

EXHIBIT A

**IN THE APPELLATE COURT OF ILLINOIS
FOR THE FIRST JUDICIAL DISTRICT**

CHICAGO JOHN DINEEN LODGE # 7,)	On Appeal from the Circuit Court of
)	Cook County, Chancery Division
Plaintiff-Appellant,)	
)	Case No. 2024 CH 00093
v.)	
)	Hon. Michael T. Mullen,
CITY OF CHICAGO, DEPARTMENT of)	Judge Presiding
POLICE, BRANDON JOHNSON, in his)	
Official Capacity as MAYOR, LARRY)	
SNELLING, in his Official Capacity as)	
Superintendent of the Chicago Police)	
Department, and THE CHICAGO CITY)	
COUNCIL,)	
)	
Defendants-Appellees.)	

**AMICUS CURIAE BRIEF OF ORGANIZATIONS AND COMMUNITY LEADERS
THAT REPRESENT VICTIMS AND SURVIVORS OF CHICAGO POLICE
MISCONDUCT**

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INTEREST OF THE AMICI CURIAE

Amici curiae are a diverse coalition of community, civil rights, and legal aid organizations, civic groups, and community leaders whose members, clients, constituents, family members, and friends have been subjected first-hand to police misconduct in Chicago. Amici also include good government groups, journalists, and data scientists with in-depth knowledge of the harms resulting from the absence of police transparency and accountability, particularly suffered by communities disparately impacted by Chicago police abuse. These amici, listed and described in the Appendix, are uniquely positioned to speak to the practical importance of an open and effective system for police accountability in Chicago. Amici, who are singularly committed to remedying past abuse and preventing future abuse, have crucial insight into the effects of enforced secrecy surrounding Chicago police misconduct proceedings. Moving disciplinary proceedings concerning the most severe police misconduct behind closed doors would shield those proceedings from the disinfecting sunlight of public scrutiny. This would prevent the State and people of Illinois from remedying the Chicago Police Department's pattern and practice of excessive and discriminatory force in violation of the United States Constitution, the Illinois Constitution, and other state and federal laws. It would allow police abuses to continue unchecked, impair public safety, and inflict grave harm on Amici and our neighbors.

SUMMARY OF ARGUMENT

Amici ask this Court to affirm the trial court's decision that CPD misconduct proceedings must be held in public given Illinois' overriding policy favoring police transparency and accountability. Arbitrator Edwin Benn's underlying award ("the Award") to the Fraternal Order of Police ("FOP") sets a radical precedent that would reverse a decade of slow and halting progress made by the City of Chicago towards police transparency and accountability and send police misconduct back behind closed doors where for decades it was allowed to fester. The trial court correctly held that the powerful state and public interest in ending and remedying patterns of police misconduct that violate the State's most fundamental laws requires serious police disciplinary proceedings to be held in public.

The trial court's decision may also be upheld on the grounds that the Award's disregard of the public interest and welfare in CPD transparency and accountability and in remedying violations of the Illinois Constitution was arbitrary and capricious.

ARGUMENT

I. Historical and Legal Context

The stakes of this appeal could not be greater: the right of the public to monitor the police, Chicago police transparency and accountability, the ability of the State and people of Illinois to remedy a pattern and practice of Illinois and Federal Constitutional violations by the Chicago Police

Department (“CPD”), and the very safety of the people of Chicago. The trial court correctly found that the State of Illinois has a dominant and well-defined policy of police transparency and accountability in Chicago, requiring proceedings in the most serious cases of police misconduct to be conducted openly.

On the evening of October 21, 2014, Chicago police officer Jason Van Dyke fired 16 shots into the body of 17-year-old Laquan McDonald. Police dashcam video showed Laquan backing away from Officer Van Dyke and fellow police officers as Van Dyke shot him. The boy fell and lay helpless on the ground. Van Dyke then aimed his gun at and emptied his magazine into Laquan’s body. 16 shots. It looked like an execution. However, the City hid the video and the truth about Laquan’s murder for more than a year, while CPD presented a false narrative that Van Dyke shot Laquan in self-defense.¹ The City’s staunch resistance to transparency and releasing the video were central components to its machinery of denial that had long shielded officers from accountability.

Recognizing the State’s dominant public policy in police transparency, then Cook County Circuit Court Judge Franklin Valderrama ordered the public release of the video pursuant to the Illinois Freedom of Information

¹ See Police Accountability Task Force, *Recommendations for Reform: Restoring Trust between the Chicago Police & the Communities They Serve* (“Task Force Report”) (2016) at 2-4, <https://perma.cc/7PHF-JNK8>.

Act.² The revelation of the truth about Officer Van Dyke's murder of a 17-year-old boy and the City's machinery of denial that insulated officers like Van Dyke from accountability triggered widespread public protest and thrust the city into the national spotlight.

The case of Laquan McDonald became a watershed moment for Chicago. In the wake of the City's cover-up of Laquan's murder, community members most impacted by CPD abuse and the Illinois Attorney General pressed the City to address shortcomings in transparency and accountability that had long plagued Chicago.

In response, the City in 2015 convened the Police Accountability Task Force composed of civic leaders to study and make recommendations to improve police accountability and transparency in Chicago. The Task Force identified a "long, sad history of death, false imprisonment, physical and verbal abuse and general discontent about police actions in neighborhoods of color." Task Force Report at 7. It found "systemic and institutional failures going back decades" that manifest in "death and injury at the hands of police," "pervasive physical and verbal abuse," "deprivations of human and constitutional rights," and "lack of individual and systemic accountability."

² *Smith v. Chicago Police Department*, No. 2015 CH 11780, Mem. Op. and Order at 17 (Valderrama J.) (Nov. 19, 2015) (citation omitted) (stating that the "full and complete disclosure of the affairs of government... is necessary to enable the people to fulfill their duties to monitor government."), <https://www.documentcloud.org/documents/2566895-15-ch-11780-smith-v-cpd-msj-memorandum-opinion.html>.

Id. at 4. It found that CPD’s pattern of civil rights violations was facilitated by a long history of racism, a code of silence institutionalized in and reinforced by CPD rules and policies and labor agreements with the FOP that hid police abuse from the public, and a systemic lack of accountability. *Id.* at 4, 70.

Following Task Force recommendations, the City established the Civilian Office of Police Accountability (COPA) and a Deputy Inspector General for Public Safety to “enhance transparency, accountability, and quality of [CPD] oversight.” Chi. Ill., Ordinance in Relation to Police Oversight, Establishment of COPA and PSD (Oct. 5, 2016).³ COPA replaced the body that had previously been responsible for investigating complaints of CPD misconduct and abuse against community members and incidents involving the most serious uses of force.⁴ The Task Force had found the prior body to be “plagued by serious structural and procedural flaws that made real accountability nearly impossible” and operated as a critical component of the City’s machinery of denial. Task Force Report at 10.

The national attention following the forced release of the video of Officer Van Dyke’s murder of Laquan McDonald brought the U.S. Department of Justice (DOJ) to Chicago to undertake the largest civil rights

³ See also Chicago Mun. Code §§ 2-78-110, 2-56-210 (2016).

⁴ Chicago Mun. Code § 2-78-110 (2016).

investigation into a police department in its history.⁵ In 2017, the DOJ, like Chicago's Police Accountability Task Force, found that CPD's lack of public accountability, code of silence, deficient investigations into police misconduct, and failure to identify and deter abusive officers contributed to a pattern and practice of excessive force disproportionately targeting African Americans.⁶ The DOJ highlighted the role that CPD's lack of transparency played in facilitating the systemic abuse, finding that it "has contributed to CPD's failure to identify and correct unlawful practices" and has bred "distrust between CPD and the public." *Id.* at 12. These conditions led the State of Illinois to bring a lawsuit against the City of Chicago in 2017 to redress CPD's pattern and practice of state and federal constitutional violations and violations of the Illinois Civil Rights and Human Rights Acts.⁷ In 2019, the State of Illinois won a civil rights consent decree over the CPD in which transparency and accountability are primary antidotes to end CPD's pattern of civil rights violations and improve public safety.⁸

⁵ Lisa Fielding, *U.S. Attorney: Fed Probe Into Chicago Police Department Is Biggest Ever, Ongoing*, CBS News (Sep. 26, 2016), <https://perma.cc/H9LR-3CXZ>.

⁶ United States Department of Justice, Investigation of the Chicago Police Department ("DOJ Report") (Jan. 13, 2017) at 68-69, 74-84, 145, <https://www.justice.gov/opa/file/925846/dl?inline>.

⁷ Complaint, *State of Ill. v. City of Chicago*, Case No. 1:17-cv-06260, at 7 (N.D. Ill. Aug. 29, 2017), Dkt. 1, https://www.chicagopoliceconsentdecree.org/Page-Attachments/CPCD/Resources/Court/City_of_Chicago_lawsuit_filedcomplaint.pdf.

⁸ Consent Decree, *State of Ill. v. City of Chicago*, No. 17-cv-06260 (N.D. Ill. Jan. 31, 2019), Dkt. 703-1, ¶¶ 419-423 ("Consent Decree"), <https://www.chicagopoliceconsentdecree.org/Page->

While far from sufficient, the City has made real progress toward transparency and accountability in the ten years since the release of that horrific video. The number of instances in which Chicago police have killed and used violence against people has decreased. More officers have been held to account when they have abused people. The City established community oversight over the CPD.⁹ The Chicago Police Board, the public body that has heard the most serious cases of CPD misconduct in public hearings since 1961,¹⁰ is now subject to community oversight and has become more accountable to the public.¹¹

[Attachments/CPCD/Resources/CONSENT/FINAL-CONSENT-DECREE-SIGNED-BY-JUDGE-DOW.pdf](#).

⁹ Following Task Force recommendations incorporated into the Consent Decree, the City in 2021 established the Community Commission for Public Safety and Accountability (CCPSA) to enhance community oversight, transparency, and accountability of the CPD and the bodies that address complaints of police misconduct. *See* Chicago Mun. Code § 2-80-030 (2021).

¹⁰ Chicago City Council established the Police Board on March 2, 1960, to address rampant CPD misconduct in the wake of the infamous Summerdale scandal, in which a group of officers had engaged in a pattern of robberies of community members with impunity. Journal of City Council Proceedings - (1959-60) at 2058-60. In 1961, the City gave the Chicago Police Board the responsibility to decide cases in which the City had found that Chicago police officers had committed serious misconduct. Ralph Knoohuizen, Chicago Law Enforcement Study Group, *The Chicago Police Board* (1973) at 4-5, <https://www.documentcloud.org/documents/2997714-1973-Chicago-Police-Board#document/p11>, citing Chicago Mun. Code §§ 11-1 to 11-5 (as amended June 30, 1961) (giving the Police Board the “responsibility to handle cases involving severe disciplinary action”).

¹¹ Chicago Mun. Code §§ 2-80-080(c), 2-80-090, and 2-80-100. CPD accountability before the Board also notably increased as a result of greater transparency and public scrutiny following the release of the video of Officer Van Dyke’s killing of Laquan McDonald. Between 2016 and 2021, more than 80 percent of the firing cases before the Board led to termination of employment as compared to about 50 percent between 2011 and 2015. Sam

The Award, which would send the most serious cases of CPD misconduct back into secrecy, conflicts with established state public policy. The Award threatens to eviscerate the progress that the City has made toward transparency and accountability over the past decade. It would upend a more than 60-year history in which these cases have been decided in public “trial-like” hearings before the Chicago Police Board—decades in which journalists, researchers, and community members have attended hearings, reviewed transcripts and written decisions of the Board, and analyzed trends and data from these proceedings.¹² The Award to the FOP would allow CPD officers to evade public hearings before the Police Board and instead choose closed-door hearings before private arbitrators approved by the FOP who have a record of protecting CPD officers from accountability.

Just as the City’s efforts to operate in secrecy to cover up the murder of Laquan McDonald contravened fundamental Illinois public policy a decade ago, the Award granting FOP’s request to push misconduct proceedings behind closed doors walled off from public scrutiny violates state public policy today.

Stecklow et al., *Arbitrating Police Terminations Could Result in a ‘Decade of Police Impunity,’* Chicago Reader (Nov. 5, 2023), <https://perma.cc/8DYM-KY9V>.

¹² *Id.*

II. Standard of Review

While an arbitrator's findings are generally subject to substantial deference, courts not only have the power but also the responsibility to overturn an arbitration award when it is "repugnant to established norms of public policy." *City of Chicago v. Fraternal Order of Police, Chicago Lodge No. 7*, 2020 IL 124831, ¶ 25, citing *American Federation of State, County & Municipal Employees v. Department of Central Management Services*, 173 Ill. 2d 299, 306 (1996). Whether the Award violates public policy is a question of law that is reviewed *de novo*. *Id.* at ¶ 26.

An arbitration award must also be overturned when it is arbitrary or capricious. *Town of Cicero v. Illinois Association of Firefighters, IAFF Local 717 AFL-CIO*, 338 Ill. App. 3d 364, 372 (1st Dist. 2003). An arbitrator's award is arbitrary or capricious when it "entirely fails to consider an important aspect of the problem." *Id.*

III. The Arbitration Award is Repugnant to Dominant Illinois Public Policy.

The trial court correctly held that the Award must be modified because moving the most serious cases of police misconduct behind closed doors violates Illinois public policy requiring police transparency and accountability and providing remedies for violations of the State's most fundamental laws.

Courts apply a two-step test to determine whether an award violates public policy: (1) whether Illinois has a "well-defined and dominant public policy" in police transparency, accountability, and constitutional policing and

(2) whether the Arbitrator’s award violates that public policy. *Fraternal Order of Police, Chicago Lodge No. 7*, 2020 IL 124831 at ¶ 26.

A. There are well-defined and dominant Illinois public policies favoring constitutional policing, police transparency and accountability.

More than a century ago, the Illinois Supreme Court explained that “[t]he public policy of the state or of the nation is to be found in its Constitution and its statutes, and when cases arise concerning matters upon which they are silent, then in its judicial decisions and the constant practice, of the government officials.” *Zeigler v. Illinois Trust & Savings Bank*, 245 Ill. 180, 193 (1910).

The requirement that police officers respect the civil rights of those they serve—and the need to enforce that requirement through transparency and accountability mechanisms—have long been established public policy of the State of Illinois. These policies are enshrined in the State Constitution, statutes, judicial opinions, and the actions of State officials, discussed in turn below.

Excessive force and racial discrimination by police are strictly prohibited under the Illinois Constitution. *See* Illinois Constitution, Article I, § 6 (prohibiting unreasonable searches and seizures); *id.* at Article I, § 2 (guaranteeing the right to equal protection under the law).

State statutes also clearly delineate restrictions on police use of force and prohibit police brutality. *See* 720 ILCS 5/7-5 (restricting force to that

which is necessary to make an arrest and restricting deadly force to circumstances in which such force is necessary to prevent death or great bodily harm); 720 ILCS 5/7-5.5 (prohibiting police from using force “as punishment or retaliation” and prohibiting dangerous police maneuvers, such as chokeholds and firing tasers and rubber bullets at a person’s most sensitive body parts). As a result of the documented history of torture committed by Chicago police officers, the State of Illinois enacted the Torture Inquiry and Relief Commission Act, which created a state agency to investigate CPD torture and provide relief to people who present credible claims of torture that may have contributed to their criminal convictions. 775 ILCS 40/1 et seq. (Illinois Torture Inquiry and Relief Commission Act). The Illinois SAFE-T Act of 2021 strengthened existing laws that protect dominant State policies to foster police accountability and transparency and prevent police abuse. Pub. Act 101-0652 (Illinois SAFE-T Act of 2021). The SAFE-T Act improved the system by which the Illinois Law Enforcement Standards and Training Board can decertify police officers who have abused their powers, expanded a statewide officer misconduct database, and imposed statewide training standards for all police officers in Illinois. 50 ILCS 705/1 et seq. (Illinois Police Training Act). The Illinois General Assembly similarly stressed dominant State policy in police transparency and accountability when enacting the Law Enforcement Officer-Worn Body Camera Act. 50 ILCS 706/10-5. In defining the purpose of the Act, the law states that the

“General Assembly recognizes that trust and mutual respect between law enforcement agencies and the communities they protect and serve are essential to effective policing and the integrity of our criminal justice system. ... [U]ses of officer-worn body cameras will help collect evidence while *improving transparency and accountability*, and strengthening public trust.” *Id.* (emphasis added).

The Illinois Civil Rights Act of 2003, 740 ILCS 23/5(a), prohibits police practices that disparately impact people based on race. *See also Central Austin Neighborhood Association v. City of Chicago*, 2013 IL App (1st) 123041, ¶ 10 (holding that plaintiffs stated an actionable claim that CPD’s method of allocating police resources in response to 911 calls discriminated against Black and Latino residents in violation of Illinois Civil Rights Act).

Illinois has long recognized the special importance of government transparency and accountability when it comes to policing. As the Illinois Supreme Court stressed more than forty years ago, “There is no public policy more important or more fundamental than the one favoring the effective protection of the lives and property of citizens.” *Palmateer v. International Harvester Co.*, 85 Ill. 2d 124, 132 (1981). The United States Supreme Court has similarly emphasized that there is a strong public policy that favors “exposing substantial allegations of police misconduct to the salutary effects of public scrutiny.” *Waller v. Georgia*, 467 U.S. 39, 47 (1984). In recognition of this clear and dominant policy of the State of Illinois, Illinois courts have

repeatedly highlighted the public importance of transparency and accountability in police misconduct proceedings. In *Fraternal Order of Police, Chicago Lodge No. 7*, 2020 IL 124831 at ¶ 44, the Illinois Supreme Court ruled that an arbitrator’s award to the FOP that required the destruction of records of police misconduct proceedings violated Illinois public policy. The Court confirmed that Illinois has “a well-defined and dominant public policy rooted in state law concerning the procedures for the proper retention and destruction of government records” that necessitated overturning an award that would have mandated the destruction of records of police disciplinary proceedings. *Id.* at ¶ 37 (quotation marks omitted).

In *Fraternal Order of Police v. City of Chicago*, 2016 IL App (1st) 143884, ¶ 54, *petition for leave to appeal denied*, 406 Ill. Dec. 321 (2016), the First District overturned an injunction blocking the public release of more than fifty years of CPD misconduct records to Chicago news organizations. The Court expressly ruled that, to comply with FOIA’s mandate favoring government transparency, records concerning investigations of CPD misconduct must be open to the public, and the Court ordered the public release of records from 1967 through the date of the request in late 2015. *Id.* at ¶ 4, 54.

In *Gekas v. Williamson*, 393 Ill. App. 3d 573 (4th Dist. 2009) (*superseded by statute on other grounds*), the Fourth District Appellate Court similarly highlighted the importance of state public policy in transparency of

police misconduct proceedings when ruling that records of those proceedings must be public even when the law enforcement agency finds that no abuse occurred:

To monitor the Sangamon County sheriff's office to ensure it is being conducted in the public interest, citizens might want to see whether the Division is performing a fair and objective investigation of complaints. They might want to see whether complaints that the Division determined to be unfounded are really unfounded. Obviously, citizens cannot perform this critique (which section 1 calls nothing less than the people's "duty") if so-called "unfounded" complaints are exempt from disclosure for the tautological reason that the public body decided they were unfounded. Such an exemption would throw a cloak over potential wrongdoing and insulate officials from political accountability.

Id. at 585.¹³

Illinois courts have also repeatedly recognized the well-defined and dominant State policy in police accountability. *See City of Des Plaines v. Metro. All. of Police, Chapter No. 240*, 2015 IL App (1st) 140957, ¶ 24 (confirming that Illinois has a "well-defined and dominant public policy... against police officers unnecessarily using force against prisoners and being dishonest about that use of force during a subsequent investigation"); *Decatur Police Benevolent & Protective Ass'n Lab. Comm. v. City of Decatur*, 2012 IL App (4th) 110764, ¶ 44 (recognizing that it would be "repugnant" to state public policy to continue employing an officer who has been found to be

¹³ *See also Better Gov't Ass'n v. Blagojevich*, 386 Ill. App. 3d 808, 818 (4th Dist. 2008) (finding that "[t]he legislature has concluded that the sunshine of public scrutiny is the best antidote to public corruption, and Illinois courts are duty-bound to enforce that policy").

abusive and untruthful); *City of Springfield v. Springfield Police Benev. & Protective Ass'n, Unit No. 5*, 229 Ill. App. 3d 744, 751 (4th Dist. 1992) (stating that that “the use of excessive force by law enforcement officers is against public policy”); *City of Aurora v. Ass'n of Prof'l Police Officers*, 2019 IL App (2nd) 180375, ¶ 68 (holding “there is a well-defined and dominant public policy in favor of holding police officers accountable for their off-duty conduct...” in a disciplinary case against a police officer who unlawfully placed hidden surveillance cameras in his ex-wife’s home).

As United States District Judge Joan Humphrey Lefkow observed, “The public has a significant interest in monitoring the conduct of its police officers and a right to know how allegations of misconduct are being investigated and handled. ... Without such information, the public would be unable to supervise the individuals and institutions it has entrusted with the extraordinary authority to arrest and detain persons against their will. With so much at stake, [police] simply cannot be permitted to operate in secrecy.” *Bond v. Utreras*, 2007 WL 2003085 (N.D. Ill. Jul. 2, 2007), at *3, *rev'd on other grounds*, 585 F.3d 1061 (7th Cir. 2009).

The State’s dominant and well-defined public policy in police transparency and accountability is also evident in the State’s efforts to secure the federal court Consent Decree governing the Chicago Police Department, the Police Board and COPA. C. 1840. Following the DOJ Report in 2017, discussed above, the State of Illinois sued the City, alleging that the CPD had

been engaged in a decades-long practice of excessive force disparately impacting the City’s African American and Latino residents in violation of the U.S. Constitution and Illinois law.¹⁴ To remedy these violations, the State, consistent with its dominant public policy, negotiated the Consent Decree that, among other steps, requires CPD to “increase and promote transparency in matters of police accountability.” C. 1840. The governing provisions of the Decree cited by the Circuit Court center accountability and transparency as primary remedies and further demonstrate that “it is clear that accountability and transparency as it relates to the CPD is a well-defined and dominant public policy of the State of Illinois.” *Id.* (quoting ¶¶ 419, 420, 422, 531, 544, and 554).¹⁵

In sum, the trial court correctly concluded that the State of Illinois’ overriding public policy—established through our Constitution, statutes, judicial opinions, and the State’s efforts to secure the CPD Consent Decree— favors openness and accountability in police misconduct proceedings to ensure that police respect the rights of the individuals and communities they serve.

¹⁴ Complaint, *Illinois v. City of Chicago*, *supra* n.7, at ¶¶ 32, 35.

¹⁵ *See also* Consent Decree, *supra* n.8, at ¶ 421 (emphasizing the importance of open and accessible process for addressing police misconduct complaints to build trust in the police).

B. Chicago's historical failures to ensure police accountability and transparency have resulted in decades of harm to Amici, our families and our neighbors and the loss of public safety.

Amici know, based on decades of first-hand experience, that secrecy breeds impunity for police officers. CPD's closed door practices that led to the Consent Decree allowed abusive police officers to believe that they were above the law and free to target the most vulnerable among us for repeated abuse. Amici viscerally understand the stakes in this appeal: how much transparency and accountability matter, and why police transparency and accountability are dominant public policy in the State of Illinois. CPD impunity has left a trail of trauma throughout the communities represented by Amici. Lives have been ruined and lost, families have been ripped apart, and people have been robbed of their most fundamental freedoms. Furthermore, CPD's ability to solve violent crime has been eroded, making Amici and our families less safe. In addition, hundreds of millions of taxpayer dollars from Amici and our neighbors have been spent to address these harms.

In 2017, the DOJ found that the CPD had been engaged in a pattern and practice of unlawful violence, including deadly violence, disproportionately directed toward Black people. DOJ Report at 5, 15. In late 2015, when CPD was forced to release the video depicting the reality of Laquan McDonald's murder by Officer Jason Van Dyke, CPD had been shooting people on average of more than once a week. Task Force Report at 7,

35. Seventy-five percent of the people shot by CPD were Black.¹⁶ Nonetheless only one of the hundreds of CPD shootings was found to be unjustified by the City.¹⁷ In the decade leading to the release of the video, nearly 90% of CPD’s 67,000 documented uses of force were against people who are Black or Latinx.¹⁸ According to CPD’s own data, the Department used force against young Black men at nearly 14 times the rate as that against young white men.¹⁹ Yet, the City sustained complaints of excessive force against Black people at less than one-third the rate that it did against white people. DOJ Report at 68–69.

. Aggregate CPD misconduct data similarly shows that racial discrimination festered within Chicago’s accountability proceedings, largely because they operated in secret. Chicagoans filed over 30,000 misconduct complaints against CPD officers in the five years preceding the release of the Laquan McDonald video. Because of the City’s machinery of denial, only 1.4% were sustained, “resulting in no discipline in 98% of these complaints.” DOJ Report at 7, 68. Discipline in nearly 50 percent of the few sustained cases in

¹⁶ Complaint, *Ill. v. City of Chicago*, *supra* n.7, at ¶ 62; Task Force Report at 7.

¹⁷ Jessica Lussenhop, *How a Whistleblower Brought Down Chicago Police Chief*, BBC Magazine (Dec. 3, 2015), <https://perma.cc/ZHM3-MG4Y>.

¹⁸ Andrew Fan, *Chicago Police Are 14 Times More Likely to Use Force Against Young Black Men Than Against Whites*, The Intercept (Aug. 16, 2018), <https://theintercept.com/2018/08/16/chicago-police-misconduct-racial-disparity> (using CPD misconduct data to analyze trends and racial disparities in police use of force).

¹⁹ *Id.*

which the City sought to fire or suspend an officer for longer than a year was overturned or reduced by the Chicago Police Board.²⁰ In those years, while Black people filed three times more complaints of abuse at the hands of Chicago police, white people were seven times more likely to have their complaints sustained than Black people.²¹

A common thread behind these shocking numbers, which represent an unspeakable amount of human pain and suffering to Amici and our neighbors, is that CPD’s systemic denial and secrecy surrounding allegations of police misconduct conferred impunity on officers who perpetrated repeated abuse—from Jon Burge to Jason Van Dyke. Abusive officers were allowed to repeatedly target vulnerable people without fear of consequence.²²

1. *Chicago Police Torture under Commander Jon Burge*

From the late 1970s through the early 1990s, Chicago police engaged in a documented pattern of torture to extract confessions from Black people in CPD interrogation rooms on the South Side of Chicago under the

²⁰ Sam Stecklow et al., *supra* n.11.

²¹ Adeshina Emmanuel & Jonah Newman, *Police Misconduct Complaints by Whites More Likely to be Upheld*, Chicago Reporter (Nov. 10. 2015), <https://perma.cc/M7CS-FVME>.

²² Craig Futterman, Melissa Mather, & Melanie Miles, *The Use of Statistical Evidence to Address Police Supervisory and Disciplinary Practices: The Chicago Police Department's Broken System*, 1 DePaul J. for Soc. Just. 251, 289 (2008) (using statistical research to demonstrate how secrecy and the systemic “machinery of denial” in CPD’s culture and procedures for addressing police abuse have enabled officers who accumulated repeated complaints of misconduct to “operate[] with impunity”).

leadership of Commander Jon Burge.²³ Burge’s brutal techniques included the use of a black box generating electricity with wires attached to people’s extremities including their ears and genitalia, a cattle prod, handcuffing people to scalding hot radiators, suffocating people with plastic typewriter covers, sadistic games of Russian Roulette, and beatings with phone books designed not to leave visible marks.²⁴ Nearly 200 Black men have complained of torture by detectives working under Burge.²⁵ Dozens of those men have had their convictions overturned after being unjustly incarcerated for more than a decade.²⁶ Amici’s communities have been devastated by Burge’s ring of torture. While the human costs to the people tortured and imprisoned and their family members are incalculable, more than \$210 million have been paid by Illinois taxpayers from Burge torture cases.²⁷ And counting. Despite

²³ John Conroy, *The Police Torture Scandals: A Who’s Who*, Chicago Reader (June 15, 2006), <https://perma.cc/K8MX-Y3NC>. See also *United States ex rel. Maxwell v. Gilmore*, 37 F. Supp. 2d 1078, 1094 (N.D. Ill. 1999) (“It is now common knowledge that in the early to mid-1980s Chicago Police Commander Jon Burge and many officers working under him regularly engaged in the physical abuse and torture of prisoners to extract confessions.”).

²⁴ Tracy Siska, *The Chicago Police Used Appalling Military Interrogation Tactics for Decades*, The Guardian (Feb.19, 2015), <https://perma.cc/BP8T-F5LZ>.

²⁵ Conroy, *supra* n.23.

²⁶ Kim D. Chanbonpin, *Truth Stories: Credibility Determinations at the Illinois Torture Inquiry and Relief Commission*, 45:4 Loyola Univ. L.J. (2014), <https://lawecommons.luc.edu/luclj/vol45/iss4/4/>.

²⁷ Flint Taylor, *Burge Torture Taxpayer Tab Eclipses \$210M – and Counting*, Injustice Watch (June 14, 2022), <https://www.injusticewatch.org/archive/2022/burge-torture-taxpayer-tab-210-million/>.

repeated complaints, CPD's denial and secrecy about CPD misconduct allowed Burge and his associates to torture the most marginalized people in Chicago for decades with impunity.²⁸

2. *Coerced Confessions by Detectives Boudreau and Cassidy*

Chicago police detectives, knowing that they were protected by the CPD's machinery of denial, continued to abuse and extract false confessions from young Black men after Burge left the Police Department. In 1994, Burge protégé Detective Kenneth Boudreau and Detective James Cassidy, both with long histories of complaints of abuse, coerced four teenagers, known as the "Englewood Four," to give false confessions to the murder and rape of Nina Glover. Despite the absence of any physical evidence against them, the four teenagers, some as young as 15, were forced to endure the next 17 years in prison, robbing their families and them of the primes of their lives. DNA evidence linked a convicted murderer with a history of sexual assault to the brutal crime.²⁹ The mother of one of the wrongfully convicted teens mourned, "That was hard. Actually have your child taken away from you. And he was innocent. And I knew this from the beginning, but what could I do? Not be able to get my child, my baby, my first born, that was hard and it still is. We

²⁸ John Conroy, *Unspeakable Acts, Ordinary People: The Dynamics of Torture*, University of California Press (2001); G. Flint Taylor, *A Long and Winding Road: The Struggle for Justice in the Chicago Police Torture Cases*, 17 Loy. Pub. Int. L. Reporter 178 (2012),

<https://lawcommons.luc.edu/pilr/vol17/iss3/3/>.

²⁹ CBS Chicago, *'Englewood Four' Sue Over Wrongful Conviction For 1994 Rape, Murder*, (Nov. 15, 2012), <https://perma.cc/S9Y4-T83M>.

came through it with the grace of G_d.”³⁰ City and Cook County taxpayers paid over \$60 million to compensate the teens for the detectives’ abuse.³¹

In 1998, the same Detective Cassidy preyed on two even younger boys—a seven and eight-year-old—to extract their false confessions to a notorious rape and murder of 11-year-old Ryan Harris. Their convictions were overturned when genetic evidence at the scene made clear that they could not have been responsible.³² Detective Cassidy’s and his colleagues’ shameless abuse of these little boys ruined the possibility that they would ever have healthy or fulfilling lives. They struggled in school, fearful of returning to a building that reminded them of the police station. One of the boys refused to enter his new school, clinging to his mother with tearful desperation. The other would wake in the middle of the night terrified, often wetting the bed.³³ The disastrous effects of this experience lasted long after the convictions were overturned.

In June 2024, the City agreed to a \$50 million settlement because Detectives Cassidy and Boudreau coerced yet another young Black man to

³⁰ Byron Pitts, *Chicago: The False Confession Capital*, CBS 60 Minutes (Dec. 19, 2012), <https://perma.cc/2LDF-HDWL>.

³¹ Gregory Royal Pratt, *\$24 Million Settlement in ‘Englewood Four’ Case on Cook County Agenda*, Chicago Tribune (May 15, 2019), <https://perma.cc/LBT9-EDW7> (noting that Cook County commissioners approved settlements of \$24 million and \$5.6 million, while the City of Chicago paid \$31 million to the Englewood Four).

³² Phoebe Mogharei, *Untrue Confessions*, Chicago Magazine (Jan. 16, 2019), <https://perma.cc/NT6X-3YD6>.

³³ *Id.*

falsely implicate himself and three friends in a double murder in the Marquette Park neighborhood of Chicago.³⁴ Collectively, the four wrongfully convicted men were forced to withstand more than 70 years in prison.³⁵

3. *Detective Guevara's Victims*

As Burge's disciples continued to torture young Black men in the cover of CPD interrogation rooms, Detective Reynaldo Guevara and his colleagues coerced false confessions and manipulated witnesses and evidence in the working class, predominantly Latino Humboldt Park neighborhood. Even as investigative journalist Melissa Segura, in 2017, recounted the painful stories of families of 51 people who had accused Detective Guevara of falsely framing them for murder, CPD continued to deny Guevara's well-documented pattern of abuse.³⁶ Today, 44 of Guevara's victims, who have collectively endured hundreds of years in prison, have been exonerated and at least seven more petitions are pending.³⁷ In addition to the irreparable harm that Guevara

³⁴ Quinn Meyers, *Chicago Will Pay \$50 Million to 4 Men Wrongfully Convicted of 1995 Murders, Robbery*, Block Club Chicago (June 12, 2024), <https://perma.cc/BWT5-9W59>.

³⁵ *Id.*

³⁶ Melissa Segura, *Guevara's Witnesses: A Chicago Cop is Accused of Framing 51 People for Murder. Now, the Fight for Justice*, BuzzFeed News (Apr. 4, 2017), <https://perma.cc/JV96-MFV2>.

³⁷ Lourdes Duarte, *Seven Men Petition Their Convictions In Former CPD Detective Reynaldo Guevara Cases*, WGN Chicago (Feb. 29, 2024), <https://wgntv.com/news/wgn-investigates/seven-men-petition-their-convictions-in-former-cpd-detective-reynaldo-guevara-cases/>.

inflicted on his victims and their families, Chicago taxpayers stand to pay hundreds of millions of dollars as a result of Guevara's unchecked abuse.³⁸

4. *The Skullcap Crew*

Throughout 2003 and 2004, a group of five Chicago police tactical officers who policed a public housing community on Chicago's South Side subjected Diane Bond, a Black woman and single parent who worked as a public-school janitor, to a series of repeated assaults on her person, home, family, and religion. This group of officers, widely known throughout the community as the "Skullcap Crew," forced Ms. Bond on multiple occasions to disrobe and bare the most private parts of her body. They threatened her with a loaded gun, needle-nosed pliers, and a screwdriver, leaving her convinced that they were planning to rape and kill her. They beat and choked her. They assaulted her with racist and sexist epithets of the worst kind. They tore up her home. They desecrated religious objects sacred to her. They threatened to plant drugs on her and falsely arrest her. They beat her teenage son. They even brought a middle-aged neighbor into her home and forced her teen-age son to beat the older man for their amusement. These five officers had engaged in a brazen years-long pattern of abuse of Black families in public housing on the South Side of Chicago. Ms. Bond's neighbors in the

³⁸ Lourdes Duarte & Andrew Schroedter, *Expenditures Tied to Former Chicago Detective Now More than \$80 Million*, WGN TV (Oct. 26, 2023), <https://wgntv.com/news/wgn-investigates/expenditures-tied-to-former-chicago-detective-now-more-than-80-million/>.

Stateway Gardens community reported that members of the Skullcap Crew engaged in repeated instances of racist abuse, including lining up Black teenagers outside the buildings and kicking them in their testicles, ordering Black men to strike Black women at the threat of arrest for the officers' amusement, forcing Black women to take off their clothes while the officers ridiculed their bodies, planting drugs on innocent people, stealing money from and protecting people who sold illegal drugs. The list goes on.³⁹ Notwithstanding their notoriety within the Stateway Gardens community, these officers knew that they could abuse people like Ms. Bond and her neighbors without consequence. Because of the absence of transparency and accountability and CPD's machinery of denial, the probability that they would be suspended for a week or more when charged with an illegal search, false arrest, theft, robbery, or extortion was less than one in a hundred thousand.⁴⁰ Impunity.

5. *Sergeant Ronald Watts*

CPD Sergeant Ronald Watts and a team of gang tactical officers also preyed on Black people living in public housing on Chicago's South Side for

³⁹ Jamie Kalven, *Kicking the Pigeon*, *The View from the Ground* (2005-2006), <https://invisible.institute/kicking-the-pigeon> (series of articles recounting the reign of terror perpetrated by the Skullcap Crew on Diane Bond and the Stateway Gardens community).

⁴⁰ Steven Whitman, Data Analysis Memo, *Padilla v. Chicago*, 06-cv-5462 (N.D.Ill. June 21, 2012) at 8, https://www.law.uchicago.edu/sites/default/files/2024-08/Whitman_Expert_Report_Padilla_June_2012_Supplement_redacted_report_for-public-fall-2014.pdf.

more than a decade, knowing that they were above the law. Watts and his team terrorized residents of Chicago's Ida B. Wells Homes.⁴¹ The Cook County State's Attorney reported that Watts and his team extorted money and planted drugs and guns on innocent people "knowing their victims—largely Black and low-income residents—wouldn't be believed."⁴² This team of officers ran major parts of the illegal drug trade within public housing. They collected a "tax" to protect drug dealers, stole from their competition, and routinely framed people for crimes that they did not commit.⁴³ When two Chicago police officers had the courage to attempt to blow the whistle on Watts' crimes, they were retaliated against and crushed by CPD's code of silence.⁴⁴ Over two hundred drug convictions associated with Sgt. Watts have

⁴¹ Jamie Kalven, *Operation Brass Tax: Corrupt Chicago Police were Taxing Drug Dealers and Targeting their Rivals*, The Intercept (Oct. 6, 2016), <https://theintercept.com/2016/10/06/corrupt-chicago-police-were-taxing-drug-dealers-and-targeting-their-rivals/>.

⁴² Grace Hauck, *A Corrupt Chicago Cop Destroyed Hundreds of Lives. Now Victims Want Justice*, USA Today (Feb. 5, 2023), <https://www.usatoday.com/in-depth/news/nation/2023/02/05/chicago-police-ronald-watts-exoneration-cases/10470598002/>.

⁴³ Jamie Kalven, *Code of Silence Revisited: An Update on the Watts Investigation*, The Intercept (Dec. 30, 2016), <https://theintercept.com/2016/12/30/code-of-silence-revisited-an-update-on-the-watts-investigation/>.

⁴⁴ Jamie Kalven, *Watch Your Back: Chicago Police Bosses Targeted Cops Who Exposed Corruption*, The Intercept (Oct. 6, 2016), <https://theintercept.com/2016/10/06/chicago-police-bosses-targeted-cops-who-exposed-corruption/>.

since been vacated;⁴⁵ the scandal is expected to cost taxpayers more than \$80 million.⁴⁶

6. *The Special Operations Section (SOS)*

On October 15, 2005, Noel Padilla was holding his infant son in his arms. Just hours later, a group of officers from the CPD's most elite unit, the Special Operation Section (SOS), grabbed and handcuffed Mr. Padilla, stole his rent money, threw him in their car, and drove him around the city to various family members' homes as the officers searched for items of value that they could steal.⁴⁷ Finding nothing, they falsely charged Mr. Padilla with a felony drug crime that commanded a sentence of up to 40 years in prison. Mr. Padilla spent the next 278 days in agony locked in a tiny cell in the county jail away from his young son until the State dismissed all charges against him.⁴⁸ Mr. Padilla is only one of hundreds of victims of the 15-year-long pattern of criminal conduct by members of CPD's Special Operations Section that targeted young Latino men and other vulnerable persons for

⁴⁵ Grace Hauck, *supra* n.42.

⁴⁶ Chip Mitchell, *Payouts Tied To A Corrupt Police Sergeant Could Cost Chicago Taxpayers \$80 Million*, WBEZ Chicago (Dec. 7, 2023), <https://www.wbez.org/stories/ronald-watts-lawsuits-could-cost-chicago-80-million/445f82b8-5fe9-44ec-977f-7d3963c95c0c>.

⁴⁷ Meredith Heagney, *Police Accountability Clinic Wins Jury Verdict for Kidnapped, Falsely Jailed Man*, University of Chicago Law School (July 8, 2014), <https://www.law.uchicago.edu/news/police-accountability-clinic-wins-jury-verdict-kidnapped-falsely-jailed-man>.

⁴⁸ *Id.*

kidnapping, robbery, extortion, home invasion, and false arrest.⁴⁹ They broke into people's homes, robbed people of their belongings, and falsely arrested people who had committed no crime. The State dismissed at least 150 criminal cases against people believed to have been falsely arrested by the SOS.⁵⁰ Like Burge and the members of the Skullcap Crew, the SOS officers believed that they could operate with impunity. They amassed more complaints than nearly everyone else on the CPD without consequence: Officers Jerry Finnigan and Keith Herrera alone accumulated 162 complaints and 80 complaints, respectively, more than 99.9% than all other Chicago police officers over a similar period.⁵¹ The CPD protected SOS from accountability and hid their crimes from the public. As a result of CPD's secrecy and denial surrounding police misconduct, the odds were one-in-a-thousand that a Special Operations Section officer would face discipline when they violated people's rights.⁵²

⁴⁹ Tanya Simon, *Officer Herrera Goes Public*, CBS 60 Minutes (May 30, 2008), <https://perma.cc/ABZ6-WAW7>.

⁵⁰ *Id.*

⁵¹ Civic Police Data Project, *CPD Misconduct Complaints Against Jerry Finnigan and Keith Herrera*, Invisible Institute, <https://cpdp.co/officer/8562/jerome-finnigan/> and <https://cpdp.co/officer/12074/keith-herrera/> (last visited Oct. 23, 2024).

⁵² Frank Main, *\$892,000 Verdict in Wrongful Arrest Suit; Officers Owe \$96,000 of that*, Chicago Sun Times (May 28, 2014), <https://chicagosuntimes.newsbank.com/doc/news/14E1B75485E264B8>.

7. *Jason Van Dyke's Murder of Laquan McDonald*

CPD's machinery of denial and secrecy surrounding police abuse in violation of dominant Illinois public policy similarly led Officer Jason Van Dyke to believe that he was above the law when he fired those 16 shots into the body of 17-year-old Laquan McDonald in front of a slew of witnesses, including fellow Chicago police officers. The City ignored or brushed aside repeated community complaints against Van Dyke. Despite Van Dyke's previous 25 misconduct complaints, more complaints than 94% of all Chicago police officers over a similar period, he had never been subject to any disciplinary action.⁵³ It was only after Judge Valderrama ordered the public release of the video of the killing that Van Dyke was charged and convicted in a jury trial of second-degree murder and sixteen counts of aggravated battery.⁵⁴

8. *CPD's Practice of Violent, Traumatic, and Illegal Home Raids*

CPD's machinery of denial, secrecy, and lack of accountability enabled the Department to maintain a years-long practice of illegal, violent, and dehumanizing raids of people's homes that have traumatized thousands of

⁵³ Civic Police Data Project, *CPD Misconduct Complaints Against Jason Van Dyke*, Invisible Institute, <https://cpdp.co/officer/29310/jason-van-dyke/> (last visited Oct. 23, 2024).

⁵⁴ Mark Guarino & Mark Berman, *Chicago Police Officer Jason Van Dyke Convicted of Second-Degree Murder for Killing Laquan McDonald*, Washington Post (Oct. 5, 2018), <https://www.washingtonpost.com/news/post-nation/wp/2018/10/05/chicago-police-officer-jason-van-dyke-convicted-of-second-degree-murder-for-killing-laquan-mcdonald/>.

Black and Brown families—a practice that continued until members of Amici and the State of Illinois succeeded in placing CPD’s residential search warrant practices under the Consent Decree.

Knowing that they were cloaked in impunity, officers broke down people’s doors and charged into their homes with their guns drawn, often in the dead of night, leading families to believe that they were being robbed or worse. Officers routinely pointed assault rifles and semi-automatic weapons directly at young children and their parents; they handcuffed children in front of their parents and parents in front of their children; they subjected family members to excessive force and verbal abuse; and they treated families with a lack of basic respect for their humanity. CPD then left families unprotected, with broken doors and locks, exposed and vulnerable to further violence and theft.⁵⁵ Between 2016 and 2019, CPD raided approximately 1,800 homes a year—five families a day—almost all of whom were Black or Brown.⁵⁶ The City’s Office of Inspector General found that 96% of Chicago police home raids between 2017 and 2020 targeted Black or Latinx households.⁵⁷

⁵⁵ Dave Savini et al., *[Un]warranted*, CBS Chicago (July 29, 2020), <https://storymaps.arcgis.com/stories/63ce5770e1ed43bea99d1d8274b94f91>.

⁵⁶ *Id.*

⁵⁷ City of Chicago Office of Inspector General, *Second Interim Report: Search Warrants Executed by the Chicago Police Department, 2017-2020* (May 6, 2021), <https://igchicago.org/wp-content/uploads/2021/05/OIG-Second-Interim-Report-CPD-Search-Warrants.pdf>.

A few examples. On November 7, 2017, a group of Chicago police officers burst into 9-year-old Peter Mendez’s home and pointed their guns at Peter and his 5-year-old brother, Jack, as they cried and begged the officers not to shoot their father. Police continued to terrorize the Mendez family even after they knew that they had broken into the wrong home. Peter, now 14, remains deeply traumatized from the CPD raid.⁵⁸

On February 26, 2020, fifteen plain-clothes officers (some wearing “Ninja” masks) broke down the door to Sharon Lyons’s home—again, the wrong home—with rifles, flashlights, and machine guns, without announcing their identity as police. The officers pointed guns in the faces of Ms. Lyons, her three adult sons, and her four-year-old granddaughter Lillie. Lillie screamed as officers trained their guns on the little girl, but police refused to allow her grandmother to comfort her. One of Ms. Lyons’s adult sons is autistic and has a learning disability. He cried and became hysterical when the officers aimed their guns at him because he did not understand what was happening. The officers left Ms. Lyons’ home with a broken door and locks, leaving her family in danger of crime.⁵⁹

CPD persisted in its efforts to thwart dominant Illinois public policy on transparency and accountability when obstructing Anjanette Young, a Black

⁵⁸ Savini et al., *supra* n.55.

⁵⁹ Dave Savini et al., *‘They had the Guns Pointed at Me;’ Another Chicago Family Wrongly Raided, Just 1 Month after Police Created Policy to Stop Bad Raids*, CBS Chicago (June 10, 2020), <https://perma.cc/XQ7B-3UWP>.

social worker, from sharing video of CPD's wrongful raid of her own home. In November 2019, a large group of male officers used a battering ram to break into Ms. Young's home while she was naked, pointed guns at her, forced her to hold her hands up in the air while exposed to the male intruders, handcuffed her, and refused her insistent, terrified pleas that the police were in the wrong place.⁶⁰ The City fought Ms. Young's efforts to publicly share a video of what the police did to her.⁶¹ It even sought to sanction Ms. Young for releasing the video after she obtained a copy through litigation.⁶² In contrast, for more than a year CPD did not initiate disciplinary proceedings against the officers who abused and terrorized Ms. Young, until Ms. Young made the video of the raid public in December 2020.⁶³ Five years later, Ms. Young

⁶⁰ Dave Savini et al., *'You Have The Wrong Place:' Body Camera Video Shows Moments Police Handcuff Innocent, Naked Woman During Wrong Raid*, CBS Chicago (Dec. 17, 2020), <https://www.cbsnews.com/chicago/news/you-have-the-wrong-place-body-camera-video-shows-moments-police-handcuff-innocent-naked-woman-during-wrong-raid/>.

⁶¹ *Id.*

⁶² See Gregory Pratt & John Byrne, *Cops Involved in Anjanette Young Raid Placed on Desk Duty; Lightfoot says Black People Nationwide 'Feel Angry and Feel Violated'*, Chicago Tribune (Dec. 21, 2020), <https://www.chicagotribune.com/politics/ct-lightfoot-anjanette-young-update-20201221-ufy6kzkh2ng47c5k65yzpwtiq4-story.html>; Gregory Pratt, *Mayor Lightfoot Was Told By Staff In November 2019 That Anjanette Young Raid Was 'Pretty Bad,'* Chicago Tribune (Dec. 30, 2020), <https://www.chicagotribune.com/politics/ct-lightfoot-anjanette-young-raid-emails-20201230-dhnc67ikorawdhm5a2xw7s4x7u-story.html>.

⁶³ *Id.*

remains in pain as she struggles to heal and work to prevent other women and families from suffering similar trauma.⁶⁴

9. *The Financial Costs to Amici as Taxpayers*

Between 2004 and the release of the video of the killing of Laquan McDonald in 2015, CPD's failure to hold officers accountable for wrongdoing cost taxpayers \$662 million in lawsuit settlements, judgments, and legal fees for defenses related to police misconduct.⁶⁵ costs to Amici and our neighbors continue to soar. An additional \$434.2 million have been paid as a result of CPD misconduct in the past five years alone.⁶⁶ And, *repeated misconduct* by 200 Chicago police officers cost city taxpayers \$164.3 million from just 2019 to 2023.⁶⁷

⁶⁴ David Struett, *Anjanette Young Continues Fight to Ban No-Knock Warrants 5 Years After Botched CPD Raid*, Chicago Sun Times (Feb. 16, 2024), <https://chicago.suntimes.com/police-reform/2024/02/16/anjanette-young-chicago-police-no-knock-warrants-botched-raid>; see also Danielle Sanders, *My Name is Anjanette Young*, Chicago News Weekly (Apr. 4, 2023), <https://perma.cc/KG5D-72UY>.

⁶⁵ Sharon Cohen, *How Chicago Racked Up a \$662 Million Police Misconduct Bill*, Associated Press (Mar. 19, 2016), <https://apnews.com/article/a22c1b93685643deb8788eaa64cbda56>; see also Complaint, *Illinois v. City of Chicago*, *supra* n.7, at ¶ 4; *State of Ill. v. Chicago*, 17-cv-6260 (N.D. Ill. Aug. 29, 2017).

⁶⁶ Heather Cherone, *Repeated Police Misconduct by 200 Officers Cost Chicago Taxpayers \$164.3M Over 5 Years: Analysis*, WTTW News (Aug. 12, 2024), <https://news.wttw.com/2024/08/12/repeated-police-misconduct-200-officers-cost-chicago-taxpayers-1643m-over-5-years>; Mary Norkol, *Jury Awards \$50 Million to Chicago Man Who Spent 10 Years in Prison After Wrongful Conviction*, Chicago Sun Times (Sep. 10, 2024), <https://chicago.suntimes.com/police-reform/2024/09/10/marcel-brown-50-million-wrongful-conviction-lawsuit>.

⁶⁷ Heather Cherone, *supra* n.66.

The same secrecy and denial surrounding misconduct has made Chicago the wrongful conviction and false confession capital of the United States.⁶⁸ Four hundred seventy-two people have been exonerated in Cook County since 1989.⁶⁹ Of those persons, 414 (88%) were exonerated as a result of police misconduct.⁷⁰ People in Cook County—parents, children, other family members, caretakers, friends, fellow community members—have been robbed of 4,000 years of their lives due to these wrongful convictions.⁷¹ On top of the human harm described above from the loss of life and liberty of persons sent to prison for crimes that they did not commit, wrongful convictions rooted in police misconduct have cost Amici and our neighbors hundreds of millions of dollars. Between 2000 and December 2023, Chicago taxpayers paid nearly \$750 million dollars in lawsuits by people framed by Chicago police.⁷²

⁶⁸ Heather Cherone, *Chicago Ranks No.1 in Exonerations for 5th Year in a Row, Accounting for More than Half of National Total: Report*, WTTW News (May 16, 2023), <https://news.wttw.com/2023/05/16/chicago-ranks-no-1-exonerations-5th-year-row-accounting-more-half-national-total-report>; Peter Neufeld & Steven Drizin, *Illinois Can Once Again Lead in Preventing Wrongful Convictions by Passing a Critical False Confession Bill*, Innocence Project (May 22, 2024), <https://perma.cc/XU69-E752>; Byron Pitts, *Chicago: The False Confession Capital*, *supra* n.30.

⁶⁹ Nat'l Registry of Exonerations, *Registry of Exonerations* (Aug. 31, 2024), <https://www.law.umich.edu/special/exoneration/Pages/browse.aspx>.

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² Truth, Hope, & Justice Initiative, *Wrongful Convictions Litigation Database: Chicago*, (Sep. 2024) at *7, <https://perma.cc/VH35-VM4X>; Andy Grimm, *Chicago Taxpayers Have Paid Nearly \$700 Million Since 2000 In Lawsuits by People Who Say Police Framed Them*, Chicago Sun Times (Dec.

10. *The Loss of Public Safety*

Public distrust from CPD secrecy and denial has led to abysmal rates in solving violent crime, particularly in communities most impacted by CPD’s pattern of civil rights violations. Put simply, CPD’s history of police impunity has made the people of Chicago less safe.

Between 2013 and 2023, CPD made arrests in only about 20% of all fatal shootings, far less than half the national average.⁷³ Clearance rates are even lower in neighborhoods plagued by CPD abuse than the City’s dismal 20% average. Chicago neighborhoods with the lowest clearance rates for violent crime—where CPD has been the *least* successful at solving violent crime—also have the most complaints of police abuse.⁷⁴

When abusive officers are allowed to escape accountability, public trust in CPD erodes, interfering with the ability of conscientious officers to build positive community relations and solve crime.⁷⁵ As a study of youth/police

6, 2023), <https://chicago.suntimes.com/2023/12/6/23989776/chicago-taxpayers-nearly-700-million-lawsuits-framed-police>.

⁷³ Rita Ocegüera & Justin Agrelo, *Chicago Police Make An Arrest In Only 20 Percent of Fatal Shootings*, *The Trace* (Dec. 15, 2023), <https://perma.cc/85XC-MZNV>.

⁷⁴ Craig B. Futterman, Chaclyn Hunt & Jamie Kalven, *Youth/Police Encounters on Chicago’s South Side: Acknowledging the Realities*, 2016 *Univ. of Chi. L. Forum* 125, 155-156 n. 105 (2016).

⁷⁵ Cynthia Conti-Cook, *A New Balance: Weighing Harms of Hiding Police Misconduct Information from the Public*, 22 *CUNY L. Rev.* 148, 165-66 (2019) (describing how walling off police misconduct proceedings and records of those proceedings from the public breeds “cynicism and distrust” and harms police legitimacy, the ability to solve crime, and public safety); Sunita Patel, *Toward Democratic Police Reform: A Vision for “Community Engagement” Provisions in DOJ Consent Decrees*, 51 *Wake Forest L. Rev.* 793, 802 (2016).

encounters on Chicago’s South Side found, distrust of police sets in motion a cycle with devastating consequences to public safety.⁷⁶

[When people] do not trust police, they will not call the police when they’re in trouble. Because people will not cooperate with the police, the police cannot solve and prevent crimes. Because the police cannot solve and prevent crimes, residents are yet less likely to go to the police and more likely to look for resolution or restitution outside the law. In the absence of meaningful [police] accountability, the cycle goes on and on....⁷⁷

In addition to representing people most impacted by CPD abuse, Amici also consist of people most impacted by violent crime in Chicago. The DOJ investigation confirmed what Amici know personally from their experience on the ground—it is impossible for police to build trust without honesty and transparency. Like Amici, the DOJ observed that the systems that have allowed Chicago police officers who violate the law to escape accountability have broken public trust in CPD and that “breach in trust has in turn eroded CPD’s ability to prevent crime.” DOJ Report at 1-2, 139. As a result, the communities in Chicago most ravaged by unchecked police abuse have also

⁷⁶ Futterman et al., *supra* n.74 at 155.

⁷⁷ *Id.* See also Monica Davey, *A Weekend in Chicago: Where Gunfire Is a Terrifying Norm*, N.Y. Times (June 4, 2016), <https://perma.cc/6KX3-2DHM> (reporting New York Times Poll finding that more than fifty percent of people who lived in Black and Latino neighborhoods on Chicago’s South and West Sides believe that calling police “will make the situation worse or will make no difference”); Giffords Law Center, *In Pursuit of Peace: Building Police-Community Trust to Break the Cycle of Violence* (Sept. 9, 2021), <https://perma.cc/N5BR-NWRC> (finding that when people distrust police, they are less likely to turn to law enforcement for assistance if they are in danger or volunteer information to aid a police investigation, which hampers law enforcement’s ability to effectively protect public safety and further endangers communities most affected by police violence).

been upended by violence that has flourished as the result of ineffective policing. *Id.* at 142.

C. The Award undermines the State’s policy requiring Constitutional and publicly accountable policing.

As former Chicago Police Board President Ghian Foreman has implored, “We cannot afford to return to a time when a Chicago police officer could fire sixteen shots into the body of a Black teenage boy while he lay on the ground, knowing that nothing would happen to him.”⁷⁸ The Award, if upheld, would roll back nearly a decade of work aimed at preventing police abuse and shield that abuse from the accountability processes put in place to address the long history of harm done to Chicago communities.

Amici and the State of Illinois made real strides to improve CPD transparency and accountability—bringing public and judicial scrutiny that has in turn reduced the number of instances of brutality and shootings by Chicago police, improved the quality of COPA’s investigations into CPD misconduct, and led to recommendations for accountability when officers abused their power to hurt people. In contrast to the weekly instances in which CPD shot a community member in the years before the forced release of the video of Laquan McDonald’s murder, Chicago police killed five people

⁷⁸ Appendix 2, Letter of Former Chicago Police Board President Ghian Foreman to the Illinois Court of Appeals.

in 2023 and two people in 2022—a more than sixteen-fold decrease.⁷⁹ With increased transparency and accountability, Chicago police officers have inflicted significantly less violence against community members, a 32% decrease from 2015 to 2023.⁸⁰ CPD has earned fewer complaints of misconduct, declining from an average of nearly 7,000 complaints between 2012 and 2015 to 5,277 complaints in 2022, a nearly 25% decrease.⁸¹ With scrutiny into CPD’s practice of violent, unnecessary, and discriminatory home raids, CPD reduced the number of these raids from an annual average of 1,800 raids (between 2016 and 2019) to just 176 raids in 2022, a 90% drop.⁸²

⁷⁹ Civilian Office of Police Accountability, *2023 Annual Report* (Feb. 15, 2024) at 26, <https://www.chicagocopa.org/wp-content/uploads/2024/05/2023-Annual-Report.pdf>.

⁸⁰ City of Chicago Office of Inspector General, *Tactical Response Reports: Overview*, <https://igchicago.org/information-portal/data-dashboards/tactical-response-reports-overview/> (accessed Oct. 23, 2024) (reporting that Chicago police officers reported 3,704 incidents in which they used force in 2015 as compared to 2,492 incidents in 2023). Showing the importance of sustained monitoring, the number of reported incidents of CPD violence sharply increased from 1,888 in 2022 to 2,492 in 2023. *Id.*

⁸¹ Independent Police Review Authority, *Fourth Quarter and 2016 Annual Report* at 25, <https://www.chicagocopa.org/news-publications/legacy-publications/legacy-annual-reports/>; Civilian Office of Police Accountability, *2023 Annual Report*, *supra* n.79, at 20. However, again highlighting the critical importance of sustained vigilance, the number of CPD misconduct complaints rose substantially from 2022 to 2023 to 6,059, an increase of 15%. *Id.*

⁸² Deborah Witzburg & Tobar Richardson, City of Chicago Office of the Inspector General, *Final Report: Chicago Police Department’s Search Warrant Process*, (June 8, 2023), at 8 n. 5, <https://igchicago.org/wp-content/uploads/2023/08/Final-Report-Chicago-Police-Departments-Search-Warrant-Process.pdf>.

Most significantly, this is the first time in Chicago history that the City's agency that investigates community complaints of CPD misconduct has sought to hold officers accountable when they abuse their power to hurt people. The rate at which community complaints of CPD misconduct were sustained jumped from just 2% in 2015 to 49% today.⁸³ COPA recommended the firing of twice the number of police officers for serious misconduct in each of the years 2021 and 2022 than it had in the previous four years combined.⁸⁴ In 2022, COPA similarly recommended police suspensions of 30 days or more for serious misconduct in more cases than it had recommended for similar discipline in the previous four years combined.⁸⁵ As Amici and the State of Illinois recognize, there is nothing more important than improved transparency and accountability to ending CPD's pattern and practice of civil rights violations.⁸⁶ Research shows that increased transparency and public

⁸³ Civilian Office of Police Accountability, *2023 Annual Report*, *supra* n.79, at 28 (reporting that COPA sustained 49% of the total allegations with findings in 2023).

⁸⁴ Chip Mitchell, *The Number of Chicago Cops Facing Firing has Exploded under the City's New Accountability Chief*, WBEZ Chicago (Mar. 1, 2022), <https://www.wbez.org/criminal-justice/2022/03/01/chicago-police-face-firing-more-often-in-2021>; Civilian Office of Police Accountability, *2022 Annual Report*, at 28, https://www.chicagocopa.org/wp-content/uploads/2023/04/2022-Annual-Report_.pdf.

⁸⁵ *Id.*

⁸⁶ Kyle Rozema & Max Schanzenbach, *Does Discipline Decrease Police Misconduct? Evidence from Chicago Civilian Allegations*, *Am. Econ. J.: Applied Econ.*, 15 (3): 80–116 (finding strong evidence that disciplining officers reduces the rate at which they engage in future misconduct); Kyle Rozema & Max Schanzenbach, *Good Cop, Bad Cop: Using Civilian Allegations to Predict Police Misconduct*, 11 *Am. Econ. J.: Econ. Pol'y* 225

scrutiny of CPD misconduct proceedings significantly reduced CPD misconduct against community members without increasing crime.⁸⁷

The Award would allow the FOP to undo the progress we achieved in a single swoop by pushing the most serious CPD misconduct proceedings behind closed doors, insulating CPD misconduct from public scrutiny. No matter the quality or independence of COPA's misconduct investigations or even the oversight of the State Attorney General and federal judge, the Award would allow FOP-approved arbitrators to protect police officers from accountability for their misconduct in secret. By draping the most serious cases of CPD misconduct in secrecy, the Award would effectively turn back the clock to before 2015, when the CPD secrecy and denial that facilitated the Department's pattern and practice of civil rights violations prevailed. The Arbitrator's Award would signal a return to that state of CPD impunity when Burge, Cassidy, Guevarra, the Skullcap Crew, Watts, SOS, Van Dyke, and other abusive officers knew that they were above the law.⁸⁸

(2019) (finding a powerful relationship between allegations of misconduct and future civil rights cases that incur costs on the city).

⁸⁷ Bocar Ba & Roman Rivera, *The Effect of Police Oversight on Crime and Misconduct Allegations: Evidence from Chicago*, Rev. Econ. & Stat. at 4 (Oct. 23, 2023) (finding a 20% reduction in CPD misconduct complaints without any increase in crime).

⁸⁸ Sam Stecklow et al., *supra* n.11 (reporting findings from Illinois Attorney General, Chicago's Mayor, the Chicago Inspector General, and police experts that the secret CPD misconduct proceedings awarded by the Arbitrator would result in officers getting "off the hook for misconduct" and break down the City's police oversight infrastructure).

This is not simply conjecture by Amici. It reflects our lived experience of the state of impunity that reigned when CPD misconduct cases were decided in secret by the same FOP-approved arbitrators with the same financial interest in keeping the FOP satisfied. In 2021, the Chicago Inspector General analyzed three years of CPD disciplinary cases that went to arbitration between 2014 and 2017 and found that 90% of the cases were decided by just three arbitrators who were subject to little oversight and virtually no accountability for their rulings.⁸⁹ To retain their income from their monopoly on CPD arbitrations, the three arbitrators chosen by the FOP have powerful financial incentives to keep the FOP satisfied.⁹⁰ Unsurprisingly, the FOP-approved arbitrators eliminated or reduced discipline in 85% of the CPD misconduct cases heard in closed-door sessions between 2010 and 2017.⁹¹

⁸⁹ Joseph Ferguson, City of Chicago Office of Inspector General, *Review of the Disciplinary Grievance Procedure for Chicago Police Department Members* (May 2021) at 4-5, <https://perma.cc/KCC4-8UFT>.

⁹⁰ Chip Mitchell, *City Council Puts Off a Vote on Who Should Decide Chicago's Most Serious Police Discipline Cases. Here's what you Need to Know*, WBEZ Chicago (Jan. 24, 2024), <https://www.wbez.org/criminal-justice/2024/01/24/arbitration-or-the-chicago-police-board-what-to-know> (describing CPD arbitration as “cash cow” for the three FOP arbitrators). See also Stephen Rushin, *Police Arbitration*, 74 Vand. L. Rev. 1023, 1032 (2021) (describing multiple studies of police arbitration finding that it creates financial incentives for arbitrators to reduce or overturn police discipline in order to increase their probability of being selected in future cases); Mark Iris, *Police Discipline in Chicago: Arbitration or Arbitrary?*, 89 Journal of Crim. Law & Criminology 215, 216 (1998) (finding in a 1998 study that because of these financial incentives, “[t]he discipline imposed upon Chicago police officers is routinely cut in half by arbitrators”).

⁹¹ Jennifer Smith Richards & Jodi Cohen, *Chicago Police Win Big when Appealing Discipline*, ProPublica (Dec. 14, 2017), <https://www.propublica.org/article/chicago-police-grievances>. The Office of the Inspector General similarly found that these same private arbitrators overturned or reduced discipline in nearly 80% of the cases that they heard between 2014 and 2017. Joseph Ferguson, City of Chicago Office of Inspector General, *supra* n.89, at 5.

CPD has long proven that it is incapable of change without public oversight. CPD continues to deny the realities of ongoing abuse targeting Black and Brown people and to resist public scrutiny. It remains woefully out of compliance with the Consent Decree, achieving only 7% compliance after *five years* operating under the Decree.⁹² The CPD lags far behind other City agencies with respect to improving transparency.⁹³ Notwithstanding the progress that the City has made, CPD continues to stop, raid, use force, and kill Black and Brown people at grossly disproportionate rates to white people.⁹⁴ Amici understand all that it will take to change CPD's entrenched culture of denial and resistance to change. As the DOJ found, remedying

⁹² The Independent Monitor Margaret A. Hickey & the Independent Monitoring Team, *Independent Monitoring Report 9*, at 3, <https://cpdmonitoringteam.com/wp-content/uploads/2024/06/2024.05.23-Independent-Monitoring-Report-9-filed.pdf>.

⁹³ *Id.* at 63 (reporting that “CPD had been following a less methodical path toward compliance with the Accountability and Transparency requirements, which caused them to fall behind in complying with Accountability and Transparency requirements.”).

⁹⁴ Chicago Police Department, *Investigatory Stop Report Data 2023-2024 Q1*, <https://home.chicagopolice.org/statistics-data/isr-data/> (last visited Oct. 23, 2024) (showing that 93% of people stopped by CPD are Black or Brown); Chicago Police Department, *Use of Force Dashboard*, available at: <https://home.chicagopolice.org/statistics-data/data-dashboards/use-of-force-dashboard/> (last visited Oct. 23, 2024) (94% of CPD violence continues to target Black or Brown people); Joseph M. Ferguson & Deborah Witzburg, City of Chicago Office of Inspector General, *Second Interim Report: Search Warrants Executed by the Chicago Police Department, 2017-2020*, (May 2021) at 7, <https://perma.cc/W7ZZ-KMHE> (96% of CPD home raids continue to target Black or Brown people).

CPD's pattern of civil rights violations will not be possible without sustained scrutiny and external monitoring. DOJ Report at 16.⁹⁵ Sweeping misconduct proceedings under the rug would eviscerate the transparency and accountability necessary to end CPD's violations of the United States and Illinois Constitutions and state and federal laws—violations that have visited the harms described above on Amici and our communities.

The secret proceedings awarded to the FOP would also undermine CPD legitimacy and vitiate Illinois's most fundamental policy "favoring the effective protection of the lives and property of [its] citizens." *Palmateer*, 85 Ill. 2d at 130. It would undermine public safety and make Amici and our families less safe.⁹⁶

On March 29, 2021, thirteen-year-old Adam Toledo was shot in the chest and killed by Chicago police officer Eric Stillman. Adam had dreamed of

⁹⁵ When confronted with DOJ's findings, former Mayor Rahm Emmanuel acknowledged, "[W]e've never, ever as a City measured up with the changes on a sustained basis to finally deal in whole cloth with [CPD's pattern of civil rights violations]." Bill Ruthhart, Hal Dardick & Timothy M. Phelps, *Emanuel: Chicago Needs Justice Department Help With Police Department*, Chicago Tribune (March 29, 2019) <https://www.chicagotribune.com/2015/12/07/emanuel-chicago-needs-justice-department-help-with-police-department/>. See also Elizabeth Andonoya, *Cycle of Misconduct: How Chicago Has Repeatedly Failed to Police Its Police*, 73 Law. Guild Rev. 2 (2016) (documenting tragic examples of people killed by police where previous complaints had been filed against the officers).

⁹⁶ See Section III.B.10, *supra* and Cynthia Conti-Cook, *supra* n.75, at 165-66 (showing how transparency in police disciplinary proceedings is necessary to build public trust in law enforcement and perception of its legitimacy, without which the effectiveness of police in protecting public safety is compromised).

becoming a police officer when he grew up. After chasing Adam down a dark alley, Officer Stillman instructed him to stop and put his hands in the air. As Adam turned toward the officer with his hands, both empty, in the air, Stillman shot him. Video appears to show that Adam may have tossed a gun behind a fence moments before he was shot.⁹⁷

Seventh-grader Adam's death sparked widespread community outrage and protests.⁹⁸ The killing of such a young child by a police officer continues to raise serious questions and command intense public concern, underscoring the need for fair and open misconduct proceedings. As COPA's Chief Administrator observed, "Impacted parties and the residents of the city of Chicago deserve to have all the facts and evidence presented in a full, public hearing."⁹⁹

Contrary to all that we learned from the City of Chicago's efforts to cover up the murder of Laquan McDonald, the Award to the FOP would drive

⁹⁷ Rachel Treisman, et al., *Chicago Releases Video Showing Fatal Police Shooting Of 13-Year-Old Adam Toledo*, NPR (Apr. 15, 2021), <https://www.npr.org/2021/04/15/987718420/chicago-releases-video-showing-fatal-police-shooting-of-13-year-old-adam-toledo>; Madison Savedra, *Cop Who Killed 13-Year-Old Adam Toledo Should be Fired, Interim Police Superintendent Recommends*, Block Club Chicago (Apr. 11, 2023), <https://perma.cc/D5CM-B5GZ>.

⁹⁸ Julie Bosman, *Chicago, Long Riven Over Police Conduct, Reels Anew After Shooting of 13-Year-Old*, N.Y. Times (Apr. 17, 2021), <https://www.nytimes.com/2021/04/17/us/chicago-police-shooting-adam-toledo.html?action=click&module=Spotlight&pgtype=Homepage>.

⁹⁹ Tom Schuba & Emmanuel Camarillo, *Chicago Cop Who Fatally Shot 13-Year-Old Adam Toledo Now Facing Dismissal*, Chicago Sun Times (Oct. 21, 2022), <https://chicago.suntimes.com/crime/2022/10/20/23415368/adam-toledo-eric-stillman-police-board-cpd-misconduct>.

the proceedings about Officer Stillman’s killing of a 13-year-old boy underground. CPD stands no chance of earning community trust if the killing of 13-year-old Adam Toledo is decided behind closed doors. In the words of Chicago Police Board President, Kyle Cooper:

Allowing [Arbitrator Benn’s] ruling to stand will shroud the Toledo case and other allegations of serious police misconduct in secrecy. Such an outcome will only further erode the trust between law enforcement and our citizens and undermine our collective efforts to create a more accountable and transparent system of policing in Chicago.¹⁰⁰

The Arbitrator’s decision to turn back the clock and hide cases like Officer Stillman’s away from public view would pull the rug out from years of progress toward the goals of CPD transparency and accountability and ending the Department’s decades-long pattern of civil rights violations.

IV. The Arbitrator’s Refusal to Consider the Public Interest and Welfare was Arbitrary and Capricious.

The trial court’s decision may also be upheld on the grounds that the Arbitrator’s disregard of the public interest and welfare in CPD transparency and accountability was arbitrary and capricious. An award is “arbitrary or capricious” when it “fails to consider an important aspect of the problem.” *Town of Cicero*, 338 Ill. App. 3d at 372. Section 14 of the Illinois Public Labor Relations Act (“PLRA”) requires that when there is a dispute between the

¹⁰⁰Heather Cherone, *Fate of Officer Who Fatally Shot Adam Toledo in Limbo As Judge Halts Police Board Hearings Amid Dispute*, WTTW News (Feb. 1, 2024), <https://news.wttw.com/2024/02/01/fate-officer-who-fatally-shot-adam-toledo-limbo-judge-halts-police-board-hearings-amid>.

parties in collective bargaining, arbitrators “shall” base their awards on a prescribed set of factors, which include “the interests and welfare of the public...”. 5 ILCS 315/14(h)(3). In brushing aside the paramount public interest in transparency and accountability, the Award states that consideration of the public interests and welfare is optional.¹⁰¹ Contrary to the Arbitrator’s opinion, consideration of the public “interests and welfare” is not merely a suggestion, but a “clear requirement” of the PLRA. *Int’l Ass’n of Firefighters Loc. 49 v. City of Bloomington*, 2016 IL App (4th) 150573, at ¶ 32 (finding that arbitrators in public labor disputes have a mandatory “duty to consider the interests and welfare of the public...”). The safety and welfare of the public is unquestionably an “important aspect” of resolving the “problem” of disciplinary procedures for police officers accused of misconduct. Indeed, the PLRA embeds the importance of public safety issues into its very structure and describes the protection of the “public health and safety of the citizens of Illinois” as a crucial purpose of the Statute. 5 ILCS 315/2. Consideration of the public interest and welfare is not only an important but also an essential aspect of deciding disputes over procedures in police misconduct cases. In refusing to consider the paramount public interests in

¹⁰¹ The Award wrongly states that interest arbitrators “*can*” consider the “interests and welfare of the public,” but they are not required to do so. Supp. Final Op. and Award, C. 1635 (emphasis added). The Award also erroneously opines that a presumption within the PLRA in favor of arbitration overrides the need to consider the public’s interests and welfare in CPD transparency and accountability and in remedying CPD’s pattern of legal violations. *Id.* at C. 1635-36.

public safety, police transparency and accountability, and the ability to remedy CPD's pattern of civil rights violations, the Award violated a "clear requirement" of the PLRA and failed to consider an important aspect of the problem, when walling off serious police misconduct proceedings from public scrutiny. *See City of Bloomington*, 2016 IL App (4th) 150573, at ¶ 32. The Arbitrator's refusal to do so requires the reversal of the Award as arbitrary and capricious. *See Town of Cicero*, 338 Ill. App. 3d. at 372-373.

V. The Recent Killing of Dexter Reed by Chicago Police Underscores the Stakes in this Appeal.

Ten years have passed since the City of Chicago tried to hide the video of Officer Jason Van Dyke firing 16 shots into the body of 17-year-old Laquan McDonald as he lay on the ground. The City now finds itself at another inflection point. In April of this year, COPA released video of a team of Chicago police officers firing 96 bullets in 41 seconds at Dexter Reed, a former high school basketball star who dreamed of becoming a coach, after what appears to have been a pretextual traffic stop in Chicago's Humboldt Park neighborhood.¹⁰² An unmarked SUV with five Chicago police tactical

¹⁰² Mohammad Samra, *Basketball Coaches Remember Man Killed in Shootout With Chicago Police: "He Let You Know He Had Your Back,"* Chicago Sun Times (Mar. 22, 2024), <https://chicago.suntimes.com/crime/2024/03/22/dexter-reed-chicago-police-shootout-west-side-humboldt-park-basketball>; Tom Schuba et al., *Watchdog Chief Questions Whether Chicago Cops Lied About Why They Stopped Dexter Reed Before Killing Him In Exchange Of Gunfire*, Chicago Sun Times (Apr. 9, 2024), <https://chicago.suntimes.com/police-reform/2024/04/09/dexter-reed-fired-first-chicago-police-officers-100-shots-copa>.

officers wearing plain clothes and bullet proof vests forced Mr. Reed to stop his car based on allegations that he was not wearing a seat belt.¹⁰³ The officers aggressively approached Mr. Reed’s car, drawing and pointing their guns at him within a few seconds after jumping from the SUV. Police say that Mr. Reed shot a gun from his car in the direction of one of the officers pointing a gun at him, striking the officer in the wrist. Within the next 41 seconds, the four other officers fired a total of 96 bullets at Mr. Reed. *Id.* Mr. Reed eventually stumbled out of his car unarmed. Officers continued to shoot Mr. Reed as he fell to the ground. Video shows an officer firing several additional shots at Mr. Reed as he “lay motionless on the ground.” *Id.*

As with the release of the video of the killing of Laquan McDonald, CPD’s shooting of Mr. Reed has commanded public attention, generated front page headlines in Chicago and around the nation, spawned protests in the community, and raised serious questions about the state of Chicago police reform.¹⁰⁴ The Cook County State’s Attorney underscored, “We understand

¹⁰³ Police video raises serious questions about the credibility of the officers’ claimed basis for the stop. *Id.* (According to video from the officers’ bodyworn cameras, the officers would not have been able to see whether Mr. Reed was in fact wearing his seat belt).

¹⁰⁴ Heather Cherone, *Top Cop Says CPD Tracks Accusations Against Officers — But Took No Action After 36 Complaints Filed Against Officers Involved in Dexter Reed Shooting*, WTTW (Apr. 17, 2024), <https://news.wttw.com/2024/04/17/top-cop-says-cpd-tracks-accusations-against-officers-took-no-action-after-36-complaints> (reporting that officers had accumulated at least 36 complaints that they had been engaged in a pattern of pretextual traffic stops on the City’s West Side similar to the stop of Dexter Reed); *see also* Tom Schuba et al., *Before Gunfight with Dexter Reed, Chicago Cops Made 50 Traffic Stops In Just 3 Days*, Chicago Sun Times

the great public interest in transparency and accountability, especially when deadly force is used and a life is taken... [W]e must ensure that the process is transparent, fair and thorough.”¹⁰⁵

How will the City respond? While opinions about the appropriate outcome of the proceedings may vary, this much is clear—sweeping CPD misconduct proceedings behind closed doors into secrecy would turn back the hands of time to evade public scrutiny and oversight, permit police officers to violate people’s constitutional rights without fear of consequence, and eviscerate public trust. We must not allow CPD to return to a state of impunity.

(Aug. 6, 2024), <https://chicago.suntimes.com/police-reform/dexter-reed-shooting/2024/08/06/gunfight-dexter-reed-chicago-police-officers-stopped-50-drivers-3-days> (showing a video montage of 50 eerily similar traffic stops by the same officers who stopped Dexter Reed).

¹⁰⁵ Tom Schuba et al., *supra* n.102.

CONCLUSION

Amici respectfully request that the Court affirm the trial court's decision to overturn the Award because the Award violates Illinois public policy and further affirm the trial court's order that proceedings about serious CPD misconduct must remain open to the public.

Respectfully Submitted,

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CERTIFICATE OF COMPLIANCE WITH RULE 341

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages containing the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 12,298 words.

Respectfully Submitted,

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APPENDIX

AMICI CURIAE

1. All of the members of a community-based coalition (“Coalition”) that has the power and responsibility to enforce the federal consent decree entered by the United States District Court to remedy CPD’s pattern and practice of civil rights violations, as alleged in *State of Illinois v. City of Chicago*, N.D. Ill. Case No. 17-cv-6260.¹ The member-organizations of the Coalition include:

- a. *The ACLU of Illinois* is a non-profit, non-partisan, statewide organization located in Chicago, Illinois. The ACLU is dedicated to protecting and expanding the civil rights and civil liberties enshrined in the United States Constitution, the Illinois Constitution, and state and federal civil rights laws. The ACLU advocates on behalf of people harmed by unconstitutional policing practices in the City of Chicago, including practices that disproportionately impact people of color.
- b. *Black Lives Matter Chicago* is an organization that fights for justice with families most impacted by race-based violence and marginalization of Black communities, while working to create just and equitable systems. Black Lives Matter Chicago works to end

¹ *State of Ill. v. City of Chi.*, No. 17-cv-6260 (N.D. Ill.), Docket No. 703-1 at paragraph 709 (granting the Coalition the power to enforce the CPD consent decree in federal court). The decree is also available at chicagopoliceconsentdecree.org.

state violence and criminalization of Black communities by deconstructing the white supremacist, capitalist patriarchy.

- c. *Blocks Together (BT)* is a membership-based community organizing group in the West Humboldt Park (WHP) neighborhood on Chicago's West Side. Since 1995, BT has empowered residents to work together for systematic changes that bring concrete improvement to their lives.
- d. *Brighton Park Neighborhood Council (BPNC)* is a community-based, grassroots organization on Chicago's southwest side, a predominantly Latinx and immigrant community. They work to empower their community and build its capacity by providing school and community-based services and programs.
- e. *Chicago Urban League* is an independent, not-for-profit civil rights organization. CUL has more than 15,000 constituents in the Chicago metropolitan area. The pattern and practice of police brutality in Chicago has caused grievous harm to the individuals, families, and communities served by the CUL, and has severely diminished their safety and opportunities for economic, educational, and social progress.
- f. *Community Renewal Society (CRS)* informs and brings people of faith and congregations together, in partnership with communities, coalitions, interfaith organizations and civic leaders, to

intentionally and decisively transform society toward greater social justice at the intersection of racism and poverty. CRS represents thousands of people through its approximately 40-member congregations, many of which are in Chicago. CRS is a 135-year-old organization that works with people and communities to address racism and poverty. One of CRS's primary campaigns is police accountability and reform.

- g. *Communities United (CU)* is a survivor-led, intergenerational racial justice organization in Chicago. At the heart of CU's organizing is the development of grassroots leadership to build collective power to achieve racial justice and transformative social change. With this approach, CU focuses on advancing affordable housing, health equity, education justice, youth investment, immigrant rights, and shifting resources from the criminal justice and juvenile justice systems into restorative justice alternatives. CU's members are primarily low-income people of color from the following Chicago neighborhoods: Albany Park, Austin, Belmont Cragin, Roseland, and West Ridge.
- h. *Network 49* is an independent grassroots organization in Chicago's 49th Ward fighting for progressive politics and policies.
- i. *ONE Northside* is a mixed-income, multi-ethnic, intergenerational organization whose mission is to build collective power to eliminate

injustice through community organizing. To that end, ONE Northside practices community organizing in the areas of police reform, violence prevention, public education, affordable housing, healthcare and mental health justice, youth empowerment, and economic justice. ONE Northside engages community members from the Rogers Park, Edgewater, Uptown, Ravenswood, North Center, Lakeview, and Lincoln Park neighborhoods of Chicago. These diverse communities are home to some of the populations most vulnerable to the Chicago Police Department's unconstitutional practices—racial minorities, people with disabilities, immigrants, and low-income individuals.

- j. *Westside Branch of the NAACP* is a membership organization based on the West Side of Chicago that is part of the oldest national civil rights organization in the United States. The Illinois State Conference of the NAACP coordinates activities throughout the State of Illinois. The NAACP's mission is to ensure the political, educational, social, and economic equality of rights of all persons and to eliminate race-based discrimination, including but not limited to racially biased police practices.
- k. *Women's All Points Bulletin* is a human rights and community policing non-profit organization that provides services, education,

and training to eradicate all forms of violence against women during policing encounters.

1. *411 Movement for Pierre Loury* is an organization formed in response to the fatal shooting of 16-year-old Pierre Loury by Chicago Police. It was created as a response to the problematic culture of violence being committed in the city of Chicago by the civil servants that are contracted to serve, protect, and uphold the law.
2. *A Just Harvest* is an organization dedicated to fighting poverty and hunger in the Rogers Park neighborhood and greater Chicago community by providing nutritious meals daily while cultivating community and economic development and organizing across racial, cultural and socioeconomic lines to create a more just society.
3. *Better Government Association (BGA)* a non-partisan, nonprofit news organization and civic advocate working for transparency, equity and accountability in government in Chicago and across Illinois.
4. *Bluhm Legal Clinic at Northwestern University Pritzker School of Law* houses over 20 clinics within 13 centers and is widely recognized as one of the most comprehensive and effective clinical programs in the country. Each year, hundreds of clients receive assistance from Bluhm Legal Clinic students. The range of clients served is wide reaching including teenagers tangled in an unjust juvenile legal system and entrepreneurs in need of

affordable legal advice. The Bluhm Legal Clinic is internationally recognized for its involvement in legal reform, and for advancing the goal of providing a skilled, ethical, and public-spirited legal profession integral to a society that values and promotes justice.

5. *Center on Wrongful Convictions (CWC) Northwestern University Pritzker School of Law* is dedicated to identifying and rectifying wrongful convictions and other serious miscarriages of justice. To date, the Center has exonerated more than forty innocent men, women, and children from states around the country, and it receives thousands of inquiries a year. The CWC also houses some of the nation's leading legal experts on false confessions and police interrogations and has helped exonerate more than twenty false confessors.
6. *Chicago Alliance Against Racist and Political Repression (CAARPR)* is a branch of the National Alliance Against Racist and Political Repression. CAARPR is a mass defense organization that defends the rights of Black people and all oppressed peoples to unite, organize and fight for freedom, justice and equality. CAARPR was founded in 1973 and its parent organization was National United Committees to Free Angela Davis and All Political Prisoners. Today, CAARPR sees the police occupation of communities and mass incarceration as the two greatest obstacles to its fight for democracy and liberation.

7. *Chicago Appleseed Center for Fair Courts* is a community-driven advocacy organization using mixed-methods research approaches to interrupt cycles of poverty, mass incarceration, and racial injustice inherent to the legal system.
8. *Chicago Lawyers' Committee for Civil Rights* is a public interest law organization founded in 1969 that works to secure racial equity and economic opportunity for all. Chicago Lawyers' Committee collaborates with grassroots organizations and other advocacy groups to implement community-based solutions that advance civil rights and racial justice. Through litigation, policy advocacy and coalition work, Chicago Lawyers' Committee works to ensure that systems operate with fairness and justice to produce equitable outcomes.
9. *Chicago Torture Justice Center* seeks to address the traumas of police violence and institutionalized racism through access to healing and wellness services, trauma-informed resources, and community connection. The Center is a part of and supports a movement to end all forms of police violence. It is a community center for Chicago police torture survivors. CTJC was established as a result of a historic Reparations Ordinance passed by the Chicago City Council in May 2015.
10. *Chicago Women Take Action* is comprised of activists of all ages and backgrounds working on the local and national level to promote women leaders and secure the health and well-being of women, their families, and

their communities. CWTA organizers around issues including, but not limited to, gun violence, reproductive rights, protecting democracy, income inequality/equal wages to the ERA, voting rights, minimum wage increase and fair employment conditions.

11. *Chicago Council of Lawyers* is a member-based organization whose focus is the benefit of non-members, particularly poor and disadvantaged populations who often have unequal access to the justice system. The Council works on non-litigation pro bono projects meant to promote systemic reform, including increased access to justice, immigration court reform, criminal justice reform, children and family law, and projects on the federal courts. The Council is a well-respected, non-partisan entity with the ear of important stakeholders in Cook County and Illinois at large, and has done a tremendous amount to ameliorate hidden injustices that don't always make headlines or present themselves in everyday law practice.

12. *Cannabis Equity IL Coalition*, founded in 2019, is a grassroots nonprofit that advances equity in the State of Illinois. We fight to make sure the legalization of cannabis in Illinois repairs and reinvests in the communities most impacted by the War on Drugs, and to ensure the cannabis industry prioritizes people over profits.

13. *Color Of Change* is one of the nation's foremost racial justice organizations, with millions of members nationwide, including more than

- 45,000 members in Cook County. The organization is focused on advancing policies that make for a less hostile world for Black people, including criminal legal reform, police accountability, and transparency.
14. *Common Cause Illinois* is a non-partisan organization dedicated to making government in Illinois more open, honest, and accountable.
15. *The Cook County Public Defender's Office* protects the fundamental rights, liberties and dignity of each person whose case has been entrusted to them by providing legal representation. The Office provides legal representation to indigent persons in criminal cases in Cook County, many of whom have been victims of Chicago police abuse.
16. *Empowering Communities for Public Safety (ECPS) Coalition* represents a network of policy advocates, grassroots organizers, community members, and those directly affected by policing practices in Chicago. The ECPS Coalition leads advocacy efforts to hold police accountable and create safe neighborhoods across Chicago.
17. *The Exoneration Project of the University of Chicago Law School's* primary mission is to overturn wrongful convictions and prove its clients' innocence in court. Additionally, it attempts to address the systemic problems in the criminal legal system that cause innocent people to be convicted of crimes they did not commit. To do so, the Exoneration Project advocates for greater accountability in the justice system. Additionally, it

works to ensure exonerees re-enter society with the supports they need to succeed.

18. *First Defense Legal Aid* provides legal assistance to people and communities in the Chicago area who have suffered abuse at the hands of police. It mobilizes lawyers and overpoliced community members to fill gaps in public defense and create, protect, and engage replicable alternatives to the criminal system starting with its entry points.
19. *Impact for Equity* is committed to addressing the structural racism and systemic oppression that has led to inequities and injustices, particularly for people and communities of color, in Chicago and Illinois. An innovative public interest law and policy center, Impact for Equity utilizes a combination of legal tools, policy research, advocacy, organizing, and convening to work towards transformational change.
20. *Invisible Institute* is a nonprofit journalism production company on the South Side of Chicago. It works to enhance the capacity of citizens to hold public institutions accountable. Invisible Institute's work coheres around a central principle: we as citizens have co-responsibility with the government for maintaining respect for human rights and, when abuses occur, for demanding redress.
21. *League of Women Voters Chicago* is a nonpartisan, grassroots organization working to protect and expand voting rights and ensure everyone is

- represented in our democracy. LWV empowers voters and defend democracy through advocacy and education.
22. *Loevy + Loevy* is a civil rights law firm working for justice, accountability, and transparency.
23. *Northwestern Pritzker School of Law, Community Justice and Civil Rights Clinic* works in collaboration with social justice movements on legal and policy strategies aimed at redressing some of the most pressing, urgent issues of our time—namely over-policing and mass imprisonment.
24. *The Young People of N'COBRA (National Coalition of Blacks for Reparations in America)* is a mass-based organization for the sole purpose of obtaining reparations for African descendants in the United States.
25. *N'COBRA (National Coalition of Blacks for Reparations in America) - Chicago Chapter* is a mass-based organization for the sole purpose of obtaining reparations for African descendants in the United States.
26. *The Rainbow / PUSH Coalition* is a multi-issue, multi-cultural, international membership organization, founded by Rev. Jesse L. Jackson, Sr. whose mission is to defend, protect and gain civil rights; to even the playing field in all aspects of American life and to secure peace in the world.
27. *Lucy Parsons Lab* (“LPL”) is a digital rights non-profit composed of academics, transparency activists, artists, and technologists. LPL uses transparency tools like the Freedom of Information Act to analyze police

spending and misconduct and inform the public about its findings. LPL has written extensively about the role of police surveillance technologies and its impact on civil society.

28. *The Roderick & Solange MacArthur Justice Center (MJC)* is a public interest law firm founded in 1985 to advocate for human rights and social justice through litigation. MJC attorneys have played a key role in civil rights battles in Illinois, including challenges to police misconduct and abuse, as well as enforcement of government transparency laws.

29. *The Edwin F. Mandel Legal Aid Clinic of the University of Chicago Law School*, established in 1957, is one of the oldest law school clinics in the United States. It provides free legal services to people typically denied access to justice and seeks to reform legal education and the legal system to be more responsive to the interests of the poor. The Civil Rights and Police Accountability Project within the Mandel Clinic is one of the nation's leading law school civil rights clinics. Its mission is to improve police accountability and service in Chicago, challenge discrimination, and remedy fundamental issues of injustice in our criminal system, while teaching students all that it means to be a lawyer.

30. *People's Law Office (PLO)* has been fighting for the civil rights of victims of police brutality, wrongful convictions, false arrest, and other government abuses for over 40 years. PLO has represented wrongfully

- imprisoned people and individuals awaiting the death penalty, and has uncovered secret abuses by police and government officials.
31. *Southsiders Organized for Unity and Liberation (SOUL)* believes that our faith calls us to the fight for justice for all, especially those who have historically been marginalized and oppressed. SOUL's mission is to assist low-income people of color in the Chicago Southland to build power, then subsequently leverage that power to fight for their own interest and liberation.
32. *Truth, Hope, and Justice Initiative* is committed to advancing social justice and racial equality by publishing stories and sharing the human truths of mothers impacted by unjustified police violence in America.
33. *3rd and 14th Chicago Police District Councils*. The 14th District Council was elected by residents of Humboldt Park, Logan Square, and Wicker Park to represent them in fighting for more police accountability, restorative justice and community safety. The 3rd District Council was elected by residents on the southeast side of Chicago in the Woodlawn, South Shore, and Greater Grand Crossing communities. An overwhelming majority of 41 District Councilors from across Chicago signed a letter against private police arbitration.
34. *Amici* signing on in their individual capacities as community leaders on the subject of police transparency and accountability are:
- a. Steve Art, Partner, Loevy + Loevy
 - b. Michael J. Harrington, Co-Chair, Network 49

- c. Jesse Hoyt, Executive Director, ONE Northside
- d. Jane Ramsey, Chair of Committee on Police Accountability and Gun Violence Prevention, Chicago Women Take Action
- e. Jamie Kalven
- f. Flor Dimas
- g. Mara Lynne
- h. Joi Imobhio
- i. Robert J. Johnson, Police District Councilor, 18th District Council
- j. David Boykin, Police District Councilor, 6th District Council
- k. David Orlikoff, Police District Councilor, 14th District Council
- l. Alexander J. Perez, Police District Councilor, 2nd District Council
- m. Leonardo Quintero, Police District Councilor, 12th District Council
- n. Elizabeth A. Rochford, Police District Councilor, 17th District Council
- o. Dion McGill, Police District Councilor, 7th Police District Council
- p. Deirdre O’Conner, Police District Councilor, 20th District Council
- q. Chloe Vitale, Police District Councilor, 12th District Council
- r. Erin Vogel, Police District Councilor, 9th District Council
- s. Anthony David Bryant, Police District Councilor, 3rd District Council
- t. Jennifer Schaffer, Police District Councilor, 19th District Council
- u. Father Michael Pflieger, Saint Sabina
- v. Reverend Dr. Otis Moss III, Trinity United Church of Christ
- w. Rev. Dr. Marilyn Pagán-Banks, Executive Director, A Just Harvest
- x. Elizabeth Grossman, Executive Director, Common Cause Illinois
- y. Yusef Jackson, Chief Operating Officer, National Rainbow PUSH Coalition
- z. Veronica Arreola, Police District Councilor, 24th District Council
- aa. Anjanette Young, survivor of abuse by Chicago Police Department

Support for Transparency and Accountability in CPD Serious Misconduct Cases

Dear Illinois Court of Appeals,

My name is Ghian Foreman, and I am a former member of the Chicago Police Board. I am writing to express my support for public scrutiny and accountability when Chicago police officers commit serious misconduct.

We have made significant progress over the last ten years since the Chicago Police Department (CPD) and the Mayor hid Chicago police officer Jason Van Dyke's murder of 17-year-old Laquan McDonald from the public. However, the FOP's appeal is attempting to reverse this progress and push the most serious cases behind closed doors, such as when police unjustifiably kill people, assault people, or frame people for crimes they did not commit.

The FOP has now asked the Court of Appeals to allow it to drive Chicago police abuse back into secrecy. If the FOP succeeds, it will guarantee another decade of police impunity in Chicago.

I am writing to urge the Court of Appeals to rule that the review and decision-making behind serious cases of CPD misconduct must be open to the public. The public has a great interest in appropriate accountability for police officers accused of serious misconduct. The absence of CPD transparency and police accountability would lead to:

- The harm to tens of thousands of individuals and families abused by Chicago police;
- The innumerable false confessions and wrongful convictions;
- The hundreds of millions of public dollars paid as a result of CPD abuse;
- The loss of public safety and trust.

We cannot afford to return to a time when a Chicago police officer could fire sixteen shots into the body of a Black teenage boy while he lay on the ground, knowing that nothing would happen to him.

I urge you to rule in favor of transparency and accountability.

Thank you for your time and consideration.

Best regards,



Ghian Foreman

Former President of the Chicago Police Board