No. 127838

IN THE

SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Appellate Court of Illinois, No. 1-18-0523.
Plaintiff-Appellee,	)	There on appeal from the Circuit Court of Cook County, Illinois, No. 13 CR 16035 (02).
-vs-	)	
ANGELO CLARK, Defendant-Appellant.	)	Honorable Nicholas Ford, Judge Presiding

BRIEF OF *AMICI CURIAE* THE VILLAGE OF BANNOCKBURN, CITY OF CRYSTAL LAKE, VILLAGE OF GLENVIEW, AND VILLAGE OF GRAYSLAKE IN SUPPORT OF PLAINTIFF-APPELLEE

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INTRODUCTION

Police officers throughout Illinois share investigatory information in a variety of ways, including communicating in-person, by telephone, and by computerized methods. To facilitate these communications, the Chicago Police Department ("***CPD***") has established an investigative alert system ("***Investigative Alerts System***"), which is simply a formalized system for exchanging the same investigatory information exchanged by other police departments throughout Illinois, including advising law enforcement personnel whether there is probable cause to arrest an offender. Defendant-appellant Angelo Clark ("***Defendant***") challenges the Investigative Alerts System by challenging the authority upon which it is based, *to-wit*, the authority of police officers to make warrantless arrests in the absence of exigent circumstances.

The Village of Bannockburn, City of Crystal Lake, Village of Glenview, and Village of Grayslake ("***Municipalities***") operate police departments in Lake, McHenry, and Cook counties. Bannockburn has a police department with approximately eight full time and eight part time officers, Crystal Lake has a police department with approximately 67 officers, Glenview has a police department with approximately 71 officers, and Grayslake has a police department with approximately 33 officers.

If Defendant is successful, those police officers — and police officers throughout Illinois — will be rendered constitutionally incapable of determining whether probable cause exists and arresting offenders absent exigent circumstances. This would profoundly limit the Municipalities' ability to perform critical law enforcement work and, as a result, impair their ability to protect public safety. The Municipalities submit this brief to underscore the harmful impacts that a reversal of the trial court's ruling would have on the

Municipalities, those that they serve, and public safety in general.

ARGUMENT

Although Defendant's brief superficially concerns the details of Chicago's Investigative Alerts System, its argument is more fundamental and seeks to overturn the long-standing and essential authority of police officers to make warrantless arrests. *See People v. Buss*, 187 Ill. 2d 144, 204 (1999)(for a warrantless arrest to be lawful, police must have knowledge of facts which would lead a reasonable person to believe that a crime has occurred and that it has been committed by the defendant); *see also People v. Macklin*, 353 Ill. 64, 67 (1933). In contravention of this precedent, Defendant contends that police officers should be unable to make warrantless arrests unless there are exigent circumstances. Defendant. Br. 17 ("Thus, in cases like the present—where exigency is not present—the Fourth Amendment requires that police obtain an arrest warrant from a neutral magistrate").

Defendant's challenge is not to the Investigative Alerts System, as such, but instead is a challenge to fundamental police authority and procedures. If Defendant's challenge succeeds, it would undermine both the Investigative Alerts System and critical police authority and procedures throughout Illinois. This, in turn, would erode the ability of law enforcement officers to fulfill their constitutional oath of providing proper public safety services to all.

I. The Municipalities Share Investigatory Information Through a Variety of Means Similar to the CPD's Investigative Alerts System.

As an initial matter, Defendant misstates prevailing law regarding police officers' authority to make warrantless arrests, *see Buss*, 187 Ill. 2d at 204, which hinges on the existence of probable cause. The constitutional standard for probable cause "requires only

a probability or substantial chance of criminal activity, not an actual showing of such activity," and "is not a high bar." *District of Columbia v. Wesby*, 583 U.S. 48, 57 (2018)(citations omitted). Moreover, the totality of the information that can establish probable cause does not need to arise from a police officer's personal knowledge, but is a "more flexible, all-things-considered approach." *Florida v. Harris,* 568 U.S. 237, 244 (2013). This makes sense, as no one person knows or experiences everything, and officers may rely on reasonable sources for shared information.

Moreover, Defendant's challenge to the Investigate Alerts System includes a discussion of that system's procedures, but those procedures necessarily follow a determination by a police officer that probable cause exists, which Defendant argues they cannot do without exigency. Defendant. Br. 17-19; Chicago Police Department Special Order S04-16, available at http://directives.chicagopolice.org/#directive/public/6332 (last visited April 4, 2024). If Defendant's position is correct, then any discussion of Chicago's Investigate Alerts System procedures is irrelevant, because no amount of police procedures can transform an unconstitutional determination by a police officer into a constitutional arrest warrant from a judge. *Id.*

In any event, sharing investigatory information is an essential part of effective law enforcement, and the means of sharing that information is generally governed by the circumstances at the moment the information is shared. If an officer is chasing a suspect on foot, that officer may call out to nearby officers, "Arrest that man!" If the suspect eludes the officer, that officer may get on the radio and share the suspect's name or physical description so that other officers may arrest the suspect. With the passage of time or the suspect's flight from the area, the officer may communicate to other officers in the area,

including nearby communities, that there is probable cause to arrest the suspect by any means available to them, including phone, text message, email, direct computer-to-computer message, and information to be disseminated at roll call within each community.

The Municipalities at times share investigative information via the "Critical Reach" system, which is a digital data sharing system among law enforcement agencies that provides real-time digital alerts to, among other things, identify, locate, and arrest criminals. *See* Critical Reach Website, https://criticalreach.org/ (last visited April 4, 2024). Indeed, the Amber Alert System enlists public assistance in locating endangered children and apprehending their abductors by sharing identifying information via radio, television, Department of Transportation highway signs, digital billboards, the internet, and mobile phones. *See* Amber Alert Website, https://amberalert.ojp.gov/ (last visited April 4, 2024). The methods of sharing information described in this brief are commonplace, essential, and constitutionally appropriate means of communication. For this reason, "[a] warrantless arrest made pursuant to an investigative alert does not violate the search and seizure clause of the Illinois Constitution so long as the alert is supported by probable cause." *People v. Wimberly,* 2023 IL App (1st) 220809, ¶25.

Given the size and complexity of the CPD, Chicago has formalized certain of these communication methods in its Investigative Alerts System, which is basically a computer database of information that will alert officers if they encounter a person for whom there is probable cause to arrest. Defendant. Br. 18-19; Chicago Police Department Special Order S04-16. Whatever discrete differences exist between CPD's Investigative Alerts System and the means of communication employed by officers of the Municipalities, the ultimate fact is that law enforcement personnel employed by the Municipalities similarly

communicate the existence of probable cause through computerized means—be it Critical Reach Alerts, computer-to-computer messages, emails, and so on. Thus, any limitations placed on CPD's Investigative Alerts System will correspondingly limit the Municipalities' ability to promptly and efficiently transmit critical investigative information to law enforcement personnel.

II. Requiring That Police Officers Obtain a Warrant Before Making an Arrest When There Is No Exigency Would Significantly Diminish the Municipality's Ability to Protect Public Safety.

The United States Supreme Court accurately observed that imposing a warrant requirement for all arrests would "constitute an intolerable handicap for legitimate law enforcement." *Gerstein v. Pugh*, 420 U.S. 103, 113 (1975). So, as long as the arrest is supported by probable cause, courts will not invalidate the arrest. *Gerstein,* 420 U.S. at 113; *United States v. Watson*, 423 U.S. 411, 417 (1976); 725 ILCS 5/107-2(1)(c) (a police officer may arrest a person when they have "reasonable grounds to believe that the person is committing or has committed an offense"); *accord Wimberly,* 2023 IL App (1st) 220809 at ¶25 (finding "search and seizure clause of [Illinois] constitution in accordance with the United States Supreme Court's interpretation of the fourth amendment on the issues of warrantless arrests").

Defendant departs from this precedent, arguing that, where exigent circumstances do not exist, then the Fourth Amendment requires that police officers obtain an arrest warrant before making an arrest. Defendant Br. 17. And while it is well established that exigent circumstances may justify a warrantless entry into a home for purposes of arrest or search, Defendant argues that the exigency requirement exists for all warrantless arrests. *Id.* In addition to lacking a legal foundation, this argument is complicated by the fact that

what constitutes exigency is generally described in terms of entry to a home and does not fit neatly with Defendant's view of the law.[1] So, for purposes of illustrating the harms on the Municipalities and those that they serve if this Court were to narrow police authority as Defendant suggests, the Municipalities will focus on the more generally applicable aspects of exigency, namely that there exists an emergency, a immediately dangerous situation, and there is a likelihood of escape. *See Payton v. New York*, 445 U.S. 573, 583 (1980).

Police officers are regularly confronted with situations where there is probable cause to arrest and, while they cannot establish exigency, public safety nevertheless demands that the suspect be immediately arrested. To illustrate this point, the Municipalities will focus on two of our most common types of arrests, which are almost always made without a warrant: those related to domestic violence and to traffic offenses.

Take, for example, a husband who has beaten his wife and threatened to kill her, but then has left the home and stated he does not intend to return (thereby resolving any active exigency). Pursuant to the Illinois Domestic Violence Act ("***DVA***"), which was enacted in part to address the failures of law enforcement to adequately address domestic violence, the police would arrest the husband immediately. *See* 750 ILCS 60/102 (the DVA was enacted because the Illinois legislature "[r]ecognize[s] that the legal system has

[1] Factors bearing on exigency can include: (1) whether the offense under investigation has been recently committed; (2) whether there was any deliberate or unjustified delay by the officers during which time a warrant could have been obtained; (3) whether a grave offense is involved, particularly a crime of violence; (4) whether the suspect is reasonably believed to be armed; (5) whether the police officers were acting upon a clear showing of probable cause; (6) whether there is a likelihood that the suspect will escape if not swiftly apprehended; (7) whether there is strong reason to believe that the suspect is in the premises; and (8) whether the police entry, though nonconsensual, is made peaceably. *People v. White*, 117 Ill. 2d 194, 216–17 (1987).

ineffectively dealt with family violence …[and] there is still widespread failure to appropriately protect and assist victims."); 750 ILCS 60/304 (when a police officer has reason to believe a person is the victim of domestic abuse, they are compelled to use "all reasonable means" to prevent further abuse, including conducting a warrantless arrest of the offender); 750 ILCS 60/301 (authorizing warrantless arrests). If this Court were to adopt Defendant's position, the police would document the incident and commence the process of requesting and acquiring a warrant—a process that can take days, and would no doubt take longer if the court system was suddenly burdened with issuing warrants for all arrests that lack exigency. That delay would undermine the purpose of the DVA, deny the wife the critical time[2] that she needs while her husband is in custody to find a means of escaping him, and provide the husband with the opportunity to return and murder his wife.

In the traffic context, consider someone who endangers the public by driving while intoxicated, but when detained by police officers offers to park the car and walk home (again, resolving the present exigency). Under the current state of the law, the officer could arrest the driver for driving while intoxicated. *See* 625 ILCS 5/11-501. Adopting Defendant's position, the officer would have to go get a warrant, providing the driver the opportunity to escape – or worse, to continue driving while intoxicated, which endangers the public. The same is true for reckless drivers, 625 ILCS 5/11-503, street racers, 625 ILCS 5/11-506, unlicensed drivers, 625 ILCS 5/6-101, and any other traffic violation which poses a danger to the public.

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[2] True, domestic violence victims are entitled to orders of protection, *see* 750 ILCS 60/214, but the safety that such court orders provide is limited by the willingness of the abuser to comply with the order. Temporarily placing the abuser in custody, as provided by the DVA, guarantees victims at least some opportunity to find a shelter or another way to escape their abuser.

These are just a few of a long list of examples of the types of crimes for which the context may not establish exigency, but public safety and effective law enforcement nevertheless require that the offender be arrested immediately. For this reason, the Municipalities oppose Defendant's appeal, and the profound limitations it would place on the Municipalities' ability to effectively enforce the law and protect public safety.

CONCLUSION

For the foregoing reasons, this Court should reject Defendant's challenge to Chicago's Investigate Alerts System, reject his challenge to the authority of police officers to make warrantless arrests, and affirm the judgment of the appellate court.

Respectfully submitted,

Amici Curiae
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CERTIFICATE OF COMPLIANCE

I certify that the BRIEF OF *AMICI CURIAE* THE VILLAGE OF BANNOCKBURN, CITY OF CRYSTAL LAKE, VILLAGE OF GLENVIEW, AND VILLAGE OF GRAYSLAKE IN SUPPORT OF PLAINTIFF-APPELLEE conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages or words contained in the Rule 341(d) cover, the Rule 341(h)(1) table of contents and 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 2,418 words.

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CERTIFICATE OF SERVICE

I, Alexander M. Planeto, an attorney, certify that I caused to be served the accompanying **BRIEF OF *AMICI CURIAE* THE VILLAGE OF BANNOCKBURN, CITY OF CRYSTAL LAKE, VILLAGE OF GLENVIEW, AND VILLAGE OF GRAYSLAKE IN SUPPORT OF PLAINTIFF-APPELLEE** upon:

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by e-filing and our firm's electronic mail service in Evanston, Illinois on April 4, 2024. Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct.

By:/s/Alexander M. Planeto