

APL-2024-00057
New York County Clerk's Index No. 159132/21
Appellate Division—First Department Case No. 2023-00242

Court of Appeals
of the
State of New York

NYP HOLDINGS, INC. and CRAIG MCCARTHY,

Petitioners-Respondents,

— against —

NEW YORK CITY POLICE DEPARTMENT and DERMOT F. SHEA, in his
official capacity as Commissioner of the New York City Police Department,

Respondents,

POLICE BENEVOLENT ASSOCIATION OF THE CITY OF NEW YORK, INC.

Respondent-Appellant.

**PROPOSED BRIEF OF AMICI CURIAE REPORTERS COMMITTEE FOR
FREEDOM OF THE PRESS AND 26 MEDIA ORGANIZATIONS
IN SUPPORT OF PETITIONERS-RESPONDENTS**

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RULE 500.1(F) CORPORATE DISCLOSURE STATEMENT

Pursuant to 22 N.Y.C.R.R. § 500.1(f), the undersigned counsel for amici curiae certify as follows:

The Reporters Committee for Freedom of the Press is an unincorporated association of reporters and editors. It has no parent, subsidiaries, or affiliates.

American Broadcasting Companies, Inc. is an indirect, wholly-owned subsidiary of The Walt Disney Company, a publicly traded corporation.

The Atlantic Monthly Group LLC is a privately-held media company, owned by Emerson Collective and Bradley Media Holdings, Inc. and has no other parents, affiliates or subsidiaries. No publicly held corporation owns 10% or more of its stock.

BuzzFeed, Inc. is a public company which is traded on Nasdaq under the ticker symbol “BZFD.” Ten percent (10%) or more of its stock is owned by NBCUniversal Media LLC, a wholly owned indirect subsidiary of Comcast Corporation, which is publicly traded (NASDAQ:CMCSA). No other publicly held company owns 10% percent or more of its stock. TheHuffingtonPost.com, Inc. (d/b/a “HuffPost”) is an indirectly held subsidiary of BuzzFeed.

Dow Jones & Company, Inc. (“Dow Jones”) is an indirect subsidiary of News Corporation, a publicly held company. Ruby Newco, LLC, an indirect subsidiary of News Corporation and a non-publicly held company, is the direct

parent of Dow Jones. News Preferred Holdings, Inc., a subsidiary of News Corporation, is the direct parent of Ruby Newco, LLC. No publicly traded corporation currently owns ten percent or more of the stock of Dow Jones.

The E.W. Scripps Company is a publicly traded company with no parent company. No individual stockholder owns more than 10% of its stock. Its subsidiaries are as follows:

- Court TV Media, LLC
- ION Media Networks, Inc.
- ION Media Stations, Inc.
 - ION Station Properties, LLC
 - ION Media Networks Real Property, LLC
 - ION Station Equipment, LLC
 - ION Media Networks Operations, LLC
 - ION Station Leases, LLC
 - ION Media License Company, LLC
 - ION Television License, LLC
 - ION Media Boston License LLC
- Journal Holdings, Inc.
- Scribion Broadcasting Holdings, LLC
 - Scribion Broadcasting, LLC

- Grit Media, LLC
- Escape Media, LLC
- Laff Media, LLC
- Bounce Media, LLC
- Trumpet 25, LLC
- Brown Sugar, LLC
- Media Convergence Group, Inc.
- Scripps Ontario Holding Corporation
 - Nuvyyo, Inc.
 - Nuvyyo USA, LLC
- Scripps Broadcasting Holdings LLC
- Scripps-Howard Foundation (The)
- Scripps Licensing, Inc. (formerly, United Feature Syndicate, Inc.)
- Scripps Media, Inc.
- Scripps National Spelling Bee, Inc.
- Scripps Shared Services Company

Fox News Network, LLC (DE) is directly, wholly-owned by Fox Television Stations, LLC (DE) which is directly, wholly-owned by Fox Television Holdings, LLC (DE), which is directly, wholly-owned by Foxcorp Holdings LLC

(DE), which is directly, wholly-owned by Fox Corporation (DE) (the ultimate parent and publicly-owned entity). All of the entities except Fox Corporation are privately held entities.

Fox Television Stations, LLC is an indirect subsidiary of Fox Corporation, a publicly held company. No other publicly held company owns 10% or more of the stock of Fox Corporation.

Gannett Co., Inc. is a publicly traded company and has no affiliates or subsidiaries that are publicly owned, and has no parent company. Gannett Co., Inc.'s subsidiaries are as follows:

- Action Advertising, Inc.
- Albuquerque Publishing Company
- Alexandria Newspapers, Inc.
- American Influencer Awards, LLC
- Archant Community Media Limited
- Arizona News Service, LLC
- Baxter County Newspapers, Inc.
- Bizzy, Inc.
- Blue Dot Seats, LLC
- Boat Spinco, Inc.
- BridgeTower Media DLN, LLC

- BridgeTower Media Holding Company
- BridgeTower Media, LLC
- CA Alabama Holdings, Inc.
- CA Florida Holdings, LLC
- CA Louisiana Holdings, Inc.
- CA Massachusetts Holdings, Inc.
- CA North Carolina Holdings, Inc.
- CA South Carolina Holdings, Inc.
- Circle Centre Partners Limited Partnership
- Citizen Publishing Company
- CMGI (Moduslink)
- Copley Ohio Newspapers, Inc.
- Cummings Acquisition, LLC
- CyberInk, LLC
- Daily Journal of Commerce, Inc.
- Daily Reporter Publishing Company
- DB Acquisition, Inc.
- DB Arkansas Holdings, Inc.
- DB Iowa Holdings, Inc.
- DB North Carolina Holdings, Inc.

- DB Oklahoma Holdings, Inc.
- DB Tennessee Holdings, Inc.
- DB Texas Holdings, Inc.
- DB Washington Holdings, Inc.
- DealOn, LLC
- Des Moines Press Citizen LLC
- Des Moines Register and Tribune Company
- Desert Sun Publishing, LLC
- Desk Spinco, Inc.
- Detroit Free Press, Inc.
- Detroit Newspaper Partnership, L.P.
- DiGiCol, Inc.
- Dolco Acquisition, LLC
- DoorFront Direct, LLC
- ENHE Acquisition, LLC
- EnMotive Company LLC
- Enterprise NewsMedia Holding, LLC
- Enterprise NewsMedia, LLC
- Enterprise Publishing Company, LLC
- Evansville Courier Company, Inc.

- Federated Publications, Inc.
- Finance and Commerce, Inc.
- FoodBlogs, LLC
- Gannett GP Media, Inc.
- Gannett Holdings LLC
- Gannett International Communications, Inc.
- Gannett International Finance LLC
- Gannett International Finance LLP
- Gannett International Holdings LLP
- Gannett Media Corp.
- Gannett Media Services, LLC
- Gannett MHC Media, Inc.
- Gannett Missouri Publishing, Inc.
- Gannett Publishing Services, LLC
- Gannett Retail Advertising Group, Inc.
- Gannett River States Publishing Corporation
- Gannett Satellite Information Network, LLC
- Gannett SB, Inc.
- Gannett Supply Corporation
- Gannett U.K. Limited

- Gannett UK Media, LLC
- Gannett Ventures LLC
- Gannett Vermont Publishing, Inc.
- GateHouse Media Alaska Holdings, Inc.
- GateHouse Media Arkansas Holdings, Inc.
- GateHouse Media California Holdings, Inc.
- GateHouse Media Colorado Holdings, Inc.
- GateHouse Media Connecticut Holdings, Inc.
- GateHouse Media Corning Holdings, Inc.
- GateHouse Media Delaware Holdings, Inc.
- GateHouse Media Directories Holdings, Inc.
- GateHouse Media Freeport Holdings, Inc.
- GateHouse Media Georgia Holdings, Inc.
- GateHouse Media Holdco, LLC
- GateHouse Media Illinois Holdings II, Inc.
- GateHouse Media Illinois Holdings, Inc.
- GateHouse Media Indiana Holdings, Inc.
- GateHouse Media Intermediate Holdco, LLC
- GateHouse Media Iowa Holdings, Inc.
- GateHouse Media Kansas Holdings II, Inc.

- GateHouse Media Kansas Holdings, Inc.
- GateHouse Media Lansing Printing, Inc.
- GateHouse Media Louisiana Holdings, Inc.
- GateHouse Media Macomb Holdings, Inc.
- GateHouse Media Management Services, Inc.
- GateHouse Media Maryland Holdings, Inc.
- GateHouse Media Massachusetts I, Inc.
- GateHouse Media Massachusetts II, Inc.
- GateHouse Media Michigan Holdings II, Inc.
- GateHouse Media Michigan Holdings, Inc.
- GateHouse Media Minnesota Holdings, Inc.
- GateHouse Media Missouri Holdings II, Inc.
- GateHouse Media Missouri Holdings, Inc.
- GateHouse Media Nebraska Holdings, Inc.
- GateHouse Media New York Holdings, Inc.
- GateHouse Media North Dakota Holdings, Inc.
- GateHouse Media Ohio Holdings II, Inc.
- GateHouse Media Ohio Holdings, Inc.
- GateHouse Media Oklahoma Holdings, Inc.
- GateHouse Media Operating, LLC

- GateHouse Media Oregon Holdings, Inc.
- GateHouse Media Pennsylvania Holdings, Inc.
- GateHouse Media South Dakota Holdings, Inc.
- GateHouse Media Suburban Newspapers, Inc.
- GateHouse Media Tennessee Holdings, Inc.
- GateHouse Media Texas Holdings II, Inc.
- GateHouse Media Texas Holdings, Inc.
- GateHouse Media Virginia Holdings, Inc.
- GateHouse Media, LLC
- GCCC, LLC
- GCOE, LLC
- George W. Prescott Publishing Company, LLC
- GFHC, LLC
- GiddyUp Events LLC
- GNSS LLC
- Good Worldwide, Inc.
- Grateful Media, LLC
- Guam Publications, Incorporated
- Idaho Business Review, LLC
- Imagn Content Services, LLC

- Journal Community Publishing Group, Inc.
- Journal Media Group, Inc.
- Journal Sentinel Inc.
- Kickserv, LLC
- Lawyer's Weekly, LLC
- Liberty SMC, L.L.C.
- LMG Maine Holdings, Inc.
- LMG Massachusetts, Inc.
- LMG Nantucket, Inc.
- LMG National Publishing, Inc.
- LMG Rhode Island Holdings, Inc.
- LMG Stockton, Inc.
- Local Media Group Holdings LLC
- Local Media Group, Inc.
- LocaliQ Limited
- LOCALiQ LLC
- Loco Sports, LLC
- Long Island Business News, LLC
- Low Realty, LLC
- LRT Four Hundred, LLC

- Media Consortium, LLC
- Memphis Publishing Company
- Milwaukee Marathon LLC
- Mineral Daily News Tribune, Inc.
- Missouri Lawyers Media, LLC
- Moonlighting, Inc.
- Multimedia, Inc.
- New Media Holdings I LLC
- New Media Holdings II LLC
- New Media Ventures Group LLC
- New Orleans Publishing Group, L.L.C.
- News Leader, Inc.
- News.me Inc.
- Newsquest (Clyde & Forth Press) Limited
- Newsquest (Essex) Limited
- Newsquest (Herald & Times) Limited
- Newsquest (Herts and Bucks) Limited
- Newsquest (London & Essex) Limited
- Newsquest Capital Limited
- Newsquest Limited

- Newsquest Media (Southern) Limited
- Newsquest Media Group Limited
- Newsquest Pension Trustee Limited
- Newsquest Printing (Glasgow) Limited
- Newsquest Specialist Media Limited
- NOPG, L.L.C.
- PA Group Ltd.
- Pacific Media, Inc.
- Phoenix Newspapers, Inc.
- Placester, Inc.
- Press-Citizen Company, Inc.
- Reach plc
- ReachLocal Australia Pty Ltd
- ReachLocal Canada, Inc.
- ReachLocal DP, Inc.
- ReachLocal International GP LLC
- ReachLocal International, Inc.
- ReachLocal Mexico S. De R.L. de C.V.
- ReachLocal New Zealand Limited
- ReachLocal Services Private Limited

- ReachLocal, Inc.
- Reno Newspapers, Inc.
- Rugged Events Canada LTD
- Salinas Newspapers LLC
- Scripps NP Operating, LLC
- Scroll Labs Inc.
- Seacoast Newspapers, Inc.
- Sedona Publishing Company, Inc.
- Sopress Investments Limited
- Starline Printing Company, LLLP
- SureWest Directories
- Tap-on-it, LLC
- Terry Newspapers, Inc.
- Texas-New Mexico Newspapers, LLC
- Thanksgiving Ventures, LLC
- The Advertiser Company
- The Courier-Journal, Inc.
- The Daily Record Company, LLC
- The Desert Sun Publishing Co.
- The Journal Record Publishing Co., LLC

- The Mail Tribune, Inc.
- The Nickel of Medford, Inc.
- The NWS Company, LLC
- The Peoria Journal Star, Inc.
- The Sun Company of San Bernardino, California LLC
- The Times Herald Company
- ThriveHive, Inc.
- timeRAZOR, Inc. (d/b/a Gravy)
- TNI Partners
- TRL 2019 Limited
- UpCurve Cloud LLC
- UpCurve, Inc.
- USA Today Sports Media Group, LLC
- Ventures Endurance Events, LLC
- Ventures Endurance, LLC
- Visalia Newspapers LLC
- Weymouth Football Club
- William Trimble Limited
- Wordstream, Inc.
- WP Publishing

- W-Systems Corp.
- x.com, Inc.
- York Daily Record-York Sunday News LLC
- York Dispatch LLC
- York Newspaper Company
- York Newspapers Holdings, L.P.
- York Newspapers Holdings, LLC
- York Partnership Holdings, LLC

Hearst Corporation is privately held and no publicly held corporation owns 10% or more of Hearst Corporation.

The Marshall Project has no parent corporation, subsidiaries or affiliates, and no publicly held corporation owns 10% or more of its stock.

The National Press Club is a not-for-profit corporation that has no parent company and issues no stock. It has no parent, subsidiaries, or affiliates.

The National Press Club Journalism Institute is a not-for-profit corporation that has no parent company and issues no stock. It has no parent, subsidiaries, or affiliates.

National Press Photographers Association is a 501(c)(6) nonprofit organization with no parent company, subsidiaries or affiliates. It issues no stock and does not own any of the party's or amicus' stock.

NBC: Comcast Corporation and its consolidated subsidiaries own 100% of the common equity interests of NBCUniversal Media, LLC., including NBCUniversal News Group.

The New Jersey Press Association (“NJPA”) is a non-profit organization incorporated in 1857 under the laws of the State of New Jersey. No parents, subsidiaries, and/or affiliates exist for NJPA other than the New Jersey News Network and the New Jersey Press Foundation, which are affiliates of NJPA.

The New York News Publishers Association (“NYNPA”) is a 501(c)(3) not-for-profit trade association. It also administers the New York Newspapers Foundation, which is a 501(c)(3) charitable organization and is a Type II Supporting Organization of NYNPA. It has no parent, subsidiaries, or affiliates, and issues no stock.

The New York Times Company is a publicly traded company and has no affiliates or subsidiaries that are publicly owned. No publicly held company owns 10% or more of its stock. New York Times Company's parents, subsidiaries, and affiliates are as follows:

- Parents: The New York Times Company is a public traded company with no parent corporation.
- Subsidiaries and Affiliates:
 - Fake Love LLC
 - Hello Society, LLC
 - Listen In Audio Inc.
 - Madison Paper Industries
 - New York Times Canada Ltd.
 - New York Times Digital LLC
 - Northern SC Paper Corporation
 - NYT Administradora de Bens e Servicos Ltda.
 - NYT Building Leasing Company LLC
 - NYT Capital, LLC
 - Midtown Insurance Company
 - NYT Shared Service Center, Inc.
 - International Media Concepts, Inc.
 - The New York Times Distribution Corporation
 - The New York Times Sales Company
 - The New York Times Syndication Sales Corporation
 - NYT College Point LLC

- NYT Group Services, LLC
- NYT International LLC
 - New York Times Limited
 - New York Times (Zürich) GmbH
 - NYT B.V.
 - NYT France S.A.S.
 - International Herald Tribune U.S. Inc.
 - New York Times France-Kathimerini Commercial S.A.
 - The Herald Tribune - Ha'aretz Partnership
 - NYT Germany GmbH
 - NYT Hong Kong Limited
 - Beijing Shixun Zhihua Consulting Co. LTD.
 - NYT International News LLC
 - NYT Japan GK
 - NYT Singapore PTE LTD
 - NYT Poland sp. z o.o.
- NYT News Bureau (India) Private Limited
- NYT Real Estate Company LLC
 - The New York Times Building LLC

- Rome Bureau S.r.l.
- Serial Productions LLC
- The Athletic Media Company
 - The Athletic Media Company Australia Pty Ltd.
 - The Athletic Media Company Canada Ltd
 - The Athletic Media Company UK Ltd.
 - The Athletic Media (Malaysia) SDN. BHD
- The New York Times Company Pty Limited
- Wirecutter, Inc.
- The New York Times Neediest Cases Fund

The News/Media Alliance represents the newspaper, magazine, and digital media industries, including nearly 2,200 diverse news and magazine publishers in the United States and internationally. It is a nonprofit, non-stock corporation organized under the laws of the commonwealth of Virginia.

Newsday LLC is a Delaware limited liability company whose members are Tillandsia Media Holdings LLC and Newsday Holdings LLC. Newsday Holdings LLC is an indirect subsidiary of Cablevision Systems Corporation. Cablevision Systems Corporation is (a) directly owned by Altice USA, Inc., a Delaware corporation which is publicly traded on the New York Stock Exchange and (b)

indirectly owned by Altice N.V., a Netherlands public company. It has no subsidiaries or affiliates.

Nexstar Media Group, Inc. is a publicly held media corporation. It has no corporate parent company and no publicly held corporation has a ten percent or greater ownership interest in its stock.

Online News Association is a not-for-profit organization. It has no parent corporation, and no publicly traded corporation owns 10% or more of its stock.

Penguin Random House LLC is a limited liability company whose ultimate parent corporation is Bertelsmann SE & Co. KGaA, a privately-held company. Its parents, affiliates, and subsidiaries are as follows:

- Bertelsmann, Inc.
 - Bertelsmann Publishing Group, Inc.
 - PRH Publications LLC
 - PRH Holdings LLC
 - Penguin Random House LLC
 - Random House Children’s Entertainment LLC
 - Golden Treasures LLC
 - Penguin Random House Grupo Editorial (USA) LLC

- Sasquatch Books LLC
- Frederick Warne & Co. LLC
- Sourcebooks, LLC (52.99%)
- DK Publishing LLC
- RG Special Purpose LLC
 - Rebel Girls, Inc. (8.5%)
- Playaway Products LLC
- Offset Paperback MFRS., Inc.
- Berryville Graphics, Inc.
- Coral Graphics Services, Inc.
- arvato systems North America, Inc
- arvato digital services llc
 - arvato entertainment llc
- Offset Paperback MFRS., Inc.
- BMG Rights Management (US) LLC
 - BMG Production Music, Inc.
 - R&B Music LLC (50%)
 - Rise Records, Inc.
 - BMG Audio Visual Productions LLC
 - This is Hit, Inc.

- Bertelsmann PRH Finance, Inc.
- Bertelsmann Digital Media Investments, Inc
- Bertelsmann Ventures, Inc.
 - BV Capital Fund II-A, L.P. (99%)
- Bertelsmann Digital Health, Inc.
- University Ventures Fund I, L.P. (47.27%)
- University Ventures Fund II, L.P. (55.1%)
- Stern Magazine Corp.
- Bertelsmann Accounting Services, Inc.
- RTL NY, Inc.
- Adjoe, Inc.
- Bertelsmann Health & Human Science Education LLC
 - Versidi, Inc.
 - Teach Us, Inc.
 - Arist Education System Fund LP (99.9997%)
 - Arist Education System LLC (85.0%)
 - Alliant International University, Inc.
 - SFLS, Inc.
- Bertelsmann Learning LLC
 - Relias LLC

- Bertelsmann Education Services LLC
 - Hotchalk LLC
- OCL Professional Education, Inc.
- Majorel USA Holding, Inc.
- Majorel USA, Inc.

Pro Publica, Inc. (“ProPublica”) is a Delaware nonprofit corporation that is tax-exempt under section 501(c)(3) of the Internal Revenue Code. It has no statutory members and no stock. It has no parent, subsidiaries, or affiliates.

Society of Professional Journalists is a non-stock corporation. It has no parent, subsidiaries, or affiliates.

The Tully Center for Free Speech is a subsidiary of Syracuse University. The Tully Center has no affiliates or subsidiaries.

Vox Media, LLC’s parent corporation is Vox Media Holdings, Inc. Ten percent or more of the stock of Vox Media Holdings, Inc. is owned by NBCUniversal Media LLC, a wholly-owned indirect subsidiary of Comcast Corporation, which is publicly traded, and its affiliates.

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INTEREST OF PROPOSED AMICI CURIAE

Lead amicus Reporters Committee for Freedom of the Press (“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. Other proposed amici are news and media organizations that report on or work in New York, or represent the interests of journalists and media entities that work in the state (collectively, “amici”):

- American Broadcasting Companies, Inc.
- The Atlantic Monthly Group LLC
- BuzzFeed
- Dow Jones & Company, Inc.
- The E.W. Scripps Company
- Fox News Network LLC
- Fox Television Stations, LLC
- Gannett Co., Inc.
- Hearst Corporation

- The Marshall Project
- The National Press Club
- The National Press Club Journalism Institute
- National Press Photographers Association
- NBCUniversal Media
- New Jersey Press Association
- New York News Publishers Association
- The New York Times Company
- News/Media Alliance
- Newsday LLC
- Nexstar Media Inc.
- Online News Association
- Penguin Random House LLC
- Pro Publica, Inc.
- Society of Professional Journalists
- Tully Center for Free Speech
- Vox Media, LLC

This case presents issues of substantial importance to amici. Journalists rely on access to information about the conduct of law enforcement officers and agencies to report on matters of public concern; access to police disciplinary

records helps journalists fulfill their constitutionally recognized responsibility to gather and report newsworthy information about the activities of government. Since the repeal of New York Civil Rights Law Section 50-a (“Section 50-a”) in 2020, journalists and news organizations in New York have sought to obtain, analyze, and report information from law enforcement disciplinary records that was long hidden from public view, thereby fulfilling the press’s role “as a powerful antidote to any abuses of power by governmental officials and as a constitutionally chosen means for keeping officials . . . responsible.” *Mills v. Alabama*, 384 U.S. 214, 219 (1966). Amici thus have a strong interest in the disposition of this appeal.

SUMMARY OF ARGUMENT

This case concerns whether a law enforcement agency may refuse to produce complaint records made public under New York’s Freedom of Information Law, N.Y. Pub. Off. Law §§ 84–90 (“FOIL”) by the repeal of Section 50-a. The Appellate Division, First Department, correctly held that the repeal of Section 50-a requires the disclosure of disciplinary records created both before and after June 12, 2020—the date of the repeal. *NYP Holdings, Inc. v. N.Y.C. Police Dep’t*, 220 A.D.3d 487 (1st Dep’t 2023).

FOIL was enacted to facilitate public access to government information and enable public oversight of government agencies and officials. *See, e.g.*, N.Y. Pub. Off. Law § 84 (“[A] free society is maintained . . . when the public is aware of

governmental actions.”). Despite FOIL’s aim of ensuring government transparency and accountability, one provision of the New York Civil Rights Law, Section 50-a, long shrouded law enforcement misconduct in secrecy. For more than 45 years, Section 50-a stymied newsgathering and reporting about how police departments throughout the state handle allegations of misconduct by their officers.

In 2020, a series of highly publicized police killings—including the shooting death of Breonna Taylor by police in Louisville, Kentucky, and the murder of George Floyd in Minneapolis, Minnesota—spurred a national conversation about race, bias, and law enforcement misconduct. In many states, those conversations, and the policy solutions the public demanded, were informed by reporting on police disciplinary records—records that in many cases spanned years. Some news outlets were able to obtain and analyze records that provided insights into historical and ongoing misconduct within law enforcement ranks. This reporting provided the public with an understanding of how leaders might use the past to inform and reform the future of policing in their communities.

And in New York, in the wake of the high-profile killings of citizens, the legislature responded to calls for reform by repealing Section 50-a. But despite the legislature’s decision to expand public access to complaint information about law enforcement, access continues to be delayed or altogether denied. Amici write to emphasize the urgent importance of public access to information like that at issue

here, and to underline that access to law enforcement disciplinary records serves “a clear and vital public interest.” *Puig v. N.Y. State Police*, 80 Misc. 3d 383, 391 (N.Y. Sup. Ct. 2023) (quoting *Legal Aid Soc’y v. Recs. Access Officer*, No. 153748/2022, 2023 WL 3021949, at *4 (N.Y. Sup. Ct. Apr. 19, 2023)).

For the reasons herein, amici respectfully urge the Court to affirm the ruling of the Appellate Division, First Department, requiring Appellants to produce records of law enforcement complaints predating June 12, 2020 to Respondents.

ARGUMENT

I. The legislature intended for the repeal of Section 50-a to give the press and public access to police complaint records, regardless of when those records were created.

The New York Legislature enacted FOIL to equip “the public, individually and collectively . . . represented by a free press,” with the ability to understand, vet, and discuss the actions of state government. N.Y. Pub. Off. Law § 84; *see also N.Y. Laws. for Pub. Int. v. N.Y.C. Police Dep’t*, 64 Misc. 3d 671, 678 (N.Y. Sup. Ct. 2019) (stating that “the public is vested with an inherent right to know” about its government (quoting *Fink v. Lefkowitz*, 47 N.Y.2d 567, 571 (1979))). Section 50-a was enacted to “prevent defense attorneys from impeaching [the testimony of] officers by prior bad acts” in criminal trials. Cynthia H. Conti-Cook, *Defending the Public: Police Accountability in the Courtroom*, 46 Seton Hall L. Rev. 1063, 1070 (2016). Under Section 50-a, any police “personnel records”—records used

primarily to evaluate an officer for continued employment or promotion—were “confidential and not subject to inspection or review,” unless the officer granted permission for their release. N.Y. Civ. Rights Law § 50-a (repealed 2020).

While Section 50-a largely accomplished its goal of preventing the introduction of character evidence about police officers testifying against defendants in criminal trials, it also had far broader, unintended consequences for FOIL. Conti-Cook, *supra*, at 1070. As interpreted by New York courts, Section 50-a effectively sealed from public view records of officers’ job performance, including complaints of misconduct, and provided law enforcement a “unique protection” from scrutiny. Comm. on Open Gov’t, State of N.Y. Dep’t of State, *Annual Report to the Governor and State Legislature 5* (2014), available at <https://opengovernment.ny.gov/system/files/documents/2021/12/2014-annual-report.pdf>; see also Brendan J. Lyon, *Court Rulings Shroud Records*, Times Union (Dec. 15, 2016), <https://www.timesunion.com/tuplus-local/article/Court-rulings-shroud-records-10788517.php> (interviewing original bill sponsor Republican Senator Frank V. Padavan and reporting that “lawmakers . . . never considered that [Section 50-a] would be misinterpreted by courts or used to conceal misconduct by police or correction officers and firefighters, whose personnel records were later added to the law”).

Section 50-a faced repeated calls for repeal and reform for decades. *See, e.g.,* Erin E. Evans, *Police Secrecy Law Keeps Public in the Dark About Police Misconduct*, NBC News (May 19, 2019), <https://perma.cc/F2JS-M9LN> (covering calls to repeal Section 50-a after the police killing of Eric Garner in Staten Island). Those calls for repeal of the law grew more urgent in the wake of the murder of George Floyd at the hands of Minneapolis police officer Derek Chauvin (“Chauvin”) on May 25, 2020. The proposed repeal of Section 50-a was passed by the legislature and immediately signed into law. Chris Sommerfeldt, *Cuomo Signs Historic 50-a Repeal Bill, Making N.Y. Police Disciplinary Records Public After Decades of Secrecy*, N.Y. Daily News (June 12, 2020), <https://perma.cc/7JMZ-D9LG>.

As the First Department below correctly held, legislators intended for the repeal to go into effect immediately. *See NYP Holdings, Inc.*, 220 A.D.3d at 489 (holding that the repeal “went into effect immediately and, by its plain reading and intent, applies to records then existing and not simply to records created at a time subsequent to the enactment of the legislation” (citation omitted)). Immediate effect means that all law enforcement disciplinary records should have been available to the public and press via FOIL beginning on June 12, 2020, unless another exemption applied.

Appellants, however, argue that the repeal of Section 50-a requires only the release of records created after June 12, 2020. Thus, by Appellants' lights, the vast majority of police misconduct records would still be hidden from public view, despite the legislature's clear intent to the contrary. In fact, under Appellants' reading, the repeal is essentially inapplicable to any FOIL requests for disciplinary records submitted on or around June 12, 2020, and practically speaking, for some time afterwards. As the other departments to have considered the issue held, this was not the legislature's intent. *See Newsday, LLC v. Nassau Cnty. Police Dep't*, 222 A.D.3d 85 (2d Dep't 2023); *see also NYCLU v. City of Rochester*, 210 A.D.3d 1400 (4th Dep't 2022), *leave for appeal granted on other grounds*, 39 N.Y.3d 915 (2023).

The legislative history clearly supports Respondents', and the appellate courts', understanding of the repeal.¹ For instance, during a pre-vote discussion of the repeal legislation on the Assembly floor, representative Alicia Hyndman stated

¹ Amici agree with Respondents that this case does not require a retroactivity analysis. *See* Resp'ts Br. at 17–19, 20–26; *see also Newsday, LLC v. Nassau Cnty. Police Dep't*, 222 A.D.3d at 92–93, 95 (observing it was not a case in which petitioner was “seeking retroactive application of the statutory amendments to a pending FOIL request” and the legislature did not intend to limit its repeal of Section 50-a to documents created post-repeal); *NYCLU v. City of Rochester*, 210 A.D.3d at 1401 (ordering release of pre-June 2020 documents and doing so without engaging in retroactivity analysis). Even if this Court concludes a retroactivity analysis is required, that standard is satisfied here, for the reasons set forth in the First Department's opinion below. *NYP Holdings, Inc.*, 220 A.D.3d at 488–89; *see also* Resp'ts Br. at 26–30.

that she had received “600 requests to repeal 50-a” prior to June 9, 2020; she clarified that if the repeal passed, law enforcement officers with “records that may be similar [in length] to [Chauvin’s] in Minneapolis” would now be public under FOIL, “shin[ing] a light on the records that these [New York] officers may have.” N.Y. Assembly, Floor Debate, 243d N.Y. Leg., Reg. Sess. 92–93 (June 9, 2020), *available at* https://nystateassembly.granicus.com/DocumentViewer.php?file=nystateassembly_e9af7a3d256bee2d470e331a2a0dd9ae.pdf. Other legislators likewise indicated their understanding that repeal would allow immediate access to records of any New York law enforcement officer whose history of misconduct claims was as yet unknown—again citing Chauvin as an example. *See id.* at 92 (clarifying the way that FOIL would operate after the repeal of Section 50-a, representative Daniel O’Donnell stated that the repeal would provide “a citizen, [] a reporter, [or] a lawyer” access to disciplinary records “as long as Mr. Chauvin[’s] in Minneapolis”). Following the murder of George Floyd, it came to light that Chauvin had been the “subject of at least 22 complaints” over the course of his nineteen years as a police officer. Jamiles Lartey & Abbie VanSickle, *That Could Have Been Me’: The People Derek Chauvin Choked Before George Floyd*, MPR News (Feb. 5, 2021), <https://perma.cc/RM44-CYVZ>.

As this legislative history underlines, law enforcement accountability is predicated on the public’s ability to understand not only individual incidents of

officer misconduct, but also larger patterns of misconduct and internal discipline—patterns that can only be seen with access to information over time. N.Y. Senate, Floor Debate, 243d N.Y. Leg., Reg. Sess. 1823 (June 9, 2020), *available at* <https://www.nysenate.gov/transcripts/2020-06-09t1153> (“By repealing Section 50-a, we will make it possible to find out whether police departments have ignored repeated patterns and complaints about officers’ behavior.”); *id.* at 1842 (“[The repeal] will change the culture of secrecy, the patterns of illegality that have been allowed to fester, and the legalized denial of accountability . . .”). If the repeal of Section 50-a does not render pre-June 2020 disciplinary records presumptively public, no patterns in misconduct and discipline will be identifiable for many years to come. This was not the intent, and this common-sense understanding of the effect of Section 50-a’s repeal comports with the legislative history and language behind FOIL and the repeal of Section 50-a itself. *See* Sponsor Mem., S. 8496, 243d N.Y. Leg., Reg. Sess. (2020), *available at* <https://www.nysenate.gov/legislation/bills/2019/S8496> (“FOIL’s public policy goals . . . are to make government agencies and their employees accountable to the public . . .”); *id.* (noting that the “[r]epeal of § 50-a will help the public regain trust that law enforcement officers and agencies may be held accountable for misconduct”).

As noted above, to date, three of New York’s four Appellate Divisions have required law enforcement agencies to release pre-June 12, 2020 disciplinary records to FOIL requesters, including the First Department below. *NYCLU*, 210 A.D.3d at 1401 (granting access to disciplinary records created before June 12, 2020, over objections that such records were not available if created before repeal); *Gannett Co. v. Town of Greenburgh Police Dep’t*, 229 A.D.3d 789, 793 (2d Dep’t 2024); *NYP Holdings, Inc.*, 220 A.D.3d at 489 (same). In doing so, these courts have recognized that the legislature sought to expand public access to information about law enforcement and to address the continued problem of such access being delayed or altogether denied. *See* Roy S. Gutterman, *Repeal, Replace, and Expose: A Case Study and Call for Public Records Transparency with Police Records in New York*, 52 Hofstra L. Rev. 677, 705 (2024) (noting that “[a]fter the repeal, law enforcement agencies and municipalities quickly reacted to the repeal with arguments that records of ‘unsubstantiated’ complaints or mere accusations that were incomplete or not fully investigated should be withheld because they would constitute an unwarranted invasion of privacy”).

The legislative intent behind the repeal of Section 50-a—to meaningfully increase police transparency and accountability, including by making all complaints of misconduct and records of discipline, regardless of when they were

created, public—would be defeated if only a small portion of those records were open to the press and public.

II. Access to complaint records, including pre-June 12, 2020 records, ensures the press can do its job to keep the public informed on the issues that precipitated repeal of Section 50-a.

The primary function of the press is to keep the public informed about matters of public concern including to “guard[] against the miscarriage of justice by subjecting the police . . . to extensive public scrutiny and criticism.” *Sheppard v. Maxwell*, 384 U.S. 333, 350 (1966). Appellants’ argument, if accepted by this Court, would undermine that function and the very purpose of FOIL. *See* N.Y. Pub. Off. Law § 84 (access to government records “should not be thwarted by shrouding [them] with the cloak of secrecy or confidentiality”); *see also Fink*, 47 N.Y.2d at 571 (FOIL “proceeds under the premise that the public is vested with an inherent right to know and that official secrecy is anathematic to our form of government”).

For decades, amici and news organizations throughout New York confronted the barriers that Section 50-a posed to reporting about law enforcement misconduct and, for that reason, many supported its repeal. *See, e.g.,* Katie Townsend, *Penetrate the Secrecy Shield: New York State Law Must Stop Hiding Police Disciplinary Records from Public View*, N.Y. Daily News (May 8, 2019), <https://perma.cc/SH87-EMGA>; *Reporters Committee Letter Urges Immediate*

Repeal of Section 50-a of the New York Civil Rights Law, Reporters Comm. for Freedom of the Press (June 7, 2020), <https://perma.cc/6XQN-4L93>; Editorial Board, *Overhaul Law That Protects Bad Cops*, Times Union (Feb. 20, 2020), <https://www.timesunion.com/opinion/article/Editorial-Overhaul-law-that-protects-bad-cops-15066202.php>; Editorial Board, *Stop Hiding Police Misconduct in New York*, N.Y. Times (July 29, 2015), <https://www.nytimes.com/2015/07/29/opinion/stop-hiding-police-misconduct-in-new-york.html>; Editorial Board, *Cop Misconduct Shouldn't Be Kept A Secret*, Newsday (Sept. 9, 2015), <https://www.newsday.com/opinion/editorials/cop-misconduct-shouldn-t-be-kept-secret-n68955>. And law enforcement itself has recognized the benefits of transparency with the press and, accordingly, the public when it comes to officer misconduct and discipline. See Rachel Moran & Jessica Hodge, *Law Enforcement Perspectives on Public Access to Misconduct Records*, 42 Cardozo L. Rev. 1237, 1261–62 (2021) (citing feedback from a police department administrator about the “specific and tangible” benefit of releasing misconduct records to journalists: “when the media requested information about officer misconduct, the department was able to provide written reports of terminations, suspensions, and other discipline proving that the department policed its own officers”).

Reporting from across the country demonstrates precisely why press access to complaints of police misconduct that span more than four years is essential to

keeping the public informed and able to hold law enforcement accountable. See Andrew Ford, *I Cover Cops As An Investigative Reporter. Here Are Five Ways You Can Start Holding Your Department Accountable*, ProPublica (June 4, 2020), <https://www.propublica.org/article/i-cover-cops-as-an-investigative-reporter-here-are-five-ways-you-can-start-holding-your-department-accountable> (discussing role of transparency, and specifically reporting on public records, in law enforcement policy reforms); Times Union, *Live: Will New York Repeal 50-a, the Law That Protects Police Records?*, YouTube (June 8, 2020), <https://perma.cc/C8X7-VAY5> (explaining the value of police personnel records to the press and public in New York).

In Illinois, journalists routinely use state public records requests to report on both long-term trends in policing and law enforcement discipline, as well as the disciplinary histories of individual problematic officers. This is possible in part because in 2016, the Appellate Court of Illinois held that police officer complaint registry records that were more than five years old could not be destroyed, which would have made the bulk of complaint records inaccessible to requesters.

Fraternal Ord. of Police, Chi. Lodge No. 7 v. City of Chicago, 59 N.E.3d 96 (Ill. App. Ct. 2016). Recently, the Illinois Newsroom, in partnership with the Champaign-Urbana Civic Police Data Project, published a story detailing habitual, unwarranted, and unpunished uses of force by one Urbana Police Department

officer. Brian Dolinar, *A “Pattern of Problematic Conduct”: Urbana Officer Tests Police Accountability*, IPM News (July 5, 2023), <https://perma.cc/P8SA-W66Y>.

The investigative report reviewed the officer’s complaint history—obtained through public records requests—from 2016 to 2020, finding that he “used force an average of about 12 times a year.” *Id.* The authors also told the stories of some of the officer’s victims, who alleged that the officer punched them in the face, slammed them against metal bars, and forced them to the ground even though they were not resisting arrest. *Id.* As the investigation noted, the officer remained on the force for years before his department identified a “pattern of problematic conduct.” *Id.*

Another investigation by the nonprofit news outlet Invisible Institute and CU-Citizen Access utilized records from the Champaign County Sheriff’s Office that “suggest[ed] a systemic inability to deal with over-the-top behavior from its officers—a system in which a sergeant can be disciplined regularly, suspected for having alcohol problems for over a decade, violate contracts and be accused of using racial slurs—yet keep their job.” Sam Stecklow & Dylan Tiger, *Champaign County Sheriff’s Office Knew Norman Meeker Had an Alcohol Problem for a Decade. Why Did It Take a Flipped Truck and a DUI for Meeker to Leave the Force?*, CU-Citizen Access (Dec. 22, 2021), <https://perma.cc/NEP8-KFFW>. With information from documents obtained from the Sheriff’s office through public

records requests, the outlet was able to report on one officer's policy violations and allegations of misconduct spanning back to 2011 that culminated in a dangerous, alcohol-fueled car wreck in 2021. *Id.* "Although the office had information suggesting the sergeant had a problem with alcohol for over a decade, there's no indication that the office ever took steps to get him help or discipline him when it received complaints involving his drinking." *Id.*

Data journalism projects like the Civic Police Data Project have put the tools of police reform directly into the hands of the people of Chicago, providing an online resource that allows website users to better understand where, if, and how police misconduct is addressed. One of the website's features is an interactive neighborhood-coded map of total allegations made against Chicago Police Department ("CPD") officers from 1988 to the present. Civic Police Data Project, Invisible Inst., <https://cpdp.co/> (last accessed Nov. 14, 2024). When a neighborhood is selected, a box to the right of the map shows the neighborhood's population, race breakdown, median income, as well as the number of allegations made against officers in that area over the past twenty years, and if further disciplinary actions were taken as to those complaints, among other information. *Id.* Additional visualizations on the webpage include a section titled "Repeaters," which states that "[m]ore than 30% of complaints against CPD officers involve just 10% of the police force. Officers with at least 10 complaints against them generate

64% of all complaints.” *Id.* A catalog of officers with tens, and sometimes hundreds, of complaints made against them is linked, allowing website users to view individual complaints, where the incidents complained of took place, and other details. *Id.* Data journalism that uses historical and contemporary complaint information, like the Civic Police Data Project, can be a powerful tool to empower citizens—providing them needed information as to whether complaints have waned or increased over time, whether misconduct occurs more often in some neighborhoods than others, and whether CPD has been fulfilling its duty to discipline officers for instances of misconduct.

Massachusetts, like New York, undertook significant criminal justice reforms in 2020 in the wake of the murder of George Floyd. One reform was publishing a database of select complaints against Massachusetts officers, which went live in August 2023, and includes complaints dating as far back as 1981. Mass. Peace Officer Standards & Training Comm’n, Officer Disciplinary Records Database, <https://mapostcommission.gov/discipline-status-records/disciplinary-records/> (last updated Sept. 17, 2024). WBUR, Boston’s National Public Radio station, analyzed the dataset consisting of 3,400 disciplinary records, providing the public with crucial insights into how complaints against law enforcement across the state were handled. Deborah Becker & Ally Jarmanning, *Mass. Police Misconduct Database is Released, But Excludes Many Complaints*, WBUR (Aug.

22, 2023), <https://perma.cc/TF5R-93PU>. The authors noted that over the past ten years, the Massachusetts State Police, the Springfield police, and the Boston police had incurred the most complaints. *Id.* The outlet also reported that universities had “large numbers of officers in the database, many with multiple incidents on their records,” including at Harvard and MIT. *Id.* The press can make unique use of police misconduct information that spans decades, elucidating for the public the problems—either institutionally, or with individual officers—that have hindered law enforcement and the communities they serve.

In Minnesota, journalists have used police misconduct records to help the public understand the persistent and pernicious institutional failures that led to Mr. Floyd’s murder. For instance, a longform investigative piece in the Minnesota Reformer covered the Minnesota Police Department’s (“MPD”) “notorious[] ineffective[ness] at removing bad cops from its ranks,” using “disciplinary files ... [to] show a pattern of mismanagement when it comes to holding officers accountable.” Max Nesterak & Tony Webster, *The Bad Cops: How Minneapolis Protects Its Worst Police Officers Until It’s Too Late*, Minn. Reformer (Dec. 15, 2020), <https://perma.cc/6FBW-J6Z6>. The piece noted that “[t]hrough the ’90s and 2000s the Minneapolis Police Department trained its officers,” including Chauvin, “to be ‘warrior cops.’” *Id.* Documents obtained by the outlet revealed when Chauvin was a recruit in 2002, he watched a senior officer physically abuse an

arrestee; that senior officer was never suspended. *Id.* Also before Mr. Floyd’s murder, Chauvin “allegedly hit a 14-year-old boy twice with a flashlight and kneeled on his back as he pleaded that he couldn’t breathe.” *Id.* The article suggests that it was because Chauvin used “aggressive tactics” that he was retained and even rewarded by MPD; Chauvin was “stew[ing] in this culture” of violence. *Id.*

Further review of MPD officers’ disciplinary records evinced a decades-long pattern: “when a Minneapolis police officer does something wrong, no matter how big or small, other officers on the scene will minimize what happened or report not having seen or heard anything.” *Id.* “[I]n file after file, officers tell investigators they didn’t see anything,” even when they have witnessed a fellow officer engage in misconduct. *Id.* MPD leadership, when interviewed for the article, reportedly explained that the department “didn’t yet have the ability to keep track of patterns that signal trouble”—patterns that journalists were able to identify from MPD’s records. *Id.*

By analyzing and summarizing the details of numerous police disciplinary records spanning years, and charting MPD’s historical and ongoing failures to address misconduct within its ranks, outlets like the Minnesota Reformer provided the public with an understanding of how they might use the past to inform and reform the future of policing in Minneapolis.

Concrete public benefits flow from the disclosure of documents that enable the press to report on—and the public to evaluate—whether police officers and their departments are upholding their obligations to the public. *See, e.g.*, Shaila Dewan & Serge F. Kovalski, *Thousands of Complaints Do Little to Change Police Ways*, N.Y. Times (May 30, 2020), <https://perma.cc/FB27-4CPF> (noting the “reluctance of investigators . . . to second-guess an officer’s split-second decision,” and the concomitant need for more effective, robust oversight). New York is home to the second largest number of law enforcement officers in the country. Without access to records of complaints of misconduct against those officers, including complaints made prior to the repeal of Section 50-a on June 12, 2020, the press cannot inform the public about instances of officer misconduct, patterns of misconduct, or how law enforcement is responding to complaints of misconduct.

CONCLUSION

Amici urge the Court to affirm the ruling of the Appellate Division, First Department, and hold that upon the repeal of Section 50-a, complaints of law enforcement misconduct are available under FOIL regardless of when those complaints were made.

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Respectfully submitted,



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CERTIFICATION OF WORD COUNT

Counsel certifies that pursuant to 22 N.Y.C.R.R. § 500.13(c)(1) the total word count for all printed text in the body of this brief, excluding the portions exempted by 22 N.Y.C.R.R. § 500.13(c)(3), is 4,243 words.

APPENDIX:

STATEMENTS OF INTEREST OF AMICI CURIAE

The Reporters Committee for Freedom of the Press is an unincorporated nonprofit association founded by leading journalists and media lawyers in 1970 to protect First Amendment freedoms and the newsgathering rights of journalists.

American Broadcasting Companies, Inc., operates television and radio networks throughout the United States. Through its news divisions, it regularly gathers and reports news to the public. It owns ABC News, which produces the programs World News Tonight with David Muir, Good Morning America, Nightline, 20/20 and This Week, among others. In New York, it owns the local television station WABC-TV, which gathers and reports news concerning New York, Connecticut and New Jersey.

The Atlantic Monthly Group LLC is the publisher of *The Atlantic* and TheAtlantic.com. Founded in 1857 by Oliver Wendell Holmes, Ralph Waldo Emerson, Henry Wadsworth Longfellow and others, *The Atlantic* continues its 160-year tradition of publishing award-winning journalism that challenges assumptions and pursues truth, covering national and international affairs, politics and public policy, business, culture, technology and related areas.

BuzzFeed, Inc. is a social news and entertainment company that provides shareable breaking news, original reporting, entertainment, and video across the social web to its global audience of more than 200 million.

Dow Jones & Company is the world's leading provider of news and business information. Through *The Wall Street Journal*, *Barron's*, MarketWatch, Dow Jones Newswires, and its other publications, Dow Jones has produced journalism of unrivaled quality for more than 130 years and today has one of the world's largest newsgathering operations. Dow Jones's professional information services, including the Factiva news database and Dow Jones Risk & Compliance, ensure that businesses worldwide have the data and facts they need to make intelligent decisions. Dow Jones is a News Corp company.

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.

Fox News Network, LLC ("Fox News") owns and operates the Fox News Channel, the top rated 24/7 all news national cable channel, and the Fox Business Network, as well as Foxnews.com, Foxbusiness.com, and the Fox News Radio Network.

Fox Television Stations, LLC: Directly and through affiliated companies, Fox Television Stations, LLC, owns and operates 28 local television stations throughout the United States. The 28 stations have a collective market reach of 37 percent of U.S. households. Each of the 28 stations also operates Internet websites offering news and information for its local market.

Gannett is the largest local newspaper company in the United States. Our more than 200 local daily brands in 43 states — together with the iconic USA TODAY — reach an estimated digital audience of 140 million each month.

Hearst is one of the nation's largest diversified media, information and services companies with more than 360 businesses. Its major interests include ownership of 15 daily and more than 30 weekly newspapers, including the San Francisco Chronicle, Houston Chronicle, and Albany Times Union; hundreds of magazines around the world, including Cosmopolitan, Good Housekeeping, ELLE, Harper's BAZAAR and O, The Oprah Magazine; 31 television stations such as KCRA-TV in Sacramento, Calif. and KSBW-TV in Monterey/Salinas, CA, which reach a combined 19 percent of U.S. viewers; ownership in leading

cable television networks such as A&E, HISTORY, Lifetime and ESPN; global ratings agency Fitch Group; Hearst Health; significant holdings in automotive, electronic and medical/pharmaceutical business information companies; Internet and marketing services businesses; television production; newspaper features distribution; and real estate.

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 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.

NBCUniversal Media, LLC is one of the world’s leading media and entertainment companies in the development, production and marketing of news, entertainment and information to a global audience. Among other businesses, NBCUniversal Media, LLC owns and operates the NBC television network, the Spanish-language television network Telemundo, NBC News, several news and entertainment networks, including MSNBC and CNBC, and a television-stations group consisting of owned-and-operated television stations that produce substantial amounts of local news, sports and public affairs

programming. NBC News produces the “Today” show, “NBC Nightly News with Lester Holt,” “Dateline NBC” and “Meet the Press.”

The New Jersey Press Association (“NJPA”) is a non-profit organization incorporated in 1857 under the laws of the State of New Jersey. It has a membership composed of daily newspapers, affiliate newspapers, weekly newspapers, digital news websites, as well as corporate and non-profit associate members. NJPA is a membership association formed to advance the interests of newspapers and to increase awareness of the benefits of newspaper readership. The mission of NJPA is to help newspapers remain editorially strong, financially sound and free of outside influence. NJPA pursues these goals in every way possible, as a service both to its members and to the people of New Jersey.

The New York News Publishers Association is a trade association which represents daily, weekly and online newspapers throughout New York State. It was formed in 1927 to advance the freedom of the press and to represent the interests of the newspaper industry.

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

The News/Media Alliance represents over 2,200 diverse publishers in the U.S. and internationally, ranging from the largest news and magazine publishers to

hyperlocal newspapers, and from digital-only outlets to papers who have printed news since before the Constitutional Convention. Its membership creates quality journalistic content that accounts for nearly 90 percent of daily newspaper circulation in the U.S., over 500 individual magazine brands, and dozens of digital-only properties. The Alliance diligently advocates for newspapers, magazine, and digital publishers, on issues that affect them today.

Newsday LLC (“Newsday”) is the publisher of the daily newspaper, Newsday, and related news websites. Newsday is one of the nation’s largest daily newspapers, serving Long Island through its portfolio of print and digital products. Newsday has received 19 Pulitzer Prizes and other esteemed awards for outstanding journalism.

Nexstar Media Inc. (“Nexstar”) is a leading diversified media company that leverages localism to bring new services and value to consumers and advertisers through its traditional media, digital and mobile media platforms. Nexstar owns, operates, programs or provides sales and other services to 199 television stations and related digital multicast signals reaching 116 markets or approximately 62% of all U.S. television households.

The Online News Association (“ONA”) 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.

Penguin Random House LLC publishes adult and children’s fiction and nonfiction in print and digital trade book form in the U.S. The Penguin Random House global family of companies employ more than 10,000 people across almost 250 editorially and creatively independent imprints and publishing houses that collectively publish more than 15,000 new titles annually. Its publishing lists include more than 60 Nobel Prize laureates and hundreds of the world’s most widely read authors, among whom are many investigative journalists covering domestic politics, the justice system, business and international affairs.

Pro Publica, Inc. (“ProPublica”) is an independent, nonprofit newsroom that produces investigative journalism in the public interest. It has won six Pulitzer Prizes, most recently a 2020 prize for national reporting, the 2019 prize for feature writing, and the 2017 gold medal for public service. ProPublica is supported almost entirely 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 has extensive regional and local operations, including ProPublica Illinois, which began

publishing in late 2017 and was honored (along with the Chicago Tribune) as a finalist for the 2018 Pulitzer Prize for Local Reporting, an initiative with the Texas Tribune, which launched in March 2020, and a series of Local Reporting Network partnerships.

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.

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.

Vox Media, LLC owns New York Magazine and several web sites, including Vox, The Verge, The Cut, Vulture, SB Nation, and Eater, with 170 million unique monthly visitors.