No. 127412

In The Supreme Court Of Illinois

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	On Appeal from the Illinois
PLAINTIFF-Appellee,	)	Appellate Court, First Judicial
v.	)	District, Case No. 1-20-1050
	)	
GERMEL DOSSIE,	)	There on Appeal from the Circuit
	)	Court of Cook County, Illinois,
DEFENDANT-Appellant.	)	No. 15 CR 10914
	)	
	)	Hon. William H. Hooks,
	)	Judge Presiding
	)	
	)	
	)	

BRIEF OF *AMICUS CURIAE* CHICAGO APPLESEED CENTER FOR FAIR COURTS IN SUPPORT OF APPELLANT

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I. INTEREST OF AMICUS CURIAE

Chicago Appleseed Center for Fair Courts ("Chicago Appleseed") is a not-for-profit 501(c)(3) research and advocacy organization that works to promote equity and full access to justice for all in the courts and the criminal justice system. Chicago Appleseed seeks to promote systemic reforms addressing equity and social, racial, and economic justice within the court system. In this work, Chicago Appleseed researches and monitors policies and practices of the Chicago Police Department ("CPD"), which have a critical impact on equity and quality within the criminal justice system. Chicago Appleseed's examination of CPD's use of "investigative alerts" and the CPD Gang Database gives it unique expertise and interest in the arrest at issue in Defendant's appeal.

II. PRELIMINARY STATEMENT

One of the fundamental protections Illinoisans enjoy is the freedom from unjustified and unreasonable arrests. This protection is embodied in Article I Section 6 of the Illinois Constitution, which builds on the Fourth Amendment to the United States Constitution and requires that arrests be based on probable cause and that, absent exceptional circumstances, law enforcement obtain an arrest warrant by submitting an affidavit memorializing the probable cause basis for the arrest to a neutral judge.

Despite these constitutional requirements, CPD has developed, and pervasively relies on, an alternative pathway for validating arrests to the warrant: investigative alerts. Investigative alerts are internal alerts issued by CPD indicating there is probable cause to arrest an individual. See Chicago Police Department Special Order No. S04-16, § II.A.1 (eff. Dec. 18, 2018), https://directives.chicagopolice.org/#directive/public/6332 (last visited November 24, 2021). Investigative alerts are not warrants. They substitute CPD's

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judgment over probable cause for the judiciary's and thereby put all approval and decision-making authority over arrests in the hands of the police, in direct contravention of Article I Section 6.

Germel Dossie's arrest demonstrates the unconstitutional overreach of CPD's investigative alert practice and the particular danger that practice poses for arrests lacking probable cause. Dossie was arrested by CPD for what would become a murder charge on the basis of an investigative alert CPD issued on June 1 following the statement of a single witness who may himself have been a suspect in the shooting, who purported not to see the shooting, and who only identified the suspect by the nickname "Spazz," which police linked to Dossie through the use of the unreliable CPD Gang Database. Despite that flimsy, single witness record, CPD rested its investigation there and issued an investigative alert that CPD used to surveil and arrest Dossie eight days later on June 9. In that intervening period, CPD made no effort to seek an arrest warrant, effectively sidelining the judiciary from oversight of Dossie's arrest. Dossie subsequently moved to suppress his arrest and the Circuit Court agreed, holding that there was both insufficient probable cause for the arrest and that CPD's investigative alert practice is unconstitutional under Article I Section 6. The Appellate Court reversed both holdings, resting its reversal of the constitutional question on *People v. Braswell*.

Amicus urges this Court to once and for all strike down CPD's investigative alert practice, which it uses as a shadow warrant system to circumvent judicial scrutiny of its arrests and investigative practices. There could be no clearer case for such a ruling than the instant action, in which a defendant was arrested based on a threadbare investigative

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record turning on the statement of a single witness of uncertain credibility and the unreliable data of CPD's in-house Gang Database.

III. STATEMENT OF FACTS

Amicus adopts Defendant Dossie's Statement of Facts. (See Br. and App. for the Pet'r-Appellant at 10–20.)

IV. ARGUMENT

A. The Circuit Court Properly Suppressed Dossie's Warrantless Arrest Due to Lack of Probable Cause

Germel Dossie's warrantless arrest was properly suppressed due to lack of probable cause. It is axiomatic that "[b]oth the United States and Illinois Constitutions protect individuals from unreasonable searches and seizures" and that "[a]n arrest without probable cause or a warrant based thereon violates these constitutional provisions." See *People v. Lee,* 214 Ill. 2d 476*,* 484 (2005). Whether or not probable cause exists to justify a warrantless arrest is an objective analysis based on the totality of facts and circumstances known to the police at the time the arrest was made. See *id.*; see also *In re D.W.*, 341 Ill. App. 3d 517, 523 (2003) (same). The probable cause question is a "commonsense, practical question" based upon that totality of facts and circumstances. *People v. Williams*, 305 Ill. App. 3d 517, 524 (1999). It is undisputed that Dossie was arrested without a warrant, but instead pursuant to a CPD investigative alert. (R. 69.) Because CPD's sole basis for generating the investigative alert was information provided to them by Tyrone Crosby (an individual who may not have even known Dossie and who did not witness the crime) and because Crosby's information did not amount to probable cause, there was no legal basis for Dossie's arrest and it must be suppressed.

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1. The Probable Cause Analysis Turns Entirely on the Information Tyrone Crosby Provided CPD

As an initial matter, there is no dispute that Dossie's arrest was made on the basis of the investigative alert alone. (R. 69.) CPD Officer Dingle testified that he was assigned the investigative alert for Germel Dossie on June 9, 2015, (SR 31–33), that he did not know Dossie and had no prior involvement in the case, (SR 36–37), that he and his partners arrested Dossie without a search or arrest warrant after observing Dossie from fixed surveillance and initiating a traffic stop of the car Dossie entered, (SR 33–35), and that he did not observe Dossie commit any crimes at the time of the arrest. (SR 35.) Based on that undisputed record, Dossie's arrest on June 9, 2015 was precipitated solely by the investigative alert. See *People v. Dossie*, 2021 IL App (1st) 201050-U, ¶ 3 ("Defendant Germel Dossie was arrested pursuant to an investigative alert related to the shooting of Clifton Frye.").

The investigative alert, in turn, was predicated solely on the information Tyrone Crosby provided to CPD. There is no evidence in the record indicating that CPD would have issued the investigative alert for Dossie's arrest or otherwise arrested Dossie for the shooting at issue but for the information Crosby provided. As the Circuit Court recognized in its suppression ruling, "[t]here was no arrest warrant issued in this matter and *the sole vehicle* used by the Chicago Police Department for later charging Mr. Dossie with first-degree murder was the statement of this single witness, background of which is a mystery to the universe." (Emphasis added.) (R. 77.) Accordingly, the probable cause analysis for Dossie's arrest turns solely on whether the information Crosby provided amounts to probable cause.

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2. The Information Crosby Provided Does Not Amount to Probable Cause

The information provided by Tyrone Crosby leading to the investigative alert authorizing Dossie's arrest does not amount to probable cause. Probable cause for an arrest exists "when the totality of facts and circumstances known to the officer[] is such that a reasonably prudent person would believe that the suspect is committing or has committed a crime. *In re D.W.*, 341 Ill. App. 3d at 523. The totality of facts and circumstances may include an informant's tip, but "if the facts supplied in such a tip are essential to a finding of probable cause, the tip must be reliable." *Id.* Here, Crosby's tip was not only essential to the purported probable cause finding, but the sole basis for it. Crosby's information should not be deemed reliable because (1) Crosby's purported identification of Dossie was vague and suspect, (2) Crosby did not witness the crime for which Dossie was arrested, (3) Crosby's account lacked details evincing reliability, and (4) there is no evidentiary support from which one could determine that Crosby did not intentionally misidentify Dossie.

First, Crosby's purported identification of Dossie is vague and suspect because Crosby only identified an individual with the alias "Spazz," and the link to Dossie was made by CPD through use of their unreliable gang database. Detective Tedeschi testified at the initial suppression hearing that Crosby identified the passenger in his car who left the vehicle and retuned with a gun as "Spazz." (SR 53–54.) Detective Tedeschi testified that he then conducted a search in the CPD Gang Database for "Spazz," identified Germel Dossie from that search, and thereafter issued an investigative alert for Dossie relating to the shooting of Clifton Frye. (SR 55–56.) In other words, Crosby's purported identification of Dossie was, in fact, only an identification of an individual by the alias of Spazz, and the link to Dossie came from CPD connecting Spazz to Dossie through the CPD

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Gang Database. That is insufficient to establish probable cause for two reasons. One, Crosby's inability to identify Dossie by his legal name casts doubt on the veracity and basis of his knowledge as an informant. See *In re D.W.*, 341 Ill. App. 3d at 523 ("The informant's veracity, reliability and basis of knowledge are determinative [in a probable cause analysis].") And two, there is no evidence in the record that the CPD Gang Database is reliable or trustworthy. (See R. 75 ("The Chicago Police apparently entered these two nicknames into a database, the credibility or reliability of which the Court has no idea about . . . . There was no testimony concerning how and what degree of reliability of such information in the database.").) This is particularly troubling given that this Court has previously taken judicial notice of the *unreliability* of the database. See *People v. Murray*, 2019 IL 123289, ¶ 35 (taking judicial notice of the "City of Chicago inspector general's April 2019 review of the Chicago Police Department's 'Gang Database' [which] found that the Chicago Police Department (CPD) lacks sufficient controls for generating, maintaining, and sharing gang-related data . . . [and] indicating that *the gang database lacks trustworthiness*" (Emphasis added.)).[1] For these reasons alone, Crosby's identification of the name "Spazz" fails as a basis for probable cause in Dossie's arrest.[2]

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[1] See also City of Chicago Office of the Inspector General, REVIEW OF CHICAGO POLICE DEPARTMENT'S "GANG DATABASE" 4 (April 11, 2019), https://igchicago.org/wp-content/uploads/2019/04/OIG-CPD-Gang-Database-Review.pdf [https://perma.cc/85VR-5YKN]. As in *Murray*, this Court may take judicial notice of the Inspector General's report pursuant to Illinois Rule of Evidence 201.

[2] The People also argue that they can rely on Crosby's identification of a photograph of Dossie to police on June 2 and before a grand jury the same day. *Dossie*, 2021 IL App (1st) 201050-U, ¶ 9. That argument is baseless for two reasons. First, Detective Tedeschi testified that he issued the investigative alert on June 1, following Crosby's statement concerning "Spazz" and Detective Tedeschi's linking of Spazz to Dossie through the CPD Gang Database, all of which took place *before* Crosby's identification of the photograph of Dossie. (SR 55–56.) Thus, the investigative alert on which the arrest was justified was informed solely by Crosby's verbal reference to the alias Spazz. Second, even if the

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<u>Second</u>, Crosby's information is insufficient to establish probable cause because Crosby did not witness the crime at issue. To aid in establishing probable cause, an informant's tip must be "reliable in its assertion of illegality, not just in its tendency to identify a determinate person." *In re D.W.*, 341 Ill. App. 3d at 524. Here, it is undisputed that Crosby did not witness the shooting at issue nor purported to claim that "Spazz" told Crosby he committed the shooting. (SR 80.) Crosby's information provided only that Spazz left Crosby's car and returned holding a gun. (SR 54.) Though CPD's inferences connected that information to the shooting (notwithstanding the absence of any evidence showing the gun Spazz was purported to be carrying was used in the shooting), *Crosby's* information did not provide that link itself and must be qualified accordingly. *Id*.

<u>Third</u>, Crosby's brief account lacks detail and corroboration to support a finding of reliability. Based on CPD's testimony provided at the suppression hearing, Crosby's account did not include, among other things, descriptions of why Spazz was in his car, why Crosby had driven to the area near where the shooting took place, any statements made by Lil Shawn or Spazz, any indication of Crosby's reaction to the gunshots, or to Lil Shawn and Spazz returning to the car supposedly carrying a gun. The absence of these details

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photograph identification could properly be considered in evaluating whether the investigative alert at issue rested on adequate probable cause (it cannot), the record shows that Crosby did not identify a photograph of Dossie on June 1 when first questioned, but only on June 2 after remaining in a CPD interrogation room overnight and in response to police prompting him with a photograph of Dossie. (SR 55–57, 74.) An informant brought in for questioning by police for driving a car suspected to be involved with a shooting and who remains in an interrogation room overnight may understandably view himself as a suspect for the crime and have an incentive to provide police with whatever information he thinks may remove him from the spotlight, a factor that must be considered in evaluating reliability. See *Williams*, 305 Ill. App. 3d at 526 (stating that whether an informant is "from the criminal milieu" or a "suspect in the instant offense" is one factor to be considered under the totality of the circumstances probable cause analysis).

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renders Crosby's account less reliable and also prevents both CPD and this Court from properly weighing Crosby's credibility or the reliability of his identification. *See People v. Sparks*, 315 Ill. App. 3d 786, 793 (2000) ("The tip, however, must provide some indicia of reliability; otherwise, the police are forced to conduct additional investigation to verify the information . . . .").

Moreover, there is no corroboration of the critical facts inferred by CPD from Crosby's information. For example, no other witness identified Dossie at the scene and there is no evidence a gun of the type Spazz was reported to be carrying was used in the shooting. The People and the Appellate Court relied on the supposed corroboration of the surveillance video, but the video shows only Crosby's car and two black males. (R. 69 ("The video at most appeared to show a black male or two black males and the Court was unable to discern the weight and height of those person and is [*sic*] unclear that the police had much more than that.").) The fact that the video corroborates the make of the car Crosby was driving—a fact relied upon by the Appellate Court, see *Dossie*, 2021 IL App (1st) 201050-U, ¶ 25—is unsurprising and unpersuasive given that Crosby was picked up for questioning in that very car and the presence of the car near the shooting is not in dispute. (SR 52). Thus, the only potential corroboration the video can offer is the fact that two black males were seen leaving and returning to the car, but that fact does not corroborate the supposition that either male was Dossie. Indeed, Officer Sanchez testified that he both viewed the video and had prior dealings with Dossie, yet was unable to identify him in the video. (R. 15–16). Accordingly, Crosby's information lacked the necessary detail and corroboration to merit qualifying as probable cause. See *Sparks*, 315 Ill. App. 3d at 795 (rejecting reasonable suspicion where police corroborated informant's

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description of, among other things "the make, model, color, and license plate number of [a defendant's] car; [defendants'] race; from where they were traveling; and the day and approximate time that they would be coming through [the area at issue]" because "none of that information, even though substantially corroborated, points to any unlawful conduct by defendants").

Fourth, given the stark absence of evidence concerning Crosby, his criminal record, and his known relationship (if any) to Spazz, there is no basis from which a reasonable person could determine that Crosby's identification of Spazz was not designed to misdirect police, baselessly put the spotlight on Spazz, or otherwise obfuscate the truth. In assessing an informant's tip, it is critical to determine the motivations of the witness. See *In re D.W.*, 341 Ill. App. 3d at 523 ("The informant's veracity, reliability and basis of knowledge are determinative [in the probable cause analysis]."); *Sparks*, 315 Ill. App. 3d at 792 (same); see also *People v. Jackson*, 348 Ill. App. 3d 719, 731 (2004) ("Without sufficient verification or corroboration, it is possible that police are acting on a malicious prank initiated at the defendant's expense."). As the Circuit Court recognized, the evidentiary record failed to provide the requisite information from which one could even theoretically assess Crosby's veracity, including whether there was evidence of any interest or incentive he may have had in identifying "Spazz." (See R. 74 ("The questions that this Court would have had for Mr. Crosby or any reasonable trier of fact would have had for Mr. Crosby are at least a dozen or so in length."); R. 76 ("[T]he Court is left . . . with questions that could fill a small book . . . ."); R. 77 (the "background" of Crosby "is a mystery to the universe").) For this reason too, Crosby's information is insufficient to establish probable cause.

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For each of the foregoing reasons, the information Crosby provided to CPD was properly deemed by the trial court as inadequate to establish probable cause to arrest Dossie. While Crosby's information could have formed the foundation for further investigation by CPD to compile sufficient probable case, CPD stopped short and rested their investigative alert solely on Crosby's information. Accordingly, Dossie's arrest lacked probable cause and must be suppressed.

B. Warrantless Arrests Based on Investigative Alerts Violate the Illinois Constitution

Dossie's arrest should independently be suppressed because CPD's use of investigative alerts as an end-run around the warrant process is unconstitutional under Article I Section 6 of the Illinois Constitution. Illinois persons are protected from unjustified arrests by both the Fourth Amendment to the United States Constitution and Article I Section 6 of the Illinois Constitution. The Fourth Amendment provides, in relevant part, that "no Warrants shall issue, but upon probable cause, supported by Oath or affirmation . . . ." U.S. CONST., amend. IV. Interpreting this language, the Supreme Court has held that while the Fourth Amendment does not explicitly require police to obtain an arrest warrant where there is sufficient probable cause to make the arrest, see, *e.g.*, *United States v. Watson*, 423 U.S. 411, 416–17 (1976), the Fourth Amendment commands a strong *preference* for obtaining a warrant prior to arrest. See, *e.g.*, *Beck v. Ohio*, 379 U.S. 89, 96 (1964) ("An arrest without a warrant bypasses the safeguards provided by an objective predetermination of probable cause, and substitutes instead the far less reliable procedure on an after-the-event justification for the arrest or search, too likely to be subtly influenced by the familiar shortcomings of hindsight judgment.")

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Article I Section 6 of the Illinois Constitution goes a step beyond the Fourth Amendment and provides, in relevant part, that "[n]o warrant shall issue without probable cause, supported by *affidavit* . . . ." (Emphasis added.) ILL. CONST. 1970, art. I, § 6. Though similar in structure, Article 1 Section 6 imposes stricter requirements on warrants. Article I Section 6's mandate that warrants be "supported by affidavit" supplants the Fourth Amendment's requirement that warrants be supported only by "oath or affirmation." 2 Record of Proceedings, Third Illinois Constitutional Convention at 1568 (statements of the Delegate Allen). That textual difference reflects a legislative intent in Article I Section 6 to provide greater protections[3] from police overreach than those established by the Fourth Amendment through a mandate for sworn applications for warrants.[4] See *Lippman v. People*, 175 Ill. 101, 102 (1898) (holding that Article I Section 6 goes a "step beyond" the Fourth Amendment); see also *infra* pp. 26–27.

CPD's pervasive use of investigative alerts is exactly the type of police overreach the drafters of Article I Section 6 sought to curb. Investigative alerts allow CPD to sidestep the warrant process, substituting unchecked and undocumented police judgment for affidavits and judicial scrutiny. Accordingly, CPD's investigative alert practice is unconstitutional under Article I Section 6.

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[3] Notably, the notion of state constitutions raising the bar on individual protections relative to the U.S. Constitution is a core tenet of the federalist structure established by the U.S. Constitution. See William J. Brennan, Jr., *State Constitutions and the Protection of Individual Rights*, 90 HARV. L. REV. 489, 500 (1977) ("[T]he system of federalism envisaged by the United States Constitution tolerates []divergence where the result is greater protection of individual rights under state law . . . . [Citation.]").

[4] *Amicus* does not concede that investigative alerts are constitutional under the Fourth Amendment. However, this Court need not reach that analysis, because, for the reasons described herein, the Illinois Constitution provides *greater* protection from warrantless arrests than the U.S. Constitution such that the practice fails first under the state constitution.

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1. *Braswell* Is Not Binding and Was Wrongly Decided.

In reversing the Circuit Court's order suppressing Dossie's arrest on the grounds that CPD's investigative alert practice is unconstitutional, the Appellate Court majority relied exclusively on *People v. Braswell*, an appellate court decision upholding investigative alert-based arrests as constitutional. *Dossie*, 2021 IL App (1st) 201050-U, ¶ 21 (citing *Braswell*, 2019 IL App (1st) 172810). Notably, *Braswell* came out directly opposite *People v. Bass*, which preceded *Braswell* by five months and held that CPD's investigative alert practice "allow[s] police supervisors to internally make th[e] probable cause determination" rather than "take their case for probable cause to a judge, as they would for an arrest warrant" and is thus unconstitutional. 2019 IL App (1st) 160640, ¶ 1, *aff'd in part*, *vacated in part*, 2021 IL 125434, ¶ 1. The Appellate Court applied *Braswell* over *Bass* because between the time the Circuit Court issued its ruling in this case and the time the matter was before the Appellate Court, the People appealed *Bass* to this Court, which affirmed the Appellate Court's reversal of Bass's conviction on evidentiary grounds and, based on the reversed conviction, vacated the Appellate Court's ruling that CPD's investigative alert practice is unconstitutional. In short, by the time this matter was before the Appellate Court, *Bass*'s unconstitutionality ruling had been vacated on procedural grounds, leaving *Braswell* as the "most recent case law on point" which "require[d] [the Appellate Court here] to reverse the circuit court on [the constitutional] issue." *Dossie*, 2021 IL App (1st) 201050-U, ¶ 22. Importantly, however, in *Bass*, this Court did not vacate the Appellate Court's ruling that the investigative alert practice is unconstitutional on the merits, but only on the procedural basis that it was unnecessary to reach the question given its affirmance of the reversal of Bass's conviction on evidentiary grounds. See *People v. Bass*, 2021 IL 125434, ¶¶ 29–31 ("Having disposed of the case on these narrow grounds,

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we end our analysis here . . . . We do not express any opinion on limited lockstep analysis, its application to warrants or investigatory alerts, or the constitutionality of investigative alerts. Those portions of the appellate opinion dealing with these issues are vacated.”). The Appellate Court here thus erred in relying on *Braswell* and not *Bass* given this Court did not vacate *Bass* on the merits and in light of *Braswell's* cursory dismissal of *Bass*. See *Braswell*, 2019 IL App (1st) 172810, ¶ 37 (“We decline to follow the reasoning or precedent of *Bass* and find that *Bass* was incorrectly decided.”). Moreover, *Braswell* is not binding on this Court, and because its analysis of the constitutionality of CPD's investigative alert practice was flawed and threadbare, its reasoning should be rejected.

In evaluating the constitutional question now before this Court, the *Braswell* court failed to properly evaluate the text and legislative history of Article I Section 6 through the lens of Illinois' limited lockstep approach or the nature and circumstances of CPD's investigative alert practice. Instead, the *Braswell* court summarily ruled that investigative alert-based arrests are constitutional on the two grounds that (1) the common law recognizes the legitimacy of warrantless arrests where probable cause exists and (2) the supposed “paradoxical situation” that would result if an arrest would be constitutional in the case where CPD did not issue an investigative alert but unconstitutional in the case where CPD did issue an investigative alert. *Braswell*, 2019 IL App (1st) 172810, ¶¶ 37–39. Both of these grounds are flawed.[5]

First, *Braswell* wrongly presumed—without evaluating the constitutional provision—that any arrest supported by probable cause satisfies Article I Section 6,

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[5] The defendant in *Braswell* appealed the Appellate Court's ruling, but the petition for leave to appeal was denied. *People v. Braswell*, 144 N.E.3d 1212 (Ill. 2020).

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regardless of the circumstances of the arrest or the process followed by law enforcement. See *id.* That is wrong. To be sure, this Court recognizes exceptions to the warrant requirement for arrests in certain situations where exigent circumstances demand, where the arrest would preserve the public's safety, or when it would otherwise be impractical or unreasonable to demand law enforcement to obtain one. See*, e.g.*, *People v. Boozer*, 12 Ill. 2d 184, 189 (1957) (permitting a warrantless arrest because it would be illogical to require the officers, after receiving reasonable grounds that the defendant committed a felony, to leave the vicinity of the crime to obtain a warrant); *People v. Hightower*, 20 Ill. 2d 361, 367 (1960) (same); see also *Carroll v. United States*, 267 U.S. 132, 157 (1925) (citing *Rohan v. Sawin*, 59 Mass. 281, 285 (1850)) ("[T]he reason for arrest without warrant on a reliable report of a felony was because the public safety and the due apprehension of criminals charged with heinous offenses required that such arrests should be made at once without warrant."). However, this Court has never recognized a wholesale exception for warrantless arrests whenever probable cause exists. That is with good reason. As noted above and detailed further below, see *infra* pp. 20–25, Article I Section 6 of the Illinois Constitution was drafted with the specific intent to restrict the ability of law enforcement to investigate crimes and affect arrests without judicial oversight. *Braswell's* logic flies in the face of this constitutional restriction and suggests that it would be perfectly valid for CPD to eschew the warrant process *altogether*, so long as probable cause were present. That logic would read Article I Section 6 as a nullity and would invert the sequencing of arrests envisioned by Article I Section 6 (as well as the Fourth Amendment) by relegating the judiciary's involvement to post-arrest review only. Moreover, holding that CPD's investigative alert practice is unconstitutional would not jeopardize the existing exceptions

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to the warrant requirement this Court has recognized. Rather, such a holding would simply foreclose law enforcement from relying on *another* exceptive category and one—critically—that would swallow the warrant rule entirely.

It is for these very same reasons that the purported paradox—in which an arrest could be upheld in the absence of an investigative alert but rejected in the presence of an investigative alert—about which the *Braswell* court was concerned also is unpersuasive. The fundamental problem with CPD's investigative alert practice is *not* that the individual is arrested without a warrant, but that the individual was arrested pursuant to a process that avoided, and usurped the role of, the judiciary *without a compelling reason to do so*. It is the absence of a sufficient basis to depart from the warrant process required under Article I Section 6 that renders CPD's investigative alert practice unconstitutional, not the mere presence of the investigative alert itself. Thus, properly understood, there is no paradox with which to be concerned.

Because *Braswell* assumed the constitutionality question away on flawed grounds, its reasoning should not be followed. Rather, because Article I Section 6 was designed to prevent police circumvention of the warrant process and because CPD's use of investigative alerts is exactly that, the practice should be found unconstitutional.

2. Article I Section 6 Must Be Interpreted in Accordance with the Limited Lockstep Doctrine

Illinois courts apply a limited lockstep approach in interpreting the Illinois Constitution. *People v. Caballes*, 221 Ill. 2d 282, 309–10 (2006); see also *People v. Washington,* 171 Ill. 2d 475, 485 (1996) ("[W]e labor under no self-imposed constraint to follow federal precedent in 'lockstep' . . . ."). The limited lockstep approach allows Illinois courts, in certain situations, to provide greater protection of constitutional rights under the

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state constitution. See*, e.g.*, *Caballes*, 221 Ill. 2d at 299. It stands as a departure from a strict lockstep approach, where "the state constitutional analysis begins and ends with consideration of the U.S. Supreme Court's interpretation of the textual provision at issue." Lawrence Friedman, *The Constitutional Value of Dialogue and the New Judicial Federalism*, 28 HASTINGS CONST. L. Q. 93, 102 (2000).

Pursuant to its limited lockstep approach, this Court has recognized "several justifications for departing" from the U.S. Supreme Court's interpretation of the U.S. Constitution. *Caballes*, 221 Ill. 2d at 309. One justification for deviating from federal constitutional jurisprudence is when specific "language [in the Illinois] constitution, or in the debates and the committee reports of the [Illinois] constitutional convention" indicates that the Illinois constitutional provision is intended to be construed differently than its federal analog. *Id.* at 310 (citing *People v. Tisler*, 103 Ill. 2d 226, 245 (1984)). Another justification is when "state tradition and preexisting state law" recognize a greater protection of individual rights than that called for by federal interpretations of the U.S. Constitution. *Id.* at 310–11 (citing *People v. Krueger*, 175 Ill. 2d 60, 65–69 (1996)). Here both justifications exist.

a. The Text and Legislative History of Article I Section 6 Mandate Affidavit-Supported Warrants for Arrests Barring Exigent Circumstances

Under the limited lockstep doctrine, Illinois courts first interpret the state constitutional text to assess whether there are any significant differences between the state and federal constitutional provisions. See *Caballes*, 221 Ill. 2d at 310 (citing *Tisler*, 103 Ill. 2d at 245). If there are, Illinois courts must then look to the language of the state constitution and committee reports of the state constitutional convention to determine if the difference reflects an intention by the drafters that the state provision be construed

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differently than its federal counterpart. *Tisler*, 103 Ill. 2d at 245. As noted above, Article I Section 6 differs from the Fourth Amendment in requiring warrants to be "supported by affidavit" rather than by "oath or affirmation" as under the Fourth Amendment. ILL. CONST. 1970, art. I, § 6 (containing "supported by affidavit" requirement); see also ILL. CONST. 1870, art. II, § 6; U.S. CONST., amend. IV (containing "oath or affirmation" requirement). This textual difference is not mere word choice. "An affidavit is a statement of facts reduced to writing with that degree of clearness and positiveness . . . ." *Lippman*, 175 Ill. at 102. By contrast, an oath or affirmation need not be reduced to writing. See Affirmation, BLACK'S LAW DICTIONARY (11th ed. 2019). In short, the Illinois Constitution departed from the U.S. Constitution in imposing the more stringent requirement on police that arrest warrants be supported in writing.

Given this textual distinction, the analysis must turn to the legislative history concerning the state provision to determine the legislature's intent in departing from the U.S. Constitution. The committee reports for the 1870 constitutional convention—from which the "affidavit" requirement emerged—confirm that this textual difference was intentional.[6] When Article I Section 6 was initially proposed at the 1870 Constitutional Convention, the language mirrored the Fourth Amendment in requiring warrants be "supported by oath or affirmation." 2 Record of Proceedings, Third Illinois Constitutional Convention at 1568 (statements of the Committee Secretary). However, that proposal was rejected in favor of a final draft that substituted "affidavit" with "oath or affirmation."

[6] This analysis addresses the committee reports to the 1870 Illinois Constitution because it is the first instance where the state's search and seizure clause resembled the Fourth Amendment's in any meaningful way. See *Bass*, 2019 IL App 160640, ¶ 49. In the iterations of the Illinois Constitution prior to the 1870 constitution, "the only mention of warrants involved a condemnation of the issuance of a general warrant." *Id.*

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Records of the debate confirm the drafters made that change intentionally out of concern that "oath or affirmation" did not provide sufficient protection from police overreach.

In particular, the drafters of Article I Section 6 feared that under an "oath or affirmation" clause, an officer could merely take an oath stating his beliefs, without reciting any facts, and then either arrest or search an individual's property. *Id.* (statements of Delegate Goodhue) ("[N]otwithstanding the decisions of our supreme court, . . . [law enforcement] can now go in to a magistrate's office . . . and, upon oath can receive a capias, there being no means of information furnished anywhere . . . ."). The drafters believed the process called for by the "oath or affirmation" requirement was "too loose a mode of protecting the rights of persons." *Id.* (statements of Delegate Vandeventer). Mr. Vandeventer therefore proposed two changes: (1) to substitute "affidavit" for "oath or affirmation" and (2) to add at the end of Article I Section 6 "and clearly detailing the facts and circumstances claimed to constitute such probable cause."[7] *Id.* The drafters believed that by requiring law enforcement to reduce to writing their basis for probable cause and present it to a judicial authority, law enforcement's ability to abuse its authority in pursuing unreasonable, unchecked arrests and seizures would be curbed. See *id.* Moreover, the drafters believed a more formalized process would ensure a clearer record in the event of subsequent legal challenges to the arrest or seizure. *Id.*

Mr. Vandeventer's second proposal to add "and clearly detailing the facts and circumstances claimed to constitute such probable cause" was ultimately rejected. *Id.* The

[7] The proposed provision in its entirety would have read: "and no warrant shall issue without probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons or things to be seized, and clearly detailing the facts and circumstances claimed to constitute such probable cause." 2 Record of Proceedings, Third Illinois Constitutional Convention at 1568 (statements of Delegate Vandeventer).

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drafters feared that provision would unduly prohibit police in certain "exceptional cases," where exigent circumstances require that an arrest or seizure proceed immediately and where the requirement of reducing a warrant to writing would interfere with the reasonable execution of such arrest or seizure. *Id.* (statements of Delegate Benjamin).

The drafters did, however, accept the affidavit proposal. *Id.* at 1569 (statements of the Committee President). The final version of Article I Section 6 containing the "affidavit" requirement but omitting the "and clearly detailing the facts and circumstances claimed to constitute such probable cause" language thus reflected the carefully struck balance deemed critical by the drafter: Absent unique, exigent circumstances, to effect an arrest, police must submit, to an appropriate judicial officer, a written affidavit containing detailed facts explaining the probable cause basis for the warrant. See *id.* at 1568–69. Unlike under the federal constitution, this method would not just be preferred, but *required*. See *id.*

The committee members to the 1970 Illinois Constitution ratified and accepted the 1870 drafters' interpretation. 3 Record of Proceedings, Sixth Illinois Constitutional Convention at 1523–25 (statements of Delegate Dvorak). With respect to "searches and seizures as traditionally known in the 1870 Constitution and Fourth Amendment to the United States Constitution," the 1970 drafters stated that there was nothing new to provide. *Id*. For law enforcement to effect an arrest in the normal circumstances, "they have to go before a judicial officer" to demonstrate that probable cause exists and "support [such cause] by affidavit." *Id.* Because "a court, in interpreting a constitution, is to ascertain and give effect to the intent of the framers of it and the citizens who adopted it," this interpretation of Article I Section 6's affidavit requirement is binding. See *Tisler*, 103 Ill.

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2d at 254 (Ward, J., concurring). In short, all evidence of the drafters' intent regarding Article I Section 6 reinforces the notion made plain by the facial difference between that provision and the Fourth Amendment: the Illinois Constitution goes above and beyond the U.S. Constitution in requiring police in ordinary circumstances to secure an affidavit-based warrant in order to make an arrest. Notably, the *Braswell* court failed to evaluate the text of Article I Section 6 or the corresponding legislative history.

To be sure, this Court has stated previously that Article I Section 6 is "modeled upon the [F]ourth [A]mendment," *Caballes*, 221 Ill. 2d at 291, and that the two provisions contain "practically the same words." *People v. Castree*, 311 Ill. 392, 395 (1924); see also *People v. Reynolds*, 350 Ill. 11, 16 (1932) (determining that there is no reason "why [Article I Section 6][8] should not receive the same interpretation as the [Fourth Amendment]"). In none of those instances, however, did this Court address the relative significance of the "affidavit" requirement or purport to hold that such requirement is synonymous with the "oath or affirmation" requirement. Indeed, none of *Caballes*, *Castree*, or *Reynolds* foreclose this Court from applying the greater protections mandated by the "affidavit" language and its legislative history.

First, *Caballes* involved the question of whether a canine sniff constitutes a search under Article I Section 6, not the significance or meaning of the affidavit requirement. *Caballes*, 221 Ill. 2d at 285. Moreover, *Caballes* itself reinforces the relevance of the limited lockstep analysis of constitutional text and legislative history. *Id.* at 331 (acknowledging this Court's "limited lockstep approach to search and seizure analysis").

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[8] In the 1870 Constitution, the Illinois search and seizure provision was found in Article II Section 6. In the 1970 Constitution, it is located in Article I Section 6. To avoid unnecessary confusion, this brief will only reference the provision as Article I Section 6.

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In particular, the *Caballes* court noted that strict lockstep is merely the baseline unless "a successful argument is made that in a particular situation the Illinois Constitution provides broader protection . . . ." *Caballes*, 221 Ill. 2d at 299 (citing *People v. Lampitok*, 207 Ill. 2d 231, 240–41 (2003)); see also *id.* at 315 (discussing the Court's "continued adherence to the lockstep doctrine, albeit with some room for flexibility"). Indeed, the *Caballes* court itself conducted a limited lockstep analysis in that case, reviewing the constitutional text and corresponding constitutional debates to inform its interpretation of whether a canine sniff constitutes a search. *Id.* at 314–16. Thus, *Caballes* directs the application of the limited lockstep approach and its holding that there was no basis to depart from the U.S. Constitution in the particular case of canine searches has no immediate bearing on the analysis of CPD's investigative alert practice.

Castree and *Reynolds* also do not prevent this Court from giving due meaning to the protections imparted by the affidavit requirement under Article I Section 6. In those cases, this Court encountered claims pertaining to the scope and validity of a search warrant. *Castree*, 311 Ill. at 394–95 (discussing whether a warrant covered a certain portion of the defendant's property); *Reynolds*, 350 Ill. at 15–16 (discussing whether Article I Section 6 provided greater protection to corporations). Neither addressed the limited lockstep approach generally or whether Article I Section 6 permitted officers to avoid obtaining a warrant in order to effectuate an arrest specifically. Thus, these rulings also do not prevent this Court from finding that Article I Section 6 prohibits the use of investigative alerts.

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b. State Tradition and Preexisting State Law Also Mandate Affidavit-Supported Warrants for Arrests Barring Exigent Circumstances

Illinois jurisprudence and tradition also compel a limited lockstep interpretation of Article I Section 6 that arrests require affidavit-supported warrants in the usual case. See *Caballes*, 221 Ill. 2d at 310–11 ("[W]e nevertheless found that state tradition and preexisting state law . . . necessitated the application of the state [rule] . . . .") (citing *Krueger*, 175 Ill. 2d at 65–69). As reflected in this Court's first interpretation of the "affidavit" requirement, in *Lippman v. People*, Illinois courts recognize the significance and tradition of the constitutional protections in place shielding citizens from unreasonable police overreach and intrusion. In *Lippman*, this Court held that Article I Section 6's affidavit requirement went "a step beyond" the Fourth Amendment. *Lippman*, 175 Ill. at 112. In particular, the Court held that Article I Section 6 required that evidence of probable cause be made part of the record, that it be based on sworn facts, not mere beliefs, and that it satisfy the judicial officer reviewing the application. *Id.* at 113.

Indeed, the *Lippman* court recognized that a strict reading of the affidavit requirement was necessary to secure Article I Section 6's purpose in protecting citizens from executive abuse of authority and unreasonable government intrusions. *Id.* at 112. Softening the requirement, absent compelling exigent circumstances, would subject Illinoisans to the whims of law enforcement and flout the fundamental purpose of Article I Section 6. *Id*.

Lippman is not an outlier. This Court has routinely reaffirmed the necessity of judicial evaluation of purported probable cause. For example, in *People v. Clark*, this Court quashed an arrest warrant because it solely rested on the state's attorney's unsworn complaint. 280 Ill. 160, 167 (1917). A decade later, in *People v. Elias* this Court stated

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"[w]hether there is probable cause for issuing a search warrant is a judicial question, to be determined by the magistrate . . . . [Citations.]" 316 Ill. 376, 381 (1925), *overruled in part*, 37 Ill. 542, 544 (1963). Similarly, in *People v. McGurn* this Court overturned a conviction because an officer arrested the defendant solely based on an order from a superior officer. 341 Ill. 632, 634–35 (1930) (finding that neither the officer nor his supervisor had "any process or warrant of law").

These cases evince a recognition of the Illinois principle and tradition that judicial checks on the executive branch are critical to ensuring Illinoisans protection from unreasonable police overreach. Thus, for this independent reason, this Court should apply the intended meaning of Article I Section 6 and invalidate unjustified efforts to circumvent the warrant process.

3. Investigative Alerts violate the "affidavit" requirement

CPD's pervasive use of investigative alerts in the absence of unique or exigent circumstances violates the text, purpose, and legislative history of Article I Section 6. Investigative alerts typically involve an officer submitting a report "to a supervisor . . . explaining what investigative steps have been taken in the case and the basis of the officer's belief that probable cause exists." *Craig v. City of Chicago*, No. 08 C 2275, 2011 WL 1196803, at *3 (N.D. Ill. Mar. 25, 2011). This process typically takes a day, and at no point is the judiciary involved. See *Hale v. City of Chicago*, No. 10 C 0547, 2013 WL 2338125, at *4 (N.D. Ill. May 22, 2013). The Chicago Police Department routinely relies on investigative alerts to arrest individuals. See *Bass*, 2019 IL App (1st) 160640, ¶ 33 (stating that the Appellate Court has encountered numerous cases involving investigative alerts). Moreover, CPD's own guidance on investigative alerts permits CPD officers to conduct arrests on the basis of an investigative alert without formally obtaining an arrest

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warrant from a neutral magistrate, *even where there is no compelling basis to sidestep the warrant process*. Chicago Police Department Special Order No. S04-16, §§ II.A.1, V.A.1.b (eff. Dec. 18, 2018), https://directives.chicagopolice.org/#directive/public/6332 (permitting officers to "place the subject into custody" anytime an "Investigative Alert / Probable Cause to Arrest" alert has been issued) (last visited November 24, 2021). In short, CPD relies on investigative alerts as an alternative channel of support for arrests in lieu of seeking warrants, regardless of whether any special circumstances exist that could plausibly justify a warrantless arrest.

The warrantless arrest before this Court demonstrates the nature of CPD's investigative alert practice. In this case, CPD learned the facts they purport provided probable cause to arrest Dossie on June 1 and issued an investigative alert the same day. (SR 15.) More than one week later, CPD officers established surveillance of a building associated with Dossie and executed his arrest shortly thereafter. (SR 31.) There is no evidence in the record suggesting CPD was prohibited as a matter of time or logistics from seeking a warrant for Dossie's arrest between June 1 and June 9. Indeed, CPD brought Crosby to testify before a grand jury, between the time the investigative alert had been issued but before the arrest, yet declined to also bring him before a magistrate to obtain a warrant for Dossie's arrest. (See R. 78 ("The Court is baffled how a witness ends up before a Grand Jury and does not end up before a judge . . . how [CPD] did not use that [evidence] to even obtain an arrest warrant or seek to obtain an arrest warrant.").) From all appearances, CPD simply opted to pursue the arrest based on the investigative alert, rather than following the warrant process. In doing so, CPD substituted its own judgment and process for that of Article I Section 6 and the judiciary in direct contravention of Article I

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Section 6. 2 Record of Proceedings, Third Illinois Constitutional Convention at 1568–69 (discussing how, by implementing an "affidavit" requirement, the drafters of Article I Section 6 envisioned a system that primarily ran through the judiciary and only allowed officers to avoid obtain a warrant in the "exceptional cases" where justice so demanded). This demonstrates how the investigative alert process blatantly violates the clear command of Article I Section 6's affidavit requirement and aim to prevent unchecked police power over arrests and seizures.

This Court has recognized narrow exceptions to the warrant requirement where there is probable cause and a compelling circumstance justifying immediate execution of an arrest or seizure. See *Boozer*, 12 Ill. 2d at 189; *Hightower*, 20 Ill. 2d at 367. CPD's preference for the ease and laxity of obtaining investigative alerts relative to obtaining a warrant is not a compelling circumstance. Indeed, investigative alerts require the officer to submit a report and seek approval from a supervisor, time consuming steps which demonstrate the *absence* of compelling circumstances. See *People v. Hyland*, 2012 IL App (1st) 110966, ¶ 51 (Salone, J., specially concurring) ("If there is time to get a supervisor's approval for the investigative alert, as the special order requires, there is time to seek an arrest warrant from a member of the judiciary."); *Craig,* 2011 WL 1196803, at *3. Because Article I Section 6 requires law enforcement, in ordinary cases like Dossie's, to obtain a warrant from a neutral magistrate, the Department's routine use of investigative alerts is per se unconstitutional.

C. CPD's Investigative Alert Practice Also Shields Biased and Inaccurate Investigatory Practices from Judicial Oversight

CPD's investigative alert practice is particularly disturbing given the questionable investigatory tools on which CPD bases investigative alerts and the opportunities for

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unchecked racial bias to pervade arrests predicated on investigative alerts. The arrest warrant requirement is designed to safeguard the rights of citizens by requiring a neutral observer to ratify the police's decision-making and investigative tools, and to allow for judicial intervention where it appears applications for arrests are being generated on discriminatory or otherwise problematic bases. Investigative alerts short-circuit this key tool in curbing biased decision-making by police.

Dossie's arrest again highlights the concern. In this case, CPD used the Chicago Police Gang Database to connect Crosby's identification of "Spazz" to Dossie. CPD's decision to show Crosby only a picture of Dossie for identification during his interrogation was made using the Chicago Police Gang Database, a tool described by the Inspector General of Chicago as "a deeply flawed collection of gang data, with poor quality controls and inadequate protections for procedural rights". See City of Chicago Office of the Inspector General, FOLLOW-UP INQUIRY ON THE CHICAGO POLICE DEPARTMENT'S "GANG DATABASE" 4 (March 21, 2021), https://igchicago.org/wp-content/uploads/2021/03/OIG-Follow-Up-Inquiry-on-the-Chicago-Police-Departments-Gang-Database.pdf. The database lists just under 135,000 Chicagoans as "gang members", and contains information about alleged gang affiliation and nicknames, among other information. See City of Chicago Office of the Inspector General, REVIEW OF CHICAGO POLICE DEPARTMENT'S "GANG DATABASE" 4, 15, 22, 31 (April 11, 2019), https://igchicago.org/wp-content/uploads/2019/04/OIG-CPD-Gang-Database-Review.pdf. 95% of the Chicagoans listed as gang members by CPD in the Gang Database are Black or Latino. *Id.* at 4, 34. The Inspector General found that CPD "cannot ensure that CPD members designate individuals as gang members with sufficient, reliable evidence corroborating actual gang

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involvement" before including them in the database. *Id.* at 4. Additionally, the Inspector General found that:

> "some entries in the 'gang database' raise serious concerns about how CPD officers perceive and treat the people with whom they interact. OIG found that CPD officers entered occupations for individuals on gang arrest cards that included 'SCUM BAG,' 'BUM,' 'CRIMINAL,' 'BLACK,' 'DORK,' 'LOOSER [*sic*],' and 'TURD.' Such entries demonstrate CPD's lack of controls around its data entry practices and how such information systems can be employed to demean and dehumanize members of the public."

Id. at 2. These problems with the Gang Database raise serious concerns about the accuracy of any investigative decision made using its contents. Had Dossie's case been brought before a judge for an arrest warrant, a judge could have asked questions about the Gang Database and CPD's decision to rely on it in selecting Dossie's picture to show to Crosby for identification. (See R. 82–83 ("[H]ow [nicknames] track[] in the [Gang] [D]atabase of the Chicago Police Department still remains a mystery to this Court . . . But the nickname situation is what produced Germel Dossie's picture.").) Yet the investigative alert process inhibited that initial judicial review. In other words, allowing CPD to issue arrests based solely on investigative alerts reflecting their internal judgment enables CPD to act as the fox guarding the hen house, deciding for itself the validity and accuracy of its investigative tools.

By relegating the judiciary to post-arrest review, the investigative alert process functionally allows problematic CPD practices to persist and fester. As an investigatory tool, the Gang Database would likely be subject to greater scrutiny in the pre-arrest review for probable cause called for by the warrant process, (see, *e.g.*, R. 82–83), than it would be in a post-arrest review when other evidence resulting from the arrest (including potential confessions, identification procedures, physical evidence, etc.) may enter the analysis. In

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that manner, the investigative alert process not only allows CPD to sidestep judicial scrutiny of the quantum of evidence supporting an arrest but also the manner in which the purported evidence was generated. That dynamic enables the Gang Database to continue serving as a basis for arrests notwithstanding its recognized flaws. See *Murray*, 2019 IL 123289, ¶ 35 (taking judicial notice of the unreliability of the Gang Database). For that reason too, the practice should be deemed unconstitutional.

V. CONCLUSION

For all of the foregoing reasons, the Appellate Court's order should be reversed and Dossie's motion to quash his arrest and suppress related evidence should be granted.

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Dated: December 9, 2021

Respectfully submitted,

/s/ *Mary Rose Alexander*

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CERTIFICATE OF COMPLIANCE

I certify that this brief 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 30 pages.

/s/ *Mary Rose Alexander*
Mary Rose Alexander

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No. 127412

In The Supreme Court Of Illinois

PEOPLE OF THE STATE OF ILLINOIS,	)	On Appeal from the Illinois Appellate Court, First Judicial District, Case No. 1-20-1050,
PLAINTIFF-Appellee,	)	
v.	)	There on Appeal from the Circuit Court of Cook County, Illinois, No. 15 CR 10914
GERMEL DOSSIE,	)	
DEFENDANT-Appellant.	)	Hon. William H. Hooks, Judge Presiding

NOTICE OF FILING

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PLEASE TAKE NOTICE that on December 9, 2021, counsel for amicus curiae filed in the Supreme Court of Illinois Brief of *Amicus Curiae* Chicago Appleseed Center for Fair Courts in Support of Appellant, copies of which are hereby served upon you.

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Dated: December 9, 2021

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CERTIFICATE OF SERVICE

The undersigned certifies that on December 9, 2021, the MOTION FOR LEAVE TO FILE BRIEF OF AMICUS CURIAE, together with the attached BRIEF OF AMICUS CURIAE CHICAGO APPLESEED CENTER FOR FAIR COURTS IN SUPPORT OF APPELLANT, and the accompanying proposed ORDER GRANTING MOTION FOR LEAVE TO FILE BRIEF OF AMICUS CURIAE, were filed with the Supreme Court of Illinois using the Court's electronic filing system. The undersigned further certifies that on that same date the foregoing NOTICES OF APPEARANCE of Mary Rose Alexander, Jack M. McNeily, and Joseph C. Grosser were filed with the Supreme Court of Illinois using the Court's electronic filing system. Copies of the above-listed documents were served by electronic mail upon the following counsel for the parties to all primary and secondary email addresses listed below:

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Additionally, the above-listed documents will be served via the Court's electronic filing system on all counsel registered for that system.

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 to the best of my knowledge, information, and belief.

/s/ *Mary Rose Alexander*
Mary Rose Alexander

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