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October 25, 2024

Hon. Justice Lamar Baker, Acting Presiding Judge
Second District Court of Appeal of the State of California, Division Five
300 S. Spring Street
Los Angeles, CA 90013

Re: Application of Amicus Curiae Fair and Just Prosecution, Prosecutors Alliance of California, and Former California District Attorneys, United States Attorney, and Assistant United States Attorneys to File Letter Brief Supporting Petitioner/Defendant Ms. Diana Teran
Diana Maria Teran v. Los Angeles Superior Court
Case No. B341644
Los Angeles Superior Court Case No. 24CJCF02649

To the Honorable Court:

Proposed Amicus Curiae Fair and Just Prosecution, Prosecutors Alliance of California, Former Los Angeles District Attorneys Gil Garcetti and Ira Reiner, Former United States Attorney Debra Wong Yang, and Former Assistant United States Attorneys Michael Gennaco, Miriam Krinsky, Hector C. Perez, Maurice Suh, and James P. Walsh, respectfully request permission to file this letter brief supporting Ms. Diana Teran's petition for writ of prohibition. There are no disclosures to make under California Rules of Court, Rule 8.200(c)(3).

Amici's affiliations are listed below:

Fair and Just Prosecution
A Project of Tides Center

The Prosecutors Alliance of California
A Project of Tides Center

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Ira Reiner
Former District Attorney, Los Angeles County, California
Former City Attorney, Los Angeles, California

Debra Wong Yang
Former United States Attorney, Central District of California

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Application

Fair and Just Prosecution, a project of Tides Center, brings together a network of elected prosecutors from around the nation committed to promote a criminal legal system grounded in fairness, equity, compassion, and fiscal responsibility, collectively representing nearly 20% of the nation's population.

The Prosecutors Alliance of California, a project of Tides Center, activates prosecutors and their allies to improve the effectiveness, fairness, and compassion of their state and local prosecutorial systems. The country's first reform-oriented law enforcement association, PA is advancing the conversation on how we create public safety and promote justice by bringing together prosecutors, victim advocates, crime survivors, and allies committed to creating safer, healthier communities. With more than 4,000 members nationwide, PA works with local and state leaders and leading criminal

justice experts to amplify reform efforts and provide training on smart, sustainable solutions that advance public safety and community well-being.

Gil Garcetti and Ira Reiner are Former District Attorneys of Los Angeles County, California. Debra Wong Yang is Former United States Attorney of the Central District of California. Michael Gennaco, Miriam Krinsky, Hector C. Perez, Maurice Suh, and James P. Walsh are Former Assistant United States Attorneys of the Central District of California.

Amici are all keenly aware of how police misconduct hampers the legitimacy of the criminal justice system and firmly believe that the fair administration of justice—in line with constitutional *Brady* obligations—requires transparency and disclosure of police misconduct. Amici are all deeply troubled by the prosecution of Ms. Teran and believe that it stands in contrast with advancing fairness in the criminal legal system and has a chilling effect on prosecutors' vital efforts to ensure transparency, promote public trust and confidence in law enforcement agencies, and enable agency compliance with constitutional obligations. Because prosecutors depend on the public's trust and faith in the legitimacy of law enforcement and the justice system in order to carry out their responsibilities and ensure public safety, Amici believes that it is imperative that this Court grant petitioner's writ of prohibition, or at a minimum issue an order to show cause and fully consider the merits in this critical case.

Authority for Permitting this Amicus Letter

Amicus curiae letters like this are procedurally proper. California Rules of Court, Rule 8.487(e)(1) permits filing of amicus briefs after an appellate court issues an alternative writ or order to show cause. Subdivisions (d) and (e) of the Advisory Committee comment to Rule 8.487 make clear that amicus letters are also permissible before a court issues an alternative writ or order to show cause.

Such amicus letters have been accepted in other matters. (See, e.g., *Regents of Univ. of Calif. v. Superior Court* (2013) 200 Cal.App.4th 549, 557 ["While initially considering the petition we received letter briefs from Amici curiae in support of [the petitioner.]"]

On this basis, Amici respectfully requests the Court consider this amicus letter in deciding whether to grant Ms. Teran's petition for writ of

prohibition. If further briefing is ordered, amicus expects to request permission to file an amicus brief on the merits in support of petitioner.

Argument

1. Ms. Teran's actions furthered her constitutional and statutory disclosure obligations and advanced fairness in the criminal legal system

At the time of the actions for which Ms. Teran is being prosecuted, she was a prosecutor in the Los Angeles District Attorney's Office (LADA). Before joining LADA, Ms. Teran worked as a Constitutional Policing Advisor at the Los Angeles County Sheriff's Department (LASD). At LADA, one of Ms. Teran's roles was to oversee the LADA's Discovery Compliance Unit (DCU), which maintains LADA's *Brady* and Officer and Recurrent Witness Information Tracking System (ORWITS) databases.[1] As part of her role, Ms. Teran supervised a prosecutor, Ms. Pamela Revel, whose job was to research incidents involving potential peace officer misconduct to determine whether the officers' names should be entered into the LADA *Brady* or ORWITS databases in accordance with the LADA's written discovery policy.

The conduct for which Ms. Teran is being prosecuted is not disputed: Ms. Teran shared with Ms. Revel a folder containing documents — all court records — concerning several sheriff's deputies. The state claims that these documents belong to LASD — and is prosecuting Ms. Teran for "knowingly access[ing] and without permission tak[ing], copy[ing], or mak[ing] use of [this] data."[2]

The court determined that the shared documents were all public records — documents open to the public[3] — yet still held Ms. Teran to answer most of the charges against her, based on a "logical inference" (not supported by any factual evidence) that she accessed personnel records of the deputies in question during her time at LASD.[4]

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[1] An explanation about these databases is provided *infra*.
[2] *People v. Teran* (Super. Ct. L.A. County, No. 24CJCF02649, p.1, Aug. 20, 2024).
[3] *Id*. at 16.
[4] *Id*. at 20-23.

Given the court's determination that these records are public, the criminal case against Ms. Teran is astonishingly weak. That said, even if the state could prove the criminal statute's elements, the case for prosecuting Ms. Teran still falls short given the special and heightened constitutional and statutory disclosure obligations of a prosecutor.

A. Prosecutors' disclosure obligations of impeachment evidence

U.S. Supreme Court case law applying the Due Process Clause of the Fourteenth Amendment requires prosecutors to provide defendants favorable evidence, including impeachment evidence — evidence undermining the credibility of a prosecution witness.[5] California's Discovery Statute — Penal Code section 1054.1(e) — mandates disclosure of "any exculpatory evidence," which has been construed to include impeachment evidence, i.e. evidence bearing on the credibility of the key prosecution witnesses.[6] As detailed in LADA's Discovery Policy, impeachment evidence can include evidence regarding the prosecution witness' felony convictions, misdemeanors, misconduct (even if it did not result in a conviction), pending criminal charges, or administrative findings, as they pertain to or reflect on the witness' believability/truthfulness, bias, or moral turpitude, as well as evidence of the witness' interest or motive, alcohol or drug use, gang membership, or prior use of unreasonable or excessive force.[7]

The duty to disclose is affirmative. A prosecutor has to disclose the favorable evidence whether there has been a defense request or not,[8] and whether the evidence is already actually possessed by the prosecution or it is

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[5] *Brady v. Maryland* (1963) 373 U.S. 83 (*Brady*); *Giglio v. United States* (1972) 405 U.S. 150; *United States v. Bagley* (1985) 473 U.S. 667, 676 (*Bagley*).

[6] *See, e.g.*, *People v. Kasim* (1997) 56 Cal.App.4th 1360, 1381; *Snow v. Sirmons* (2007) 474 F.3d 693, 711.

[7] *See* Los Angeles District Attorney, *Discovery Compliance System Manual*, 5-7, n. 19-35 (Dec 2021), https://da.lacounty.gov/sites/default/files/pdf/Discovery-Compliance-System-Manual-December-2021.pdf (hereinafter: LADA DCS Manual). The policy also includes a detailed, non-exhaustive list of crimes involving moral turpitude according to California case law. *Id.* at 7-9.

[8] *United States v. Agurs* (1976) 427 U.S. 97, 107; *People v. Ruthford* (1975) 14 Cal.3d 399, 406.

constructively possessed by it: if the favorable material evidence is contained in the files of an agency connected to the investigation of the case, i.e. the police, the prosecutor's duty to disclose applies to it.[9]

According to *Brady*, a failure to disclose *materially favorable* evidence to an accused — irrespective of the good faith or bad faith of the prosecution — can result in a dismissal, reversal, or modification of a judgment.[10] The California Penal Code's mandate is broader — it refers to "any" exculpatory evidence and does not include a "materiality" requirement.[11] California case-law and the LADA policy also go a step beyond *Brady* and require the disclosure of evidence prior to a plea of guilty or no contest, and not only prior to trial.[12]

The rationale of disclosure of impeachment evidence — especially in the wide manner required by California law — is to level the playing field between the prosecution and defense, to ensure fairness, promote transparency, and support the truth-seeking function of trials, reflecting that the prosecutor's role is to serve as "minister of justice" and not to secure convictions at any price.[13]

B. Ms. Teran's actions to fulfill her obligations

To ensure compliance with disclosure duties across the office, especially since these duties "apply to a prosecutor even when the knowledge of the exculpatory evidence is in the hands of another prosecutor,"[14] the LADA

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[9] *See People v. Lucas* (2014) 60 Cal.4th 153, 274; *In re Brown* (1998) 17 Cal.4th 873, 879; *People v. Prince* (2007) 40 Cal.4th 1179, 1234; *People v. Jordan* (2003) 108 Cal.App.4th 349, 358. *See also* LADA DCS Manual, *supra* note 7, at 17-18.

[10] *Brady*, *supra* note 5, at 87; *Bagley*, *supra* note 5.

[11] *Barnett v. Superior Court* (2010) 50 Cal.4th 890, 901; see also *People v. Bowles* (2011) 198 Cal.App.4th 318, 326.

[12] LADA DCS Manual, *supra* note 7, at 18.

[13] The ABA Criminal Justice Standards for the Prosecution Function 3-1.2(a)-(b), https://www.americanbar.org/groups/criminal_justice/standards/ProsecutionFunctionFourthEdition/; The State Bar of California, Rule 3.8 Special Responsibilities of a Prosecutor, https://www.calbar.ca.gov/Portals/0/documents/rules/Rule_3.8.pdf.

[14] *Benn v. Lambert* (2002) 283 F.3d 1040, 1053.

created the office-wide Disclosure Compliance System (DCS) which Ms. Teran oversaw. The DCS consists of two databases: the *Brady* database and Officer and Recurrent Witness Information Tracking System (ORWITS) database.[15] They include information that "has a tendency in reason to potentially impeach or is likely to be utilized by the defense to potentially impeach the testimony of a recurrent People's witness."[16] The DCS informs prosecutors of any information that exists on a witness in the case they handle; prosecutors also can and should "query the DCS at all stages of the prosecution" to become informed of any new relevant information.[17] These databases enable prosecutors to fulfill their constitutional and statutory evidence disclosure obligations. Furthermore, these databases help the prosecution in weighing this information when determining whether to file charges against the defendant to begin with, to make sure that there is sufficient credible, admissible evidence to prove criminal charges beyond a reasonable doubt.[18] The LADA policy clearly states that the DCS databases are confidential and by no means are discoverable information.[19]

As explained *supra*, Ms. Teran is being prosecuted for sharing documents — all public court records pertaining to sheriff's deputies — with another Assistant District Attorney in the LADA Office, in order to determine whether the deputies' names should be entered into the non-public DCS databases.

The Los Angeles Times and the Los Angeles Public Press recently revealed the names of the deputies whom the documents in question in Ms. Teran's case pertained to — and exposed the misconduct they were involved in, based on public court records: "One deputy was convicted of driving drunk with a loaded gun in the car. Another was suspended for failing to promptly report an on-duty traffic accident. An experienced detective was accused of lying on his job application. And a commander was demoted to captain for turning a blind eye to a cheating scandal in a popular law enforcement relay

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[15] The *Brady* database contains exculpatory or impeaching information of recurrent witnesses, that should generally be disclosed to the defense; the ORWITS database contains material that may be discoverable to the defense, depending on the facts of the case and the specific records, subject to assessment of the prosecutor. LADA DCS Manual, *supra* note 7, at 24-25.
[16] LADA DCS Manual, *supra* note 7, at 23.
[17] LADA DCS Manual, *supra* note 7, at 21.
[18] LADA DCS Manual, *supra* note 7, at 18.
[19] LADA DCS Manual, *supra* note 7, at 22.

race. … at least half of the identified officers were disciplined for incidents involving an allegation of dishonesty."[20] This reporting makes clear that the documents potentially constituted impeachment evidence, in accordance with the LADA Policy and federal and state case-law.[21]

In light of all the above, it is clear that when Ms. Teran asked her supervisee at the LADA office to look into the names of the deputies the documents pertained to — she did so in accordance with her and the office's constitutional duties and to further them. Looking into names of law enforcement officers who have engaged in misconduct in order to potentially include them in the (confidential) DCS databases is part and parcel of complying with the constitutional and statutory obligations detailed above. If it was later determined that those documents supported the action of placing the officers' names into the *Brady* or ORWITS database, that would ensure that all prosecutors could properly notify the judges before whom they appear of the potential discovery material in their cases, as the law requires.

On more than one instance, the U.S. Supreme Court has urged prosecutors to serve as "careful prosecutor[s]" and *err on the side of disclosure*.[22] The California Supreme Court agreed and reiterated.[23] The LADA Policy instructs prosecutors accordingly to "resolve doubtful questions in favor of disclosing any *potentially* exculpatory or impeaching information."[24] The same rationale should be applied for internally investigating officers to potentially include them in the office's DCS

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[20] Keri Blakinger and Emily Elena Dugdale, *Spotty Redactions and Public Records Reveal Names of Deputies in Case Against D.A. Advisor*, L.A. Times (Sept. 10, 2024), https://www.latimes.com/california/story/2024-09-09/spotty-redactions-reveal-hidden-names-of-deputies-at-center-of-high-profile-case-against-da-advisor (hereinafter: Sept. 10 Article).

[21] See *supra* note 7.

[22] *United States v. Agurs* (1976) 427 U.S. 97, 108 ("the prudent prosecutor will resolve doubtful questions in favor of disclosure."); *Kyles v. Whitley* (1995) 514 U.S. 419, 439-440; *In re Miranda* (2008) 43 Cal.4th 541, 577 ("[i]n the end, the trial judge, not the prosecutor, is the arbiter of admissibility, and the prosecutor's *Brady* disclosure obligations cannot turn on the prosecutor's view of whether or how defense counsel might employ particular items of evidence at trial.")

[23] *Association for Los Angeles Deputy Sheriffs v. Superior Court* (2019) 8 Cal. 5th 28, 40 (hereinafter: *ALADS*).

[24] LADA DCS Manual, *supra* note 7, at 19 (emphasis added).

databases. As Professor Jonathan Abel of the University of California College of the Law at San Francisco, an expert on *Brady*, found when reviewing Ms. Teran's conduct: "[t]here is nothing untoward about investigating these types of things."[25]

Even if Ms. Teran's actions to comply with disclosure obligations were more expansive and proactive than those of other prosecutors — this does not prove that she was not acting within those obligations. On the contrary, it reinforces the fact that she was. From the standpoint of *Brady* case-law, and especially the broad California disclosure rules, Ms. Teran's rigorous application of a prosecutor's ethical and legal obligations exemplifies model prosecutorial conduct and should serve as the standard for all prosecutors.

2. Prosecuting Ms. Teran for her actions would chill prosecutors' compliance with their statutory and constitutional obligations, ensuring transparency, and promoting public trust and confidence in law enforcement agencies

Despite the constitutional and codified disclosure requirements discussed *supra*, the Attorney General has prosecuted Ms. Teran for fulfilling these very requirements.

If the prosecution against Ms. Teran is permitted to move forward, prosecutors in California would repeatedly be placed in the impossible dilemma of having to choose between their constitutional and ethical duty to obey the law and disclose evidence *they* believe falls under *Brady* and its progeny, and the risk of being criminally charged and arrested for that same disclosure.

The chilling effect of this prosecution on prosecutors throughout California — and nationwide — cannot be overstated. Prosecutors must walk a fine line between working in close collaboration with law enforcement and also holding them accountable. It is imperative that in order to keep communities safe — both from crime and from excessive force or dishonest policing — prosecutors must have absolute faith that they should err on the side of caution and disclose evidence that could be used to impeach, and that their investigation into and potential disclosure of that evidence would not negatively impact their career, livelihood, or freedom. Should prosecutors feel pressured to hide dishonest policing behaviors, there is no other avenue for

[25] Sept. 10 Article, *supra* note 20.

this behavior to be uncovered — and thus an already immensely powerful arm of the State that has the ability to use deadly force and take away individuals' rights and freedom can behave as they wish, unchecked.

If the case against Ms. Teran continues, prosecutors will inevitably fear placing their jobs, bar licenses, and individual freedom at risk, and will instead decline to investigate potential sources of *Brady* evidence, and, when faced with evidence that could be *Brady,* defer to the law enforcement agency itself as to whether to disclose it or not. There is no question that compliance with both the letter and spirit of the *Brady* case-line would plummet, and unfair and unjust prosecutions will increase.

The Attorney General has argued in this case that "to the extent that a former law enforcement agency employee might have kept confidential peace officer personnel information and believes they have a legal or ethical obligation to share that information, they must notify the law enforcement agency with an appropriate request for the disclosure of that information."[26] The Attorney General goes on to argue, incredibly, that *any* information or data about law enforcement agents cannot be "compiled" or disclosed without permission to do so.[27] During the Penal Code section 995 hearing on October 10, 2024, the Attorney General was asked if Ms. Teran could be prosecuted even if there was evidence that she obtained the publicly-available writs describing the problematic behavior of officers directly from the Courts.[28] In response, the Attorney General stated that if the information was available to her through her employment — even if she never accessed it during that

[26] People's Opposition to Defendant's Motion to Set Aside the Information under Penal Code Section 995 (Oct. 10, 2024), pg. 21 (hereinafter: AG 995 Opposition).

[27] *Id*. at 22, The Attorney General writes that "ultimately, as the magistrate's probable cause determination indicates, a person cannot compile and later use a law enforcement agency's data (and confidential peace officer personnel information in particular) if that person does not have that agency's permission to do so." The result of this extreme position would be that any individual working in a law enforcement agency who suspects or finds proof of criminal or unethical behavior by agents within law enforcement data, would not be able to disclose that to anyone — including federal agents — without "permission" from the agency.

[28] Transcript of 995 Hearing (Oct. 10, 2024), pg. 68 (Pet. Appendix Vol. 5, pg. 195).

employment — she could still be prosecuted.[29] It follows that according to the Attorney General, there exists no ability whatsoever for an Assistant District Attorney to investigate or compile *Brady* information if he or she had any prior employment that would have given him or her access to those records — no matter how crucial this information is from a *Brady* perspective. This is not only completely illogical; it also directly contradicts California Supreme Court case-law, making clear that "[w]hat matters for *Brady* purposes is what the prosecution team knows, not how the prosecution team knows it."[30]

The Attorney General cites no case law for this proposition, because none exists. Neither federal nor California law provide an exception for the *Brady* requirement to disclose impeachment evidence if the information was gained through some prior employment that considered it confidential despite being contained in public records. The Attorney General provides no example of what a prosecutor would do if the law enforcement agency declines to provide "permission" to share that information and the prosecutor believes they must disclose it — there is no higher authority to which to appeal or other avenue of guidance. In fact, that Attorney General admits that in the case of Ms. Teran, the LASD would likely not have given permission because the documents were not *Brady*-evidence in their perspective,[31] essentially arguing that a law enforcement agency should be the final arbiter of what behavior by its agents should be disclosed to the defense.

Requiring prosecutors to obey a law enforcement agency's determination as to what evidence in its own possession is *Brady*-evidence is asking prosecutors to abandon their role as a minister of justice and abdicate their constitutional responsibility to ensure a full and fair defense. California Rule 3.8 Special Responsibilities of a Prosecutor lists the requirements of disclosure, and explains that:

> [D]isclosure obligations… include, at a minimum, the duty to disclose impeachment evidence or information that a prosecutor knows or reasonably should know casts significant doubt on the accuracy or admissibility of witness testimony on which the prosecution intends to rely.

[29] *Id.* at 69-71 (Pet. Appendix Vol. 5, pg. 196-98).
[30] *ALADS*, *supra* note 23, at 53.
[31] AG 995 Opposition, *supra* note 26, at 22.

There is no exception in Rule 3.8 that permits a prosecutor to supplant their own determination of what evidence casts significant doubt on the reliability of a witness with the determination of a law enforcement agency, and therefore hide evidence they know or reasonably should know must be disclosed.

Law enforcement agencies cannot be in charge of determining what evidence falls under *Brady* — they will inevitably find reasons to prohibit disclosure. Any system in which the subject of the disclosure is in charge of whether disclosures are made is a system that will be viewed as illegitimate and untrustworthy by the defense, the courts, and the public. Self-policing is not legitimate oversight. *Brady's* requirement to disclose impeachment evidence is necessary in part, because law enforcement agencies can not always be trusted to terminate employment or "bench" officers who are dishonest, violent, or engaged in other misconduct.[32] LASD in particular has been exposed as having internal gangs involved in murder, prostitution, drug trafficking, and framing innocent individuals for crimes they did not commit.[33] The Attorney General's proposition that LASD must give "permission" for data about their officers to be disclosed would further hide dishonest and unsafe policing behind an impenetrable shield and cripple the ability of the public to hold law enforcement accountable.

Instead of prosecuting Ms. Teran, and chilling her and other prosecutors' actions to ensure broad compliance with disclosure obligations, such actions should be encouraged. Broad compliance with disclosure requirements not only promotes fairness and justice, and decreases the likelihood of miscarriages of justice, but also ensures well-founded convictions[34] and in turn, increases the public's faith in the criminal legal

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[32] Eli Hager & Justin George, *One Way To Deal With Cops Who Lie? Blacklist Them, Some DAs Say,* The Marshall Project (2019), https://www.themarshallproject.org/2019/01/17/one-way-to-deal-with-cops-who-lie-blacklist-them-some-das-say.

[33] Cerise Castle, *A Tradition of Violence: The History of Deputy Gangs in the Los Angeles County Sheriff's Department, a 15 Part Investigative Series,* Knock LA, (2021), https://knock-la.com/tradition-of-violence-lasd-gang-history/.

[34] The post-conviction discovery of *Brady* evidence is a ripe avenue for appeal, increasing the extensive cost and time required to secure a conviction. Conviction Integrity Units exist now, in part, to remedy the failures of a pre-*Brady* criminal legal system in which evidence tending to exoneration was

system. As discussed *infra*, procedures and requirements that lead to the erosion of the public's belief in the legitimacy of the criminal legal system are against the public interest and make communities less safe.

3. Prosecuting Ms. Teran negatively impacts public safety and is against the public interest

Public safety depends on prosecutors being able to perform their role as ministers of justice freely and vigorously. When prosecutors do not disclose *Brady* evidence, not only is there a risk of an unjust outcome against a charged individual, but there is also a likelihood that keeping such evidence hidden will be perceived by the subject of that evidence as silently affirming illegal or dishonest behavior in law enforcement.

This in turn will undoubtedly make communities less safe. It is well established that the victims of dishonest policing or excessive force are more often vulnerable members of society, whether through poverty, mental illness, or physical disability. For example, the National Alliance on Mental Illness estimates that people with serious mental illness are over ten times as likely to experience use of force in interactions with law enforcement than those without serious mental illness.[35] *Brady* evidence, when disclosed, places law enforcement agencies on notice that certain officers will be subject to more scrutiny by defense counsel and ultimately juries, thus providing an incentive to re-train, reassign, or terminate the work of corrupt, incompetent, or unsuitable officers. If police are not held accountable through the use of *Brady* evidence those incentives may not exist.

Additionally, prosecutors need the public to view law enforcement and the courts as legitimate in order to secure convictions and protect the community. Our legal system "depends in large measure on the public's willingness to respect and follow its decisions." *Williams-Yulee v. Fla. Bar* (2015) 575 U.S. 433, 445-46. It is quite common for a family member or close friend of a victim or witness to have been charged with a crime at some point.

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hidden from the defense and resulted in prevalent unfair outcomes or wrongful convictions.

[35] Ayobami Laniyonu & Phillip Atiba Goff, *Measuring Disparities in Police Use of Force and Injury Among Persons with Serious Mental Illness,* BMC Psychiatry 21, 500 (2021), https://bmcpsychiatry.biomedcentral.com/articles/10.1186/s12888-021-03510-w.

The willingness of these victims and witnesses to report crimes to law enforcement, cooperate with prosecutors, show up for court proceedings, and testify truthfully depends in part on their belief that the criminal justice system will treat them and their loved ones fairly. Indeed, research supports that when people have trust in legal authorities and view the police, the courts, and the law as legitimate, they are more likely to report crimes, cooperate as witnesses, and accept police and judicial system authority.[36] In contrast, when the public does not trust the criminal legal system, community members may be less willing to participate in it. This reluctance hampers the ability of the courts, police, and prosecutors to fulfill their public safety obligations.[37] Without cooperating victims and witnesses, police are unable to investigate, prosecutors are unable to bring charges, and juries are unable to convict the guilty or free the innocent.

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[36] *See* Tom R. Tyler & Jeffrey Fagan, *Legitimacy and Cooperation: Why Do People Help the Police Fight Crime in Their Communities?*, 6 Ohio St. J. Crim. L. 231, 263 (2008), https://kb.osu.edu/server/api/core/bitstreams/9f207de7-8f1e-550b-bae1-be261bd741f7/content ("[Findings] demonstrate that people are more willing to cooperate with the police when they view the police as legitimate social authorities. If people view the police as more legitimate, they are more likely to report crimes in their neighborhood. In addition, minority group members are more likely to work with neighborhood groups."); Tom R. Tyler & Jonathan Jackson, *Popular Legitimacy and the Exercise of Legal Authority: Motivating Compliance, Cooperation and Engagement*, 20 Psych., Pub. Pol'y & L. 78, 78-79 (2014), https://law.yale.edu/sites/default/files/area/center/justice/document/ssrnpopularlegitimacy.pdf ("The most important finding of this study is that legitimacy plays a significant role in motivating law related behavior. The prior role of legitimacy in shaping compliance is replicated, as is the role of legitimacy in encouraging cooperation, including ceding power to the state and helping to address problems of crime and social order. In addition, legitimacy is shown to have a role in motivating empowerment, e.g. in building social capital and facilitating social, political and economic development.").

[37] *See In Pursuit of Peace: Building Police-Community Trust to Break the Cycle of Violence,* Giffords Law Center to Prevent Gun Violence, (Sept. 9, 2021), https://giffords.org/report/in-pursuit-of-peace-building-police-community-trust-to-break-the-cycle-of-violence/ (violent crime rates increase in areas with a lack of public trust in law enforcement).

Broad disclosure policies and mechanisms, such as the one implemented by the LADA office and performed by Ms. Teran, are not only a constitutional and statutory obligation; they are also warranted from a policy perspective, as they promote trust in the criminal justice system, and therefore contribute to prosecutors' ability to advance public safety.[38] Curtailing prosecutors' ability to fulfill disclosure obligations by prosecuting them would be detrimental for public safety.

Conclusion

For the foregoing reasons, Amici urge this Court to grant Ms. Teran's writ of prohibition and dismiss the case against her.

Respectfully submitted,

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[38] Fair and Just Prosecution, *Promoting Transparency and Fairness Through Open and Early Discovery Practices* (2018), https://fairandjustprosecution.org/wp-content/uploads/2018/01/FJP.Brief_Discovery.pdf.