

No. 125508

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**IN THE  
SUPREME COURT OF ILLINOIS**

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POLICEMEN'S BENEVOLENT	)	
LABOR COMMITTEE,	)	
	)	On Petition For Leave To Appeal From
Plaintiff-Respondent,	)	The Illinois Appellate Court, Fifth
	)	District, No. 5-19-0039
v.	)	
	)	On Appeal From the Circuit Court
CITY OF SPARTA,	)	of the 20th Judicial Circuit, Randolph
	)	County, 2017 MR 52
Defendant-Petitioner.	)	
	)	Honorable Gene Gross
	)	Judge Presiding

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**AMICUS CURIAE BRIEF OF THE  
ILLINOIS ASSOCIATION OF CHIEFS OF POLICE**

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**INTEREST OF AMICUS CURIAE**

The Illinois Association of Chiefs of Police (ILACP), which celebrated its 75th anniversary in 2016, is a voluntary professional organization with over 1,300 members representing over 400 law enforcement agencies across Illinois. Most members of ILACP are executive level members and leaders in law enforcement agencies across Illinois. The jurisdictions in which ILACP members serve include large urban centers employing thousands of police officers, suburban agencies with smaller complements of officers, and rural municipalities which only have a few officers. These agencies almost universally engage in activities targeting enforcement of Illinois traffic laws, including issuance of traffic citations. Additionally, many of these jurisdictions have adopted point-based systems for evaluating duty performance by the officers they employ. Maintaining accountability for the actions of officers is critical to the effective and efficient administration of justice and sustaining community confidence. In addition to the law enforcement personnel who are members of the ILACP, membership includes legal advisors who counsel law enforcement officers and administrators on issues including the formulation of policy, including those policies for the management of police personnel and the promotion of traffic safety. Those advisors and administrators are concerned about developing effective programs to evaluate officer performance and to target safety concerns in their jurisdictions. The ILACP membership is committed to the best interest of their respective communities and to promoting the highest professional standards for law enforcement activity throughout the state of Illinois.

## ARGUMENT

This case implicates two issues of policy important to the administration of justice in this state. Firstly, the decision addresses the Activity Point Systems (APS) for the management and evaluation of law enforcement personnel which are widely used by law enforcement agencies across the state to maintain accountability for officer duty performance. The decision of the Fifth District Appellate Court prohibiting the use of an APS which includes consideration of an officer's citation activity, along with a variety of other factors, severely impairs the ability of police agencies to fairly evaluate officer performance. An APS which considers the full range of officer activity promotes the critical policy goal of police accountability. Secondly, the failure to include officer activity in issuance of traffic citations as part of an officer's duty performance would undercut important traffic safety enforcement measures. Those measures are critical to overall public safety.

### **I. Proper Police Accountability Requires Consideration of Officer Activity in Issuance of Citations**

The decision of the Fifth District Appellate Court in this case undercuts a well-accepted statewide practice of APSs, which are essential to proper police accountability. That decision fails to recognize the importance of evaluating officer performance across the complete range of police-related activities they perform. This includes activities related to the issuance of citations. All *activities* are assigned point values. To ensure that officers are productive during their shifts, the points across all activities are totaled. Officers are not specifically directed or required to achieve quotas in any specific activity. Instead, they can select from a menu of activities.

The Fifth District Appellate Court's decision accepts an argument advanced by the Police Benevolent Labor Committee (PBLC) that the mere consideration of officer citation activity constitutes a violation of statutory prohibitions against quotas provided on the provisions of 65 ILCS 5/11-1-12 (the "Quota Act"). The sweeping interpretation of the Quota Act proposed by the PBLC would result in invalidating point based APSs across the state. The failure to include citation activity in this accounting of officer duty performance would provide an inaccurate picture of officer activity.

Point-based evaluation systems like APS employed in Sparta are commonly utilized in Illinois. Many agencies across the state have spent significant time money and effort in creating these systems, often with direct input from officers and their bargaining unit representatives. The systems represent an understanding of time spent by officers in the performance a range of common police duties (making arrests, conducting traffic enforcement activities, engaging the community and issuing citations). Tasks which require more time are generally accorded higher point values.

In addition to respecting the level of time and effort of officers in performing discrete tasks, these systems allow for community input. Weighting the point value allows for a community to express a desire for emphasis on certain tasks. For example, a community experiencing a problem of speeding in school zones might provide a higher point value for enforcement activity concerning school zones, including zero-tolerance for speeding near schools.

The APS systems, like the one in Sparta, do not compel officers to issue any specified number or quota of citations. In fact, the APS goals can frequently be met by engaging in a variety of law enforcement activity other than citation issuance. These

systems balance the complex issues of officer discretion, community concerns and preferences for certain law enforcement activities, and recognition that differing law enforcement activities have differing degrees of difficulty

The position advanced by the PLBC and accepted by the Fifth District Appellate Court would not allow officers who, in their discretion determine to issue citations, from having that activity considered as part of their overall job performance. In essence, the PBLC position would require agencies to ignore the important work of citation issuance and to disregard the difficulty and additional officer time spent preparing and presenting those citations. This result turns on its head the Quota Act which was designed to protect the discretion of the officer. Under the PBLC's interpretation of the Quota Act, an officer who decides in the exercise of his or her discretion to issue a citation would be disadvantaged because the APS would not allow his or her work efforts to be fully considered.

The issue of whether the Quota Act would result in depriving law enforcement supervisors and managers of tools to measure officer performance was specifically addressed in the legislature. In this colloquy the issue is specifically addressed.

[Rep. Dwight] Kay: "So, what you're saying is that this doesn't have to do... this is not in any way taking away a management tool from local police or State Police or whomever the case may be, it's simply saying that it's a performance tool for evaluation purposes."

[Rep. Jay] Hoffman: "For... for evaluation purposes, you can still use for management tools or a performance tool, points of contact which would include stops, warnings, arrests, investigations and community outreaches. This simply says that an officer cannot be required or have a quota to issue a specific number of citations in any given period of time."

Kay: "Okay. And again, for legislative intent. This Bill, in no way, needs to... means to impede a supervisor's ability to get the job done by officers that serve underneath him?"

Hoffman: "No. The Bill is very specific and it still allows for points of contacts to be used for that purpose."

98th Ill. Gen. Assem., House Proceedings, May 21, 2014, at 50. Notwithstanding this clear expression of legislative intent, the PBLC would have the APS system gutted based on its interpretation of the Quota Act

The failure to consider all aspects of officer job performance in the APS degrades the ability of law enforcement agencies to manage and control its workforce. The system is designed to allow for a full accounting of officer time on key activities. If activities like citations are excluded, this prevents an agency from getting an accurate picture of the productivity of its officers. That accurate picture is essential for fair evaluation of the workforce and to ensure accountability to taxpayers who are paying the salaries of those officers.

The APS reinforcement of accountability to the community extends beyond the issue of fiscal accountability. It also creates transparency and demonstrates responsiveness to community concerns. As noted above, points allocated for activity include both an understanding of officer efforts, and importance that a community places on those efforts. Suppressing consideration of officer citation activity destroys transparency and takes away the ability of agencies to ensure that community concerns are respected.

Because failure to include citation activity in APS will impair the ability of agencies to fairly evaluate the activity of officers; and because that it will drive a wedge

between agencies and communities they serve with respect to transparency and responsiveness to community concerns; this Court should reverse the decision of the Fifth District Appellate Court and affirm the Circuit Court order.

## **II. Elimination of Consideration of Citation Activity Will Impair Important Public Safety Efforts**

Traffic safety has long been a focus of the ILACP. In 2016 in connection with the celebration of ILACP's 75<sup>th</sup> Anniversary, the Board of Officers reaffirmed Traffic Safety Advocacy and the Traffic Safety Challenge as key initiatives of the organization. Through these activities the ILCP has come to understand the importance of traffic enforcement, including the issuance of citations to public safety.

While the Quota Act does preclude the use of shift quotas for issuance of citations or the comparison of officers based solely on citation activity, it does not suggest that citation issuance should not be considered by agencies. The authors of the Quota Act were careful to note the importance of traffic enforcement and the ability to direct that activity. Yet if the PBLC position is accepted, and citation activity is required to be excepted from evaluation of officer performance, that is the likely result.

In the legislative discussion of the Quota Act the importance of local control over traffic enforcement was noted by the legislators. Assurances were given that the Quota Act would not serve to limit the direction given to officers except for directions to issue a specified number of citations. The following colloquy demonstrates that fact

[Rep. Rich] Brauer: "Representative, I have a few quick questions for legislative intent, will this legislation restrict the ability of a sheriff or chief to have policies that require tickets to be written in traffic accidents and DUIs?"

Hoffman: "No."



Brauer: "Will this legislation in any way restrict the sheriff or chief to assign special traffic details based on complaints from citizens, such as speeding in school zones or neighborhoods, and require an officer to write a ticket for those violations?"

Hoffman: "This simply says that you can't have a quota system where there has to be a number of citations given in a specific period of time. So the answer would be no."

98th Ill. Gen. Assem., House Proceedings, May 21, 2014, at 44 to 45.

Despite that clear expression of legislative intent, the PBLC offers a construction of the Quota Act that will tie the hands of law enforcement administrators and supervisors and make targeted direction of officer activity in enforcement of traffic laws an impossibility. Supervisors would be placed in the position of directing officer activity in the performance of tasks that would not be credited to the officer in evaluation of activity and performance. This mixed message will undoubtedly adversely affect critical traffic enforcement initiatives. If enforcement through use of citation issuance is determined to be an important activity by the public and law enforcement professionals, the APS needs be able to include point values for that activity in overall evaluation. Failure to do so, which is compelled by the Fifth District Appellate Court decision, will result will in a degradation of traffic safety programs.

**CONCLUSION**

For the reasons stated above, *amicus* Illinois Association of Chiefs of Police urges this Court to reverse the decision of the Fifth District Appellate Court and affirm the decision Circuit Court upholding the activity point system used by the Sparta Police Department.

Respectfully submitted,

*Amicus Curiae*  
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**CERTIFICATE OF COMPLIANCE**

I certify that the AMICUS CURIAE BRIEF OF THE ILLINOIS ASSOCIATION OF CHIEFS OF POLICE conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages containing the Rule 341(d) cover, the Rule 341(h)(1) 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 8 pages.

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Defendant-Petitioner.	)	
	)	Honorable Gene Gross
	)	Judge Presiding

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**NOTICE OF FILING**

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**PLEASE TAKE NOTICE** that on the March 3, 2020, the **ILLINOIS ASSOCIATION OF CHIEFS OF POLICE** served and filed by electronically means on the Clerk of the Supreme Court of Illinois, **AMICUS CURIAE BRIEF OF THE ILLINOIS ASSOCIATION OF CHIEFS OF POLICE** a true and correct copy of which is hereby served upon you.

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Respectfully submitted,

**ILLINOIS ASSOCIATION OF  
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By: /s/ Donald R. Zoufal  
 One of the Attorneys

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**CERTIFICATE OF SERVICE**

The undersigned attorney hereby certifies that he caused a true and correct copy of the foregoing, **NOTICE OF FILING AND AMICUS CURIAE BRIEF OF THE ILLINOIS ASSOCIATION OF CHIEFS OF POLICE** to be served upon the following counsel of record via electronic mail on March 3, 2020.

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Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct.

By: /s/ Donald R. Zoufal  
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