Kendall Taggart, *NYPD Discipline Needs More Transparency, A Panel of Experts Said*, BuzzFeed News (Feb. 1, 2019), <https://perma.cc/2MGV-ELUX>.

In Chicago, the Citizens Police Data Project provides access to the names and records of officers investigated in

connection with possible misconduct, including those complaints found to be not sustained or unfounded, and complaints in which an officer was exonerated. *See* Invisible Institute, *Citizens Police Data Project*, <https://perma.cc/EF6M-W47N> (last visited September 15, 2021). The Intercept analyzed data culled from these records to reveal striking trends regarding the rise of misconduct complaints when new officers were 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>. Through access to both the names and records of the officers, The Intercept was able to identify connections between officers in the same chain of command to reveal how the behavior of senior officers may negatively impact junior officers. *See id.* (“The data shows that . . . 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.”). As a result of

the troubling trends illuminated by the Citizens Police Data Project, the State of Illinois and the City of Chicago entered into a consent decree to formalize an “early intervention” program to “proactively identify at-risk behavior by officers” in an effort to stem the deleterious ripple effect of officer misconduct. Consent Decree at 177, *Illinois v. City of Chicago*, No. 1:17-cv-06260 (N.D. Ill. Jan. 31, 2019), ECF No. 703-1.

And, in Washington, reporting on information obtained through public records requests has highlighted the need for greater transparency with respect to officers identified as having credibility issues. See Melissa Santos, *Nearly 200 Cops with Credibility Issues Still Working in Washington State*, Crosscut.com (April 8, 2021), <https://perma.cc/FPA4-SJX7>. Reporting derived from information obtained through more than 100 public records requests identified inconsistencies among disciplinary agencies across the state. *Id.* For example, Shelton police officer Hector Diaz who was fired as a result of multiple incidents of dishonesty while on and off duty—

including lying in court—was later reinstated as part of a settlement agreement in connection with a grievance filed under his union contract. *Id.* In Whatcom County, deputy sheriff Ryan Rathbun shared a social media post featuring an image of a Native American woman and added the comment, “Time to get the small pox blankets out and shut some people up.” *Id.* Rathbun remains employed as a deputy sheriff in Whatcom County, with the then-County prosecutor opining that he didn’t believe that Rathbun showed bias or prejudice while on duty. *Id.* OPA director Andrew Myerberg, however, stated that he believed it “would be almost certainly a termination case,” if involving a member of the SPD. *Id.* According to Myerberg, discriminatory social media posts made while off-duty may call into question the ability of an officer to treat all citizens fairly while on-duty and therefore may be grounds for termination. *Id.*

In recognition of similar inconsistencies among law enforcement agencies throughout the State, the legislature

passed a series of bills designed to improve transparency and establish standards for reporting police misconduct. *See Inslee Signs Police Accountability Legislative Package*, Washington Governor’s Office (May 18, 2021), <https://perma.cc/CTW7-SAHZ>. The legislation was enacted in May 2021 as part of the State’s efforts to “create the nation’s strongest police accountability system.” *Id.*

B. News reporting on records of police misconduct investigations helps foster accountability, which is necessary for trust between law enforcement and the public.

In addition to providing a valuable tool for oversight and reform, access to police misconduct records can play a vital role in fostering public confidence in law enforcement agencies.

As a Massachusetts court described:

The internal affairs procedure fosters the public’s trust and confidence in the integrity of the police department, its employees, and its processes for investigating complaints because the department has the integrity to discipline itself. *A citizenry’s full and fair assessment of a police department’s internal investigation of its officer’s actions promotes the core value of*

trust between citizens and police essential to law enforcement and the protection of constitutional rights.

Worcester Telegram, 787 N.E.2d at 607 (emphasis added).

Such transparency also serves as a “key step along the way to repairing [] relationships” between law enforcement and the communities they serve. *See* John Kelly and Mark Nichols, *Tarnished Brass*, USA Today (last updated Oct. 14, 2019), <https://perma.cc/7YHS-PX5L> (quoting Laurie Robinson, co-chair of the 2014 White House Task Force on 21st Century Policing).

For example, last year, the Aurora, Colorado Police Department released the internal affairs (“IA”) investigation report² related to officers Erica Marrero, Jaron Jones, and Kyle Dittrich, who took a “selfie” mocking Elijah McClain, a twenty-three-year-old unarmed Black man who died from a

² Aurora Police Dep’t, Internal Affairs Case 2020-25, <https://www.documentcloud.org/documents/6980900-IA-20-25-Public-Release-Full-Version>.

cardiac arrest in police custody just days after the police placed him in a chokehold. Sam Tabachnik & Elizabeth Hernandez, *Aurora police chief fires 3 officers as part of Elijah McClain photo investigation*, The Denver Post (July 3, 2020), <https://perma.cc/SYX2-23FR>. In the photo, the officers reenacted the chokehold at the site of Mr. McClain’s violent arrest. *Id.* Aurora Police Chief Vanessa Wilson stated that “[w]hile the allegations of this internal affairs case are not criminal, they are a crime against humanity and decency.” *Id.* During the IA investigation, Officer Dittrich recalled that he took the photo to “cheer [] up” the suspended officer who had arrested Mr. McClain, and Officer Marrero “remember[ed] someone making a joke like oh maybe we should do the [c]arotid [control hold] in it.” *See* note 2 at 18, 25. The investigation resulted in the resignation and termination of the officers upon a sustained finding of “conduct unbecoming.” *Id.* at 226-30.

Local reporting about the incident, relying upon the IA report, provided insight into how the IA investigation was conducted. In a note included in the IA report, Police Chief Vanessa Wilson stated she wanted the investigation conducted as “expeditiously as possible.” Allison Sylte & Zack Newman, *Aurora officers took photo near Elijah McClain memorial to ‘cheer up’ coworker, documents say*, 9News (July 3, 2020), <https://perma.cc/5SGD-VKWM>. The swift investigation resulting in the termination of the officers was welcomed by community leaders who observed parallels between the officers’ conduct and times in this nation’s history in which citizens “snapped smiling pictures of themselves at the scenes of brutal, lethal lynchings of black men, keeping the images of torture as souvenirs or even turning them into postcards to send to friends,” Tabachnik & Hernandez, <https://perma.cc/SYX2-23FR>.

Similarly, “On Our Watch,” an investigative podcast series produced by NPR and KQED, analyzes and reports on

police IA reports in California. *On Our Watch*, KQED, <https://perma.cc/7CYU-8FQN> (last updated July 8, 2021).

The case files covered in the series were obtained as part of the California Reporting Project, a collaboration of forty newsrooms formed in late 2018 to investigate misconduct using the internal affairs and other records recently made publicly accessible under California law. *Id.* One episode, titled “Conduct Unbecoming,” focuses on the investigation of a Los Angeles California Highway Patrol (“CHP”) officer, Morgan McGrew, who used car inspections to pursue women. *See On Our Watch: Conduct Unbecoming*, KQED (May 27, 2021), <https://perma.cc/G2LB-XQVZ>. The episode features audio from several of the approximately one-hundred phone calls placed by IA investigators collecting evidence about McGrew. *Id.* at 9:49–10:15. Sergeant Jimmie Ryland, who led the IA investigation, scoured McGrew’s Outlook calendar to identify each potential lead, *id.* at 8:05–9:58, urging those who had interacted with McGrew to share their honest experiences, *id.*

That the extent of Sergeant Ryland’s efforts to investigate the on-duty conduct of an officer are readily available for the public and the press to observe for themselves embodies and reinforces the principle that “[t]ransparency facilitates healing.” Cynthia H. Conti-Cook, *A New Balance: Weighing Harms of Hiding Police Misconduct Information from the Public*, 22 CUNY L. Rev. 148, 154 (2019). Indeed, “[w]ithout transparency, fear of future harm continues, [and] officers are able to exploit the power of reliable anonymity.” *Id.* However, “when police processes are perceived as procedurally just, communities are more likely to cooperate with the police, and policing, in turn, is more effective.” *Id.* at 166.

These principles apply directly to the Records at issue in this case. Full disclosure of the Records—including identifying the officers at issue even where investigations of misconduct may be deemed unsubstantiated—will allow the public to observe for itself the factors that entered into the investigations

of the Doe Officers, and the basis for the OPA's findings.

Contrary to the Doe Officers' assertions that release of the Records would harm their reputations with the public, CP 44, full transparency will help restore public trust and provide assurance to the public that its law enforcement officers and agencies remain accountable to the communities they serve.

V. CONCLUSION

For the foregoing reasons, Amici urge this Court to affirm the Superior Court's order denying the Doe Officers' motion for preliminary injunction.

This brief contains 4,275 words, excluding the parts of
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APPENDIX A

SUPPLEMENTAL STATEMENTS OF IDENTITY OF AMICI CURIAE

Allied Daily Newspapers of Washington is a Washington not-for-profit association representing 22 daily newspapers serving Washington, as well as the Washington bureaus of the Associated Press.

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.

The Center for Investigative Reporting (d/b/a Reveal), 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.

The E.W. Scripps Company is the nation's fourth-largest local TV broadcaster, operating a portfolio of 61 stations in 41 markets. Scripps also owns Scripps Networks, which reaches nearly every American through the national news outlets Court TV and Newsy and popular entertainment brands ION, Bounce, Grit, Laff and Court TV Mystery. The company also runs an award-winning investigative reporting newsroom in Washington, D.C., and is the longtime steward of 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.

Gannett is the largest local newspaper company in the United States. Its 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.

Los Angeles Times Communications LLC publishes one of the largest daily newspapers in the United States. Its popular news and information website, www.latimes.com, attracts audiences throughout California and across the nation.

The Media Institute is a nonprofit 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.

The Media Law Resource Center, Inc. (“MLRC”) is a non-profit professional association for content providers in all media, and for their defense lawyers, providing a wide range of resources on media and content law, as well as policy issues. These include news and analysis of legal, legislative and regulatory developments; litigation resources and practice guides; and national and international media law conferences and meetings. The MLRC also works with its membership to respond to legislative and policy proposals, and speaks to the press and public on media law and First Amendment issues. It counts as members over 125 media companies, including newspaper, magazine and book publishers, TV and radio broadcasters, and digital platforms,

and over 200 law firms working in the media law field. The MLRC was founded in 1980 by leading American publishers and broadcasters to assist in defending and protecting free press rights under the First Amendment.

Mother Jones is a nonprofit, reader-supported news organization known for ground-breaking investigative and in-depth journalism on issues of national and global significance.

MPA – The Association of Magazine Media, (“MPA”) is the industry association for magazine media publishers. The MPA, established in 1919, represents the interests of close to 100 magazine media companies with more than 500 individual magazine brands. MPA’s membership creates professionally researched and edited content across all print and digital media on topics that include 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 Association of Black Journalists

(“NABJ”) is an organization of journalists, students and media-related professionals that provides quality programs and services to and advocates on behalf of black journalists worldwide. Founded by 44 men and women on December 12, 1975 in Washington, D.C., NABJ is the largest organization of journalists of color in the nation.

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 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 News Leaders Association was formed by the merger of the American Society of News Editors and the Associated Press Media Editors in 2019. It aims to foster and develop the highest standards of trustworthy, truth-seeking journalism; to advocate for open, honest and transparent government; to fight for free speech and an independent press; and to nurture the next generation of news leaders committed to spreading knowledge that informs democracy.

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

Radio Television Digital News Association 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.

The Seattle Times Company, locally owned since 1896, publishes the daily newspaper *The Seattle Times*, together with the *Yakima Herald-Republic* and *Walla Walla Union-Bulletin*, all in Washington state.

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) 64 television stations in 52 markets.

Washington Coalition for Open Government

(“WCOG”) is an independent, nonprofit, nonpartisan organization dedicated to promoting and defending the public’s right to know in matters of public interest and in the conduct of the public’s business. WCOG’s mission is to help foster open government processes, supervised by an informed and engaged citizenry, which is the cornerstone of

democracy. WCOG represents a cross-section of the Washington public, press, and government.

The Washington Newspaper Publishers Association is a statewide, non-profit trade association representing more than 70 community newspapers throughout Washington. It is dedicated to representing its members and defending the public's right to know about the conduct of public business.

Washington State Association of Broadcasters, a not-for-profit trade association the membership of which is made up of 28 television stations and 205 radio stations licensed by the Federal Communications Commission to communities within the state of Washington. The radio and television station members of WSAB are engaged in newsgathering and reporting on issues and events of public interest to their viewers and listeners, providing their primary source of news and information.

DECLARATION OF SERVICE

The undersigned hereby declares under penalty of perjury under the laws of the State of Washington, that on this day, he electronically filed the foregoing document with the Washington State Supreme Court, which will send notification of such filing to the parties of record listed below:

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The undersigned further declares that on this day, he caused the foregoing document to be served on the above parties, via email.

DATED this 24th day of September, 2021.

/s/Eric M. Stahl

Eric M. Stahl, WSBA #27619

DAVIS WRIGHT TREMAINE LLP

September 24, 2021 - 2:38 PM

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