

MIRZA M. BULUR, ET AL.  
Plaintiffs-Appellants,

v.

THE NEW JERSEY OFFICE OF THE  
ATTORNEY GENERAL, ET AL.  
Defendants-Respondents.

ANDRE SAYEGH, ET AL.  
Plaintiffs-Appellants,

v.

ISA M. ABBASSI, ET AL.  
Defendants-Respondents.

Supreme Court Docket No. 090126

CIVIL ACTION

On Petition for Certification from a  
Final Judgement of the Superior  
Court, Appellate Division

Docket Nos.: A-0629-23, A-1209-23

Sat Below:

Hon. Morris G. Smith, J.A.D.  
Hon. Mark K. Chase, J.A.D. and  
Hon. Christine M. Vanek, J.A.D.

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**BRIEF OF AMICI CURIAE AMERICAN CIVIL LIBERTIES UNION  
OF NEW JERSEY, LEAGUE OF WOMEN VOTERS OF NEW JERSEY,  
NEW JERSEY INSTITUTE FOR SOCIAL JUSTICE, REIMAGINING  
JUSTICE, INC., AND SALVATION AND SOCIAL JUSTICE**

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Jeanne LoCicero (024052000)  
Ezra D. Rosenberg (012671974)  
AMERICAN CIVIL LIBERTIES  
UNION OF NEW JERSEY  
FOUNDATION  
P.O. Box 32159

  
Newark, NJ 07102

973-854-1715

[jlocicero@aclu-nj.org](mailto:jlocicero@aclu-nj.org)

Alexander Shalom (021162004)  
Parimal Garg (136202014)  
LOWENSTEIN SANDLER, LLP  
One Lowenstein Drive  
Roseland, NJ 07068  
862-926-2029

[ashalom@lowenstein.com](mailto:ashalom@lowenstein.com)

Ryan Haygood (258302018)  
Henal Patel (070832013)  
Micauri Vargas (337522021)  
NEW JERSEY INSTITUTE FOR  
SOCIAL JUSTICE  
60 Park Place, Suite 511  
Newark, NJ 07102  
973-624-9400

[hpatel@njisj.org](mailto:hpatel@njisj.org)

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## **PRELIMINARY STATEMENT**

The primary issue in this appeal is whether the Legislature’s designation of the Attorney General as the “chief law enforcement officer” of this State under N.J.S.A. 52:17B-98 and companion statutes authorize the Attorney General to supersede the operations of the Paterson City Police Department (“PPD”). As persuasively argued by the Attorney General, multiple tools of statutory construction support an affirmative answer to this question.

The bulk of this brief will focus on how these extrinsic aids intersect with another accepted canon of statutory construction: that the Legislature’s intention “emerges from the spirit and policy of the statute.” Amici will focus on the absolute need for the Attorney General’s power of supersession over municipal police departments, a necessity inherently within the Attorney General’s authority as chief law enforcement officer of this State.

Supersession of municipal police departments by the Attorney General has long-been a critical tool in deterring the most egregious departmental misconduct, which disproportionately affects Black and Brown communities throughout the state. Those communities often call for—even demand—accountability. That struggle for police accountability in New Jersey has been challenging, and far from universally successful. Stripping the chief law enforcement officer of the most powerful tool in their toolbox can only make it

more difficult to bring troubled departments into compliance with the law and best police practices. While intervention may not always achieve swift or complete transformation, the absence of supersession would almost certainly lead to worse outcomes. (Point I).

No better option exists. Although the federal government can investigate municipal police departments and enforce compliance with federal law through consent decrees, the Department of Justice (“DOJ”) cannot act absent a violation of federal law or the United States Constitution. Even then, federal intervention is slow, unpredictable, and subject to the vagaries of politics. (Point II).

### **STATEMENT OF FACTS AND PROCEDURAL HISTORY**

For the purposes of this brief, Amici accept the statement of facts and procedural history contained in the Attorney General’s Appellate Division Brief, adding the following: on December 18, 2024, in a published opinion, the Appellate Division held that the Attorney General did not have authority, either express or implied, to supersede the daily operations of the PPD. The panel stayed its opinion, permitting defendants to seek a stay from the Supreme Court, which they did. A single Justice granted a temporary stay and imposed an expedited briefing schedule on defendants’ petition for certification. The Court thereafter issued a sua sponte order further expediting the briefing

schedule for amici curiae. This brief follows and accompanies a motion for leave to participate as amici curiae in support of the Petition for Certification.

### **ARGUMENT**

It is a hornbook premise of statutory construction that practical and contemporaneous constructions of a statute are key extrinsic aids to its construction. See Norman J. Singer & J.D. Shambie Singer, Sutherland Statutes and Statutory Construction § 49:1 (7th ed. 2007). These include “the judgments and responses of administrative authorities, enforcement officials, and others closely involved in a statute’s ongoing operation,” and “include[] information about circumstances and events when or after a statute takes effect.” Ibid. As Sutherland puts it, “[s]tatutes are documents with practical effects, and cannot be divorced from the historical framework in which they exist.” Ibid.

The historical framework is not limited to those in existence at the time of a statute’s enactment. “[L]egislative standards are often couched in general terms purposefully designed to embrace circumstances unforeseen at the time of enactment, and post-enactment circumstances also may determine an act’s meaning.” Ibid. This Court has embraced Sutherland’s approach: a “statute written in general terms will be given prospective application to situations unknown or nonexistent at the time of its enactment which are within its

general purview and scope where the language fairly includes them.” Safeway Trails, Inc. v. Furman, 41 N.J. 467, 477 (1964). Thus, courts, including New Jersey’s, have traditionally looked to “the practical construction put upon it over a long period of time by an agency charged with its enforcement is of some weight in determining its proper significance.” Id. at 483.

Further, legislative inaction after an enforcing agency interprets a statute may signal endorsement of that interpretation. Sutherland, § 49.9. This is particularly so when, as here, the legislature is aware of the agency’s practical interpretation. Ibid. “Likewise, legislative action by amendment or appropriation of some parts of a law which have received a contemporaneous and practical construction may indicate approval of interpretations relating to the unchanged and unaffected parts.” Ibid. In this context, the Legislature’s passage of L. 2023, c. 94, in the immediate aftermath of the Attorney General’s supersession of the PPD, and carefully tailored to cover the specifics of that event, cannot be viewed as anything other than approval of the Attorney General’s interpretation of his powers as including supersession.

Perhaps most important, including supersession in this State’s chief law enforcement officer’s toolbox furthers the policy behind the Legislature’s comprehensive grant of power. “As between the two possible constructions of the statute, the one should be adopted which effectuates rather than defeats the

legislative purpose.” State Dep’t of Civil Service v. Clark, 15 N.J. 334, 341 (1954) (citing Moore v. Johnson, 85 N.J.L. 40 (Sup. Ct. 1913)). Legislative intent “emerges from the spirit and policy of the statute.” Caputo v. Best Foods, 17 N.J. 259, 264 (1955). “Once we have grasped the genius of the regulatory measure, we are in a fair way to assay the particular terms used to fulfill the legislative design.” Ibid. Here, to adopt Justice Heher’s phrase in Caputo, the “animating principle” of the legislative grant to the Attorney General as chief law enforcement officer is to provide that officer with plenary authority over the criminal justice system of this State. As demonstrated below, the power of supersession is essential to the Attorney General’s exercise of that plenary authority.

**I. Attorney General supersession—and the threat of supersession—has helped improve troubled police departments and was needed in Paterson.**

Paterson, one of the most diverse cities in the nation, see Paterson Ranked as New Jersey’s Most Diverse Municipality, RLS Media (Jul. 2, 2021),<sup>1</sup> has long endured systemic failures in policing, marked by excessive force and misconduct disproportionately affecting Black and Brown residents. The city’s pervasive patterns of abuse and the lack of internal accountability

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<sup>1</sup> Available at <https://www.rlsmedia.com/article/paterson-ranked-new-jerseys-most-diverse-municipality>.

created an environment of harm and mistrust. Without intervention, vulnerable communities would remain without meaningful recourse, their rights ignored by local systems that have consistently failed—or refused—to address these injustices.

**A. Systemic failures and disproportionate harm in policing necessitated external intervention.**

Paterson’s policing practices have disproportionately harmed Black residents, revealing systemic inequities that demanded state intervention. Black people comprise only 24.7% of Paterson’s population but account for 52% of use-of-force incidents, according to state data. See N.J. Inst. for Social Just. et al., Letter to Hon. Merrick Garland et al., Request for DOJ Investigation into Paterson Police Department (Mar. 13, 2023).<sup>2</sup> Alarming, between October 2020 and December 2022, an officer involved in the tragic and now well-known killing of Najee Seabrooks, described below, used force against Black people in 60% of recorded incidents. Id. Furthermore, Paterson recorded the most police-involved killings in New Jersey between 2019 and March 2023. See Colleen O’Dea, Encounters with Police Have Killed 46 in

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[https://assets.nationbuilder.com/njisj/pages/691/attachments/original/1678732393/Request\\_for\\_DOJ\\_Investigation\\_into\\_Paterson\\_PD.pdf?1678732393](https://assets.nationbuilder.com/njisj/pages/691/attachments/original/1678732393/Request_for_DOJ_Investigation_into_Paterson_PD.pdf?1678732393) (citing Reducing Use of Force by Law Enforcement, Dep’t L. & Pub. Safety, <https://www.njoag.gov/force/> (last visited Jan. 6, 2025)).

NJ, Highest Number of Deaths in Paterson, NJ Spotlight News, (Mar. 13, 2023).<sup>3</sup>

These systemic failures have had severe, well-documented consequences. Najee Seabrooks, a violence intervention worker, was fatally shot despite calls for de-escalation. See Joe Malinconico, NJ Attorney General Releases Names of Officers Who Fatally Shot Najee Seabrooks, Yahoo! News (Mar. 8, 2023).<sup>4</sup> Other tragic cases include Jameek Lowery, who died after allegedly being beaten in police custody during a mental health crisis, see Joe Malinconico, Family of Jameek Lowery Wins Key Decision in Wrongful Death Lawsuit Against Paterson, NorthJersey.com (Sept. 19, 2022),<sup>5</sup> and Felix DeJesus, who disappeared after officers abandoned him in freezing temperatures and violated body-camera protocols, see Deion Johnson, This Man Went Missing After Paterson Cops Left Him at a Park 3 Months Ago. No One Has Seen Him Since, NJ.com (May 20, 2022).<sup>6</sup>

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<sup>3</sup> Available at <https://www.njspotlightnews.org/2023/03/recent-police-involved-shootings-bring-to-46-the-number-of-people-in-nj-who-died-in-police-encounters/>.

<sup>4</sup> Available at <https://www.yahoo.com/news/cops-najee-seabrooks-case-being-210345025.html>.

<sup>5</sup> Available at <https://www.northjersey.com/story/news/patersonpress/2022/09/19/jameek-lowery-lawsuit-paterson-nj-family-moves-forward/69504084007/>.

<sup>6</sup> Available at <https://www.nj.com/passaic-county/2022/05/this-nj-man-went-missing-after-paterson-police-left-him-at-a-park-3-months-ago.html>.

Internal reviews further demonstrated PPD’s persistent failure to self-correct. From 2014 to 2018, internal affairs substantiated just 1 out of 183 complaints of excessive force. See Jim Hoffer, [Exclusive: 7 On Your Side Investigates Claims of Excessive Force by Paterson Police](#), ABC7NY.com (May 8, 2019).<sup>7</sup> A 2022 audit revealed that PPD supervisors consistently failed to review use-of-force incidents and lacked a comprehensive de-escalation policy. See [Paterson Police Department Agency Review and Assessment](#), Police Executive Research Forum (Feb. 2022) (slides 6-8).<sup>8</sup>

These repeated failures prompted the New Jersey Attorney General to properly seize control of the department in March 2023, acknowledging the need for external intervention. See Tracey Tully, [N.J. Attorney General Seizes Control of Paterson Police Department](#), New York Times (Mar. 27, 2023).<sup>9</sup> In a city where the local government and police department resisted accountability for grievous misconduct, the State’s chief law enforcement officer exercised his authority to step in and address the needs of the Black and Brown communities.

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<sup>7</sup> Available at <https://abc7ny.com/7-on-your-side-investigation-paterson-police-brutality/5290671/>.

<sup>8</sup> Available at <https://www.documentcloud.org/documents/23721424-ppd-performance-audit78/>.

<sup>9</sup> Available at <https://www.nytimes.com/2023/03/27/nyregion/nj-attorney-general-paterson-police.html>.

**B. State oversight serves as a critical mechanism for accountability and reform.**

State oversight was essential to address these systemic issues and restore public trust. The Criminal Justice Act of 1970 empowered the Attorney General to intervene and enforce compliance with state law when local systems repeatedly failed. N.J.S.A. 52:17B-97 to -117. This intervention mechanism addresses unresolved systemic issues, paving the way for equitable policing and restoring trust. The Attorney General documents 26 prior instances of supersession of entire departments. AGBr 14-15.<sup>10, 11</sup> Those interventions have brought about meaningful change to some of New Jersey’s most challenged police departments, but perhaps none has been more successful than the supersession of the Camden Police Department. The

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<sup>10</sup> “AGBr” refers to the Attorney General’s Brief in Support of Certification, filed on December 31, 2024; “AGA” refers to the Attorney General’s Appendix.

<sup>11</sup> That history is important. But, in fact the tool of supersession has been used far more often. The availability of supersession has certainly incentivized troubled departments to accept less significant interventions. Famed whistleblower and anti-nuclear activist Daniel Ellsberg provided an apt analogy when he explained, “[t]he notion common to nearly all Americans that ‘no nuclear weapons have been used since Nagasaki’ is mistaken. It is not the case that U.S. nuclear weapons have simply piled up over the years.” Instead, time and again, nuclear weapons have been used “in the precise way that a gun is used when you point it at someone’s head in a direct confrontation, whether or not the trigger is pulled.” We cannot measure the efficacy of the tool of supersession by looking only at the times the Attorney General—directly or through the County Prosecutors—formally invoked it.

takeover of the Camden Police Department transformed a city that had been designated as “America’s most unsafe city,” see AGA 059, into a model of police reform. As a result of Attorney General supersession and the leadership the Attorney General brought to Camden, the police department is now hailed as an exemplar of community-oriented policing. See Sonia Tsuruoka, Camden’s Turn: A Story of Police Reform in Progress; A Guide for Law Enforcement and Community Screenings. Washington, DC: Office of Community Oriented Policing Services (2018).<sup>12</sup>

Plaintiffs stress the fundamental principle of home rule and warn against granting the Attorney General control over municipalities. However, their stance poses a much greater danger to civil liberties and civil rights, which are central to Amici’s missions. Under Plaintiffs’ view, police departments answer only to the city’s elected leaders. Elected leadership, often representing a narrow majority or plurality, may be supportive of enforcing laws in a biased manner against members of a community who are among the minority of the electorate, leaving them with little recourse without supersession. As the State’s chief law enforcement officer, the Attorney General, has a unique responsibility to ensure that state laws are enforced impartially and fairly, with

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<sup>12</sup> Available at <https://portal.cops.usdoj.gov/resourcecenter/content.ashx/cops-p366-pub.pdf>.

its actions subject to judicial review for arbitrariness, capriciousness, or discrimination—none of which Plaintiffs allege.

Indeed, Plaintiffs go so far as to argue that the Attorney General—one of the only unelected state attorneys general in the country—could be motivated by politics, and yet bizarrely conclude that because of that possibility, the only person with the authority to institute change in a police department is the city’s mayor, an inherently political official.

The Attorney General’s authority to intervene in local law enforcement is essential to addressing systemic failures and ensuring accountability. Paterson’s history of disproportionate enforcement and systemic misconduct demonstrates the urgent need for oversight to uphold constitutional guarantees of equal protection under the law. See N.J. Const., Art. I, Para. 1. Equal protection guarantees fair treatment for all individuals, shielding them from discriminatory practices. In Paterson, Black and Brown residents have disproportionately experienced excessive force and systemic misconduct, violating this fundamental principle. Attorney General interventions seek to correct these injustices, rebuild public trust, and promote equitable policing that aligns with both best practices and the constitutional commitment to fairness and justice for all residents.

## **II. Federal consent decrees cannot adequately address systemic misconduct in police departments.**

For the last three decades, the United States Attorney General has been authorized to file civil actions seeking injunctive relief where it has identified a “pattern or practice of conduct by” police officers that deprives people of the rights protected by the United States Constitution or federal law. 42 U.S.C. § 14141 (re-codified at 34 U.S.C. § 12601). Those so-called pattern or practice investigations, and the consent decrees that often flow from them, have brought meaningful reforms to some of the nation’s most troubled police departments. See, e.g., Public Management Resources, Monitors’ Sixteenth Report (2007) at iv<sup>13</sup> (determining that, following years of monitoring and reforms brought about by a consent decree addressing allegations of widespread racial profiling on the New Jersey Turnpike, the New Jersey State Police had “become self-monitoring and self-correcting to a degree not often observed in American law enforcement”). But beleaguered city residents can obtain those investigations and consent decrees in only limited contexts, after many years, and only when the political stars align. New Jerseyans cannot depend solely on federal pattern and practice investigations to vindicate their rights.

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<sup>13</sup> Available at <https://nj.gov/lps/monitors-report-16.pdf>.

Following the tragic killing of Najee Seabrooks, Amicus, the New Jersey Institute for Social Justice, and partner organizations, urged the DOJ to investigate documented police misconduct in Paterson through a detailed letter. See N.J. Inst. for Social Just. et al., Letter to Hon. Merrick Garland et al., Request for DOJ Investigation into Paterson Police Department (Mar. 13, 2023).<sup>14</sup> Nearly two years later the DOJ has yet to respond.

Federal intervention takes years to achieve. In Minneapolis, nearly three years passed after George Floyd's killing on May 25, 2020, before the DOJ even outlined a tentative consent decree. Indeed, the DOJ did not even begin its investigation until almost a year after Floyd's death and the subsequent nationwide protests. See U.S. DOJ, Attorney General Merrick B. Garland Announces Investigation of the City of Minneapolis, Minnesota, and the Minneapolis Police Department (Apr. 21, 2021).<sup>15</sup> This investigation found widespread civil rights violations within the Minneapolis Police Department,

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<sup>14</sup> Available at [https://assets.nationbuilder.com/njisj/pages/691/attachments/original/1678732393/Request\\_for\\_DOJ\\_Investigation\\_into\\_Paterson\\_PD.pdf?1678732393](https://assets.nationbuilder.com/njisj/pages/691/attachments/original/1678732393/Request_for_DOJ_Investigation_into_Paterson_PD.pdf?1678732393).

A follow-up letter renewed the request for federal intervention. It, too, went unanswered. N.J. Institute for Social Just. et al., Letter to Hon. Merrick Garland et al., Renew Request for DOJ Investigation of Paterson Police Department (Apr. 26, 2023), available at [https://assets.nationbuilder.com/njisj/pages/691/attachments/original/1682531811/Letter\\_to\\_Renew\\_Request\\_for\\_DOJ\\_investigation\\_of\\_Paterson\\_PD\\_%281%29.pdf?1682531811](https://assets.nationbuilder.com/njisj/pages/691/attachments/original/1682531811/Letter_to_Renew_Request_for_DOJ_investigation_of_Paterson_PD_%281%29.pdf?1682531811).

<sup>15</sup> Available at <https://www.justice.gov/opa/pr/attorney-general-merrick-b-garland-announces-investigation-city-minneapolis-minnesota-and>.

but the findings were not published until June 13, 2023. See U.S. DOJ, [Justice Department Finds Civil Rights Violations by Minneapolis Police Department and the City of Minneapolis](#) (June 16, 2023).<sup>16</sup> As of December 31, 2024, the tentative consent decree still awaits approval from the Minneapolis City Council, leaving the community without meaningful federal oversight nearly five years after Floyd's death. See Liz Sawyer, [Minneapolis Reaches Tentative Agreement With the U.S. DOJ to Secure Consent Decree Mandating Reforms](#), Star Trib. (Dec. 31, 2024).<sup>17</sup>

In Louisville, a similar pattern unfolded following the killing of Breonna Taylor on March 13, 2020. Despite public outcry and demands for justice throughout the summer of 2020, the DOJ did not begin its investigation until April 26, 2021. See U.S. DOJ, [Department of Justice Announces Investigation of Louisville/Jefferson County Metro Government and Louisville Metro Police Department](#) (Apr. 26, 2021).<sup>18</sup> Nearly two years later, on March 8, 2023, the DOJ published its findings, which documented civil rights violations by the Louisville Metro Police Department. See U.S. DOJ, [Justice Department Finds](#)

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<sup>16</sup> Available at <https://www.justice.gov/opa/pr/justice-department-finds-civil-rights-violations-minneapolis-police-department-and-city>.

<sup>17</sup> Available at <https://www.startribune.com/minneapolis-reaches-tentative-agreement-with-the-us-doj-to-secure-consent-decree-mandating-reforms/601200789>.

<sup>18</sup> Available at <https://www.justice.gov/opa/pr/departement-justice-announces-investigation-louisvillejefferson-county-metro-government-and>.

Civil Rights Violations by Louisville Metro Police Department and Louisville Metro Government (Mar. 8, 2023).<sup>19</sup> A consent decree was finally reached on December 12, 2024, more than four years after Breonna Taylor’s death. See U.S. DOJ, Justice Department Secures Agreement with Louisville Metro Government to Reform Louisville Metro’s Policing (Dec. 12, 2023).<sup>20</sup> During this time, the community endured continued distrust in the justice system and the absence of timely federal oversight.

These delays have also occurred here in New Jersey. Amicus American Civil Liberties Union of New Jersey’s (“ACLU-NJ”) experience seeking federal involvement with the troubled Newark Police Department (NPD) reinforces the conclusion that federal interventions do not come easily. The ACLU-NJ first sought federal oversight of the NPD in 1967; 43 years later, in 2010, the ACLU-NJ filed a lengthy Petition seeking a pattern or practice investigation and consent decree. See ACLU-NJ, From one to 4,800,000: ACLU-NJ Petition to the U.S. Department of Justice, by the Numbers.<sup>21</sup> The Petition represented a mammoth effort to demonstrate the extent of the NPD’s

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<sup>19</sup> Available at <https://www.justice.gov/opa/pr/justice-department-finds-civil-rights-violations-louisville-metro-police-department-and>.

<sup>20</sup> Available at <https://www.justice.gov/opa/pr/justice-department-secures-agreement-louisville-metro-government-reform-louisville-metros>.

<sup>21</sup> Available at [https://www.aclu-nj.org/sites/default/files/field\\_documents/dojfactsheetlogo-1\\_0.pdf](https://www.aclu-nj.org/sites/default/files/field_documents/dojfactsheetlogo-1_0.pdf).

disfunction and the harm that the Department was causing all Newark residents. It spanned 96 pages—and an additional 26 pages in a supplemental petition filed the next month. See ACLU-NJ, Petition to Investigate the Newark Police Department (Sept. 9, 2010).<sup>22</sup>

Even that Herculean effort, assisted by full-time lawyers dedicated to producing and advancing the Petition, produced only slow results: the Petition was filed on September 9, 2010; on July 22, 2014, more than 1,400 days later, the DOJ issued findings confirming widespread constitutional violations in Newark, see U.S. DOJ, Civil Rights Division, Investigation of the Newark Police Department,<sup>23</sup> it was not until March 30, 2016—five-and-a-half years after the ACLU-NJ filed the Petition—that the DOJ, U.S. Attorney’s Office, and City of Newark signed a proposed consent decree, which the District Court entered two months later. United States v. City of Newark, No. 2:16-CV-01731-MCA-MAH, Consent Decree.<sup>24</sup>

The delays and limitations of federal oversight demonstrate the urgent need for state-level action to address police misconduct. States can implement

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<sup>22</sup> Available at <https://www.aclu-nj.org/en/cases/petition-investigate-newark-police-department>.

<sup>23</sup> Available at [https://www.justice.gov/sites/default/files/crt/legacy/2014/07/22/newark\\_findings\\_7-22-14.pdf](https://www.justice.gov/sites/default/files/crt/legacy/2014/07/22/newark_findings_7-22-14.pdf).

<sup>24</sup> Available at <https://clearinghouse.net/doc/86544/>.

reforms more promptly and effectively than federal processes, which often fail to deliver timely accountability.

In addition to the slow pace of federal investigations, the uncertainty that comes with administration changes make federal consent decrees particularly unreliable methods for curbing systemic police misconduct. See, e.g., Shaila Dewan, Will Troubled Police Departments Escape Federal Accountability? New York Times (Dec. 24, 2024) (explaining fear that incoming administration will frustrate efforts to reach a binding agreement with Minneapolis, as occurred with Chicago in the first Trump administration).<sup>25</sup>

Beyond delays, uncertainty remains about whether intervention will occur at all. Often, even with significant evidence of misconduct, the DOJ cannot justify a pattern or practice finding, even after years of investigation. Take just two examples. In Austin, Texas, in 2007, the local branch of the NAACP and the Texas Civil Rights Project filed a complaint with the DOJ against the Austin Police Department (APD). The complaint alleged systemic police misconduct, pointing to the fact that over a four-year period, 11 people—10 of whom were people of color—died from encounters with police. The following year the DOJ issued recommendations to improve the

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<sup>25</sup> Available at <https://www.nytimes.com/2024/12/24/us/biden-police-departments-federal-accountability.html>.

department's policies and procedures, including changes to the use-of-force policy; changes in the way officers report uses of force; and changes to the department's intake, classification, and the systemic handling of citizen complaints about officers. See Letter from Shanetta Y. Cutlar to Hon. Marc A. Ott (Dec. 23, 2008), at 3–35.<sup>26</sup> Nearly four years after the complaint was filed, the DOJ officially ended its inquiry into the use-of-force practices of the APD, concluding that there was insufficient evidence of a pattern or practice that violated the Constitution or laws of the United States. See Letter from Jonathan M. Smith to Karen Kennard (May 27, 2011).<sup>27</sup> Seventeen years after NAACP's initial complaint, concerns about APD persist. In early 2024, advocates again called for DOJ intervention. See Katharine Finnerty, Austin Advocacy Coalition Asks DOJ to Investigate APD, Accusing Police of “Violating Residents’ Constitutional Rights,” Spectrum News 1 (Feb. 27, 2024).<sup>28</sup>

The case of the Harvey, Illinois Police Department (HPD) also demonstrates how slow and elusive the quest for federal intervention can be. The DOJ began investigating HPD in 2007 following press reports on its use

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<sup>26</sup> Available at <https://clearinghouse.net/doc/81588/>.

<sup>27</sup> Available at <https://clearinghouse.net/doc/87245/>.

<sup>28</sup> Available at <https://spectrumlocalnews.com/tx/south-texas-el-paso/news/2024/02/27/austin-advocacy-coalition-asks-doj-to-investigate-apd>.

of force policies. See Letter from Jonathan M. Smith to Eric J. Kellogg and Denard Eaves (Jan. 18, 2012), at 2.<sup>29</sup> After five years, the DOJ concluded “HPD is a department devoid of supervisory oversight and accountability, that tacitly endorses heavy-handed uses of force that were likely avoidable,” id. at 3, and that “several of HPD’s policies and procedures are inconsistent with generally accepted police practices and are insufficiently detailed to provide the appropriate guidance for officer conduct[.]” Id. at 6. Still, the DOJ did not seek a consent decree. Meanwhile, HPD has incurred millions of dollars in judgments for police misconduct, and the community still cries out for some external oversight. See Sonal Soni, Policing the Police: The Long Road to Independent Oversight of Harvey Cops, Harvey World Herald (Apr. 22, 2024).<sup>30</sup>

Federal intervention can supplement Attorney General supervision and supersession in advancing meaningful police reform; but, if attorneys general are disempowered from superseding troubled police departments, federal intervention alone is too limited, too slow, and too dependent on political

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<sup>29</sup> Available at [https://www.justice.gov/sites/default/files/crt/legacy/2012/01/23/harvey\\_findings\\_1-18-12.pdf](https://www.justice.gov/sites/default/files/crt/legacy/2012/01/23/harvey_findings_1-18-12.pdf).

<sup>30</sup> Available at <https://harveyworld.org/articles/public-safety/policing-the-police-the-long-road-to-independent-oversight-of-harvey-cops/>.

whims to effectively reign in law enforcement agencies that fail to protect the public.

### **CONCLUSION**

For all the reasons above, the Court should grant the Petition for Certification and reverse the decision of the Appellate Division. Doing so will affirm the Attorney General’s critical authority—necessarily inherent in its statutory and common law powers—to intervene when local law enforcement fails to uphold the rights and dignity of the people it serves. This authority is essential to ensuring justice, accountability, and meaningful reform in our communities—values that lie at the heart of our legal system and our shared commitment to racial and social equity.

Respectfully submitted,



Alexander Shalom (021162004)  
Parimal Garg (136202014)  
LOWENSTEIN SANDLER, LLP  
One Lowenstein Drive  
Roseland, NJ 07068  
862-926-2029  
[ashalom@lowenstein.com](mailto:ashalom@lowenstein.com)

Jeanne LoCicero (024052000)  
Ezra D. Rosenberg (012671974)  
AMERICAN CIVIL LIBERTIES UNION  
OF NEW JERSEY FOUNDATION  
P.O. Box 32159

  
Newark, NJ 07102  
973-854-1714  
[erosenberg@aclu-nj.org](mailto:erosenberg@aclu-nj.org)

Ryan Haygood (258302018)  
Henal Patel (070832013)  
Micauri Vargas (337522021)  
NEW JERSEY INSTITUTE FOR SOCIAL JUSTICE  
60 Park Place  
Suite 511  
Newark, NJ 07102  
973-624-9400  
[hpatel@njisj.org](mailto:hpatel@njisj.org)

*Co-counsel for amici*

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