

IN THE SUPREME COURT OF FLORIDA

CITY OF TALLAHASSEE, FLORIDA,
Petitioner,

v.

FLORIDA POLICE BENEVOLENT
ASSOCIATION, INC., JOHN DOE 1,
and JOHN DOE 2,
Respondents.

CASE NO.: SC21-651
L.T. Nos.: 1D20-2193
37-2020-CA-001011

**PINELLAS COUNTY SHERIFF BOB GUALTIERI'S UNOPPOSED
MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF**

Bob Gualtieri, Sheriff of Pinellas County, Florida, moves under Florida Rule of Appellate Procedure 9.370(a) for leave to file an amicus curiae brief in support of the petitioner, City of Tallahassee, Florida. All parties consent to the filing of the amicus brief.

1. Sheriff Gualtieri's Interest in the Appeal.

The Pinellas County Sheriff's Office employs over 1,500 deputies. Sheriff Gualtieri's interest in this appeal is ensuring that when deputies use force — especially deadly force — in furtherance of their public duties he can speak candidly about that use of force. Transparency fosters public trust. The converse is also true: a lack of transparency breeds distrust. The public should know the identity of a police officer who uses force under color of law.

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2. The Particular Issue Sheriff Gualtieri Will Address.

Criminal jurisprudence requires an independent analysis of each person's actions, regardless of whether those actions are authorized or justified and, thus, not criminal. The same is true under Marsy's Law. One who uses force stands in the position of the "accused" (the person who committed a potentially criminal act), not the "victim" (the person who suffered a direct physical harm) under Fla. Const. art. I, § 16(e).

Accordingly, anyone — including a police officer — who uses force against another person is not a "victim" under Marsy's Law. When a suspect uses force against a police officer, the officer is the "victim" of that suspect's use of force. But, when a police officer uses force against a suspect, even a suspect who had just used force against him (for example, when the officer returns fire in self-defense), the suspect becomes the "victim" of the officer's use of force. No one, even a police officer, is the "victim" of his own use of force. Therefore no one, even a police officer, can invoke the protections of Marsy's Law for his own use of force, regardless of whether that use of force is ultimately found to be authorized, justified, or excessive.

3. How Sheriff Gualtieri Can Assist the Court in the Disposition of the Appeal.

Sheriff Gualtieri's amicus brief will bring a law enforcement perspective to the analysis of Marsy's Law from someone who champions transparency and accountability as foundational principles of public service. As public safety professionals, law enforcement officers who use force to carry out their public duties must be accountable to the public they serve.

4. All Parties Consent to the Filing of Sheriff Gualtieri's Amicus Brief.

Luke Newman, counsel for petitioners, Joe Eagleton, counsel for respondents, and Mark R. Caramanica, counsel for intervenor-media have authorized the undersigned counsel for Sheriff Gualtieri to represent that they consent to his filing of an amicus brief, should the Court grant leave.

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WHEREFORE, Sheriff Gualtieri respectfully requests leave to appear as amicus curiae in support of the petitioner, City of Tallahassee, Florida.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on February 8, 2022, I electronically filed this motion with the Clerk of the Court by using the Florida Courts E-Filing Portal and that a true and correct copy of this brief was served by E-Mail on below listed counsel:

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