

VITO A. GAGLIARDI, JR.
MEMBER, NJ BAR
CERTIFIED BY THE SUPREME COURT OF
NEW JERSEY AS A CIVIL TRIAL ATTORNEY
DIRECT DIAL No.: 973-889-4151
E-MAIL ADDRESS: VAGAGLIARDI@PBNLAW.COM

October 30, 2024

Honorable Justices of the Supreme Court of New Jersey
Richard J. Hughes Justice Complex
P.O. Box 970
Trenton, NJ 08625-0970

Re: Kratovil v. City of New Brunswick
Docket No.: 089427

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SUPREME COURT
OF NEW JERSEY

Honorable Justices of the Supreme Court of New Jersey:

Please accept this letter brief, in lieu of a more formal brief, on behalf of *amicus curiae* New Jersey State Association of Chiefs of Police (“NJSACOP”) in support of its motion, pursuant to *Rule* 1:13-9, to participate in oral argument.

PRELIMINARY STATEMENT

NJSACOP has participated in this matter since its inception, providing the lower courts with invaluable insight into the ways in which judicial consideration of Daniel’s Law’s constitutionality will affect those whom the law protects. As the Court no doubt is aware, Daniel’s Law was enacted to protect law enforcement and judicial officials, and their families, from those who would do them harm by obtaining personal information such as home addresses. Daniel’s Law was enacted in response to the murder of a federal

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judge's family by a person who obtained the family's home address through means available to the general public. The Law is designed to prevent such tragedies ever from occurring in the future.

NJSACOP was organized in 1912 as an association dedicated to the service of the people of the State of New Jersey through increased efficiency in law enforcement. For over a century, the organization has committed itself to active involvement in issues of public safety and matters affecting the law enforcement and judicial community. As a matter of law, its members are responsible for the day-to-day operations of their respective police departments throughout the State of New Jersey. *See N.J.S.A. 40A:14-118.* Both NJSACOP's members and many of the persons those members supervise and protect fall under Daniel's Law's shield. Accordingly, NJSACOP and its members seek to lend their expertise to the Court in this matter, just as they have done before the lower courts, so that the Court will have a better understanding of the statewide ramifications of the issues presented.

NJSACOP's participation would address the issue of whether Daniel's Law, which prohibits the dissemination of the personal addresses and unlisted phone numbers of certain current and former judicial and law enforcement officials, is unconstitutional as applied to Plaintiff's efforts to publish the address of New Brunswick Police Director Anthony Caputo. NJSACOP is comprised mainly of current and former chiefs of police

who enjoy the protections of Daniel's Law. Therefore, as a friend of the Court, NJSACOP can advise the Court as to Daniel's Law's history and the reasons for its enactment. Notably, Daniel's Law applies not just to judges, but to a variety of law enforcement officials, including police officials such as Plaintiff. NJSACOP's participation therefore will aid the Court in gaining a wider perspective into why Daniel's Law was enacted; its important and positive effect on the law enforcement community; the compelling state interests it serves; and the reasons why its constitutionality must be protected.

Finally, NJSACOP's participation at oral argument will neither delay nor prejudice the parties in this matter. The Court has not yet set a date for oral argument, and NJSACOP has participated in briefing and oral argument before both the trial court and the Appellate Division. By this stage of the proceedings, NJSACOP's position is known to the parties, who will suffer neither surprise nor prejudice by NJSACOP's appearance at oral argument. Accordingly, NJSACOP should be permitted to participate at oral argument before this Court just as it has before the lower courts.

STATEMENT OF FACTS & PROCEDURAL HISTORY

NJSACOP adopts the statement of facts and procedural history as set forth in the Appellate Division's written decision. NJSACOP adds only that it was admitted into this matter as *amicus curiae* before the trial court, submitted briefing and engaged in oral argument before the trial court, submitted briefing and engaged in oral argument before

the Appellate Division, and has been accepted as an *amicus curiae* by this Court. (*See generally*, Certification of Vito A. Gagliardi, Jr., Esq.)

LEGAL ARGUMENT

THIS COURT SHOULD PERMIT NJSACOP TO PARTICIPATE IN ORAL ARGUMENT IN THIS MATTER BECAUSE NJSACOP BRINGS PARTICULAR EXPERTISE AND UNIQUE INSIGHT REGARDING THIS MATTER'S IMPLICATIONS TO THE LAW ENFORCEMENT COMMUNITY.

Pursuant to *Rule* 1:13-9, NJSACOP's motion shall be granted if the Court is satisfied "under all the circumstances that the motion is timely, the applicant's participation will assist in the resolution of an issue of public importance, and no party to the litigation will be unduly prejudiced thereby." NJSACOP's application readily satisfies this permissive standard.

The timeliness component of the *Rule* is designed "to encourage *amici* to enter the proceedings at as early a stage as possible in order to minimize the possibility of delay in disposition and their non-allowance in on that ground." *Pressler & Verneiro, Current N.J. Court Rules*, Comment *R. 1:13-9*, p. 232 (2023). The role of *amicus curiae* is to advise the Court concerning matters of fact and law, and of circumstances relating to the matter pending for its determination. *Keenan v. Bd. of Chosen Freeholders*, 106 N.J. Super. 312 (App. Div. 1969).

NJSACOP has participated in this matter since its inception. It has provided briefing and participated in oral argument before both the trial court and the Appellate Division. It limited its briefing and argument before both lower courts to the issues raised by the parties. NJSACOP does not seek, and cannot cause, any delay or obfuscation in the resolution of the issues raised in this matter. NJSACOP readily accepts the case before the Court as it has been set forth, does not seek to raise new issues, and has sought participation to argue before the Court prior to the Court setting a date for oral argument. *See Tice v. Cramer*, 133 N.J. 347, 355 (1993). Therefore, NJSACOP encourages this Court to permit it to participate in oral argument just as NJSACOP has participated at each stage of this matter before the lower courts because its participation will neither delay this matter nor prejudice the parties.

Indeed, and to the contrary, NJSACOP's participation will assist the Court in resolving issues of public importance, namely the legal and practical ramifications of determining whether Daniel's Law is unconstitutional as applied to the facts here. The Court will receive the input of one of the State's leading law enforcement agencies, and an entity which -- like Defendants here -- is comprised mainly of persons covered by Daniel's Law. This additional perspective from a statewide entity

directly affected by the outcome here will aid the Court in its consideration of the issues.

Moreover, NJSACOP has participated in oral argument before the Court in many prior cases involving similar and significant issues of public importance affecting New Jersey's law enforcement community. In many of those cases, the Court has noted specifically the value of NJSACOP's participation and its ability to provide insightful commentary on the relevant issues, including issues of privacy affecting the law enforcement officials. *See, e.g., Gannett Satellite Info. Network, LLC v. Twp. of Neptune*, 254 N.J. 242 (2023) (determining whether attorney fees are available under the common law right of access); *In re Attorney General Law Enforcement Directive Nos. 2020-5 and 2020-6*, 246 N.J. 462 (2021) (considering lawfulness of Attorney General's directives requiring release of names of law enforcement officers who committed disciplinary violations); *Fraternal Order of Police v. City of Newark*, 244 N.J. 75 (2020) (adopting the NJSACOP's position that a civilian complaint review board has no legal authority to issue subpoenas or conduct concurrent internal affairs investigations); *Paff v. Ocean County Prosecutor's Ass'n*, 235 N.J. 1 (2018) (agreeing with the NJSACOP's argument that recordings from police dashboard cameras are generally not available under OPRA); *Paff v. Galloway*

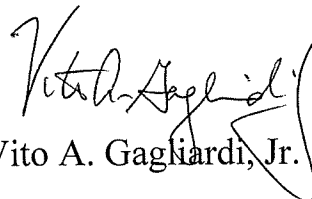
Twp., 229 N.J. 340 (2017) (finding that “amici have raised legitimate concerns” regarding whether certain emails were subject to OPRA exceptions).

This Court thus has an established history of permitting NJSACOP to provide its perspective at oral argument on some of the most important and vexing issues the Court has considered concerning law enforcement officials and their privacy rights. NJSACOP already has brought that experience to bear here before the lower courts, participating in briefing and argument before both the trial court and the Appellate Division. Given NJSACOP’s expertise as to the issues before the Court, the affect this matter will have on NJSACOP’s membership and the population its members supervise and protect, and the fact that NJSACOP has participated in this matter from its inception, it is both fitting and appropriate that NJSACOP participate in oral argument before this Court.

CONCLUSION

For the foregoing reasons, the New Jersey State Association of Chiefs of Police respectfully requests that this Court grant its motion to participate in oral argument in this matter.

Respectfully submitted,



Vito A. Gagliardi, Jr.

cc: all counsel of record