Colorado Court of Appeals 2 East 14th Avenue Denver, CO 80203	DATE FILED April 23, 2025 3:21 PM FILING ID: 77F4D04DCAF64 CASE NUMBER: 2025CA26
Appeal from Boulder County District Court Hon. Robert R. Gunning Case No. 2024CV30320	
Plaintiff/Appellee: SMB ADVERTISING, Inc. d/b/a YELLOW SCENE MAGAZINE, v. **Defendant/Appellant:** CITY OF BOULDER, COLORADO	**▲COURT USE ONLY▲**
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BRIEF OF *AMICI CURIAE* COLORADO MUNICIPAL LEAGUE, COLORADO COUNTIES, INC., AND COUNTY SHERIFFS OF COLORADO IN SUPPORT OF APPELLANT CITY OF BOULDER, COLORADO

CERTIFICATION

I hereby certify that this brief complies with C.A.R. 28(a)(2-3), C.A.R. 29, and C.A.R. 32, including all formatting requirements set forth in these rules. Specifically, the undersigned certifies that:

The amicus brief complies with the applicable word limit set forth in C.A.R. 29(d).

☑ It contains 4,714 words (does not exceed 4,750 words).

The brief complies with the content and form requirements set forth in C.A.R. 29.

I acknowledge that my brief may be stricken if it fails to comply with any of the requirements of C.A.R. 29 and C.A.R. 32.

/s/ Rachel Bender
Rachel Bender, #46228

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The Colorado Municipal League ("CML"), Colorado Counties, Inc. ("CCI"), and County Sheriffs of Colorado ("CSOC") respectfully submit the following *Amici Curiae* Brief in Support of Appellant City of Boulder ("Boulder").

IDENTITY OF *AMICI CURIAE* AND THEIR INTEREST IN THE CASE

CML, formed in 1923, is a non-profit, voluntary association of 271 of the 273 cities and towns located throughout Colorado, comprising nearly 99 percent of the total incorporated state population. CML's members include all 108 home rule municipalities, 162 of the 164 statutory municipalities, and the lone territorial charter city, including all municipalities with populations greater than 2,000. CML regularly appears as an *amicus curiae* to advocate on behalf of Colorado's municipalities. Most CML municipalities operate police departments subject to the body-worn camera ("BWC") requirements established by the legislature.

CCI is a Colorado non-profit corporation founded by the state's county commissioners in 1907 to further county government cooperation and efficiency. CCI members include 62 of Colorado's 64 counties. Using discussion and cooperative action, CCI works to solve the many financial, legal administrative, and legislative problems confronting county governments. CCI regularly participates as *amici curiae* in cases before the Colorado courts raising important legal issues for

Colorado's counties such as this case. This is such a case because of the impact of a decision on county funding due to county sheriffs use of BWCs.

CSOC is a Colorado non-profit corporation founded in 1976 to serve and advocate for Colorado's county sheriffs. CSOC members include sheriffs from all 64 Colorado counties. State law imposes upon county sheriffs various responsibilities including law enforcement, fire response, search and rescue, court security, civil service, and operating county jails. It is therefore common for county sheriffs to face similar administrative, financial, and legislative challenges in performing their official duties. CSOC assists county sheriffs by facilitating collaboration among members and coalescing support for public safety initiatives. CSOC regularly advocates on behalf of the interests of county sheriffs statewide through the legislative process.

In 2020 the Colorado General Assembly passed Senate Bill 20-217 (SB20-217), the Law Enforcement Integrity Act ("LEIA"), which *inter alia* mandated using BWCs and specific requirements around the release of BWC recordings. 2020 Colo. Sess. Laws 445; *see also* 2021 Colo. Sess. Laws 3054 (modifying LEIA through House Bill 21-1250). Law enforcement agencies must equip every peace officer with a BWC and associated accessories. Law enforcement agencies have adopted or

modified policies and procedures to address the proper use of BWCs, officer training, retention of BWC records, and disclosure of BWC records.

Amici provide the Court with a statewide perspective of the fiscal and operational impacts on local law enforcement agencies of the BWC disclosure requirements of C.R.S. § 24-31-902(2)(a) ("Section 902"). Local law enforcement agencies of all sizes currently require fees to obtain BWC footage consistent with all other public requests for criminal justice and other public records. Upholding the District Court's ruling that agencies cannot charge fees for BWC requests will result in significant detrimental financial impact to agencies across the state, especially smaller agencies — an impact ultimately borne by local government taxpayers and with an impact on other public services. Additionally, local governments have established expectations regarding paying for the otherwise unfunded mandate of Section 902, which the District Court's holding undermines by rendering C.R.S. § 29-1-304.5 meaningless.

ARGUMENT

The District Court's interpretation of Section 902 is inconsistent with Colorado's principles of statutory construction and results in rendering other statutes superfluous or absurd. Local law enforcement agencies have implemented the only reasonable interpretation of Section 902 ensuring compliance with both Section 902

and existing open records laws to impose fees to pay only for the direct expenses of BWC footage disclosure. Boulder, like most local law enforcement agencies, imposes reasonable fees to defray costs and follow the spirit of the law. *Amici* urge this Court to reject the District Court's interpretation and employ a reasonable reading of Section 902.

I. Construing C.R.S. § 24-31-902(2)(a) to prohibit imposing fees for BWC requests would significantly fiscally burden and create an unfunded mandate on local governments.

A. The retrieval, review, blurring, and release of BWC footage is time consuming and costly.

While Section 902 provides a seemingly simple directive for law enforcement agencies to release "all unedited video and audio recordings" of incidents when there is a complaint of peace office misconduct within 21 days of a request, the reality of producing BWC footage consistent with LEIA is far more complex and expensive. One need look no further than LEIA's other provisions to understand why.

LEIA prohibits removal of any portion of the video and instead requires blurring to protect the privacy interests of individuals in several scenarios:

> [A]ny video that raises substantial privacy concerns for criminal defendants, victims, witnesses, juveniles, or informants, including video depicting nudity; a sexual assault; a medical emergency; private medical information; a mental health crisis; a victim interview; a minor, including any images or information that might undermine the requirement to keep certain juvenile records confidential; any personal information other than the name of any person not arrested, cited,

> charged, or issued a written warning, including a government-issued identification number, date of birth, address, or financial information; significantly explicit and gruesome bodily injury, unless the injury was caused by a peace officer; or the interior of a home or treatment facility, **shall be blurred** to protect the substantial privacy interest while still allowing public release.

C.R.S. § 24-31-902(2)(b)(II)(A) (emphasis added). The statute prohibits the release of such unblurred footage "without the written authorization of the victim" or next of kin if the victim is deceased. *Id.* Because of this blurring requirement, law enforcement agencies cannot and do not always release "unedited video and audio recording" despite the simple language in C.R.S. § 24-31-902(2)(a).

Section 902 requests are more likely than other types of BWC requests to require extensive review and blurring because they arise only when there has been a complaint of officer misconduct. Such requests often involve the use of force, including deadly force, and complicated situations. As a result, one incident can involve a large volume of video footage associated with the BWCs of multiple officers and privacy concerns that must be blurred. For example, a medium sized city in southern Colorado reported one request for BWC video from an unattended death investigation consisted of 14 videos totaling five hours of raw footage and a separate request for an officer involved shooting ("OIS") consisted of 26 videos

totaling seven hours of raw footage.[1] A medium sized front range municipality reported OIS's tend to include anywhere from 10 to 30 different videos.

These complexities multiply the already substantial time commitment and cost simply to retrieve, review, and blur the BWC footage even for a short event involving one or two BWC videos. Several local governments noted it typically takes from two to five times the length of the raw footage to review and blur. One medium front range city explained their BWCs record 30 frames per second resulting in review and blurring taking four to five times the length of the video.[2]

Complying with the LEIA is costly for local governments. Personnel and other resources are required to meticulously review all BWC footage and, if needed, blur footage prior to release as statutorily required. SB20-217's fiscal note recognized this impact for both state and locals. Colorado State Patrol estimated costs of $1,197 per camera per year for cloud access, storage, and licensing; $50,000 per year for video redaction software; $18,000 for a one-time purchase of tracking software; and

[1] CML conducted a survey of local governments across the state to collect quantitative and qualitative data regarding disclosure of BWC footage. The examples and data in this brief come from those 54 survey responses.

[2] Counsel for CCI has defended the City and County of Denver in litigation involving allegations of excessive use of force related to the George Floyd Protests in 2020. BWC video produced in those cases totals several thousand hours. Reviewing and blurring such video would take many thousands of hours before production of the BWC could occur.

funding for two new full-time employees. Legis. Council Staff, SB20-217 Final Fiscal Note, 72nd Leg., 2nd Reg. Sess., at 7-8 (Colo. 2020), https://tinyurl.com/SB217-Final-Fiscal-Note. For local governments, the fiscal note stated that "[a]dditional staff would be required to . . . process and release videos" along with software. *Id*. at 9-10. Although costs vary depending on agency size, the fiscal note reported for an agency requiring 1,000 or more cameras, the total costs associated with the BWC requirements "may exceed $3.0 million per year on an ongoing basis," a portion of which would be for Section 902 requests. *Id.* at 10.

Because of these fiscal impacts, most law enforcement agencies charge fees for the release of BWC recordings under Section 902 based on the Colorado Criminal Justice Records Act ("CCJRA"). C.R.S. §§ 24-72-301 to -309; *see also* C.R.S. § 24-72-302(4) (defining "criminal justice records," which includes BWC recordings); C.R.S. § 24-72-306(1) (authorizing reasonable fees "for the search, retrieval, and redaction of criminal justice records"). These fees help defray the significant employee time and other resources required to comply with this law, which also takes away from the other obligations and responsibilities of law enforcement agencies. In many cases, the fees charged do not fully cover actual

incurred costs.[3] A digital evidence technician for a small mountain municipality reported their regular and overtime hourly pay exceeds the maximum CORA hourly fee, resulting in a financial cost to the municipality, even with a fee. The average hourly fee charged for search, retrieval, and blurring of BWCs by the 54 reporting local governments was $36.22 – below the $41.37 currently authorized by CORA.

Below is a chart summarizing relevant quantitative data self-reported by 54 municipalities and counties. The survey respondents are categorized based on population size – small is under 8,000; medium is 8,000 to 49,000; large is 50,000 to 249,000; and largest is 250,000 or more, which roughly corresponds to the number of employees in the respective law enforcement agencies. The survey is based on data for all BWC record requests from 2022 to 2024 as many local governments do not differentiate between Section 902 requests and other CCJRA requests for tracking purposes. Finally, the averages below are the estimated averages on a per agency basis.

[3] Despite authorization to charge fees that would meet (but not exceed) actual costs, including personnel and equipment, C.R.S. § 24-72-306(1), many agencies charge CCJRA fees mirroring fees charged under the Colorado Open Records Act ("CORA") rather than charging more than CORA, C.R.S. § 24-72-205(6).

Number in survey	*Size category*	*Average # of employees in agency*	*Average # of requests (2022-24)*	*Average estimated time reviewing footage (cumulative, 2022-24)*	*Average charge per request*	*Total charged for released records (2022-24)*
17	Small	19	131	531 hours	$106.15	$16,956.41
21	Medium	57	966	7,019 hours	$189.31	$251,001.31
10	Large	232	471	2,144 hours	$147.50	$70,627.29
6	Largest	826	4,404	24,310 hours	$107.61	$884,335.17

The numbers in this chart are likely under-representative of the full fiscal impacts of Section 902 disclosures, especially once they reach a stable level. This is because the mandate to use BWCs was not in full effect until July 1, 2023 (those using BWCs prior to 2023 were subject to the disclosure requirements starting July 1, 2022), and it often takes time for the public to increase utilization of this type of new statutory provision. C.R.S. § 24-31-902(3). The qualitative data received from local governments supports this assumption as many reported BWC requests have increased significantly each year with one medium front range city stating BWC requests for 2025 have increased by 113% over 2024 requests for the same period.

Moreover, numerous agencies have had to, or plan to, hire additional personnel to comply with the statute. One medium front range municipality reported already employing two digital media technicians at $25.66 to $35.53 per hour, excluding benefits and other compensation, and the recent need to create another position. Those without dedicated personnel to respond to Section 902 requests and

which are unable to create new positions, particularly smaller agencies, have had to disregard other government services and increase overtime pay to meet their statutory obligations. These other costs are significant and ongoing and are not accounted for in the chart above.

It is imperative to note upholding the District Court's decision prohibiting fees for Section 902 requests will also substantially increase the frequency and scale of requests for BWC footage. One large front range city reported that if every quote they sent out for BWC footage in 2024 was free, they would have had to conduct 6,125 hours of work to provide those BWC records but, because of the fees, requesters ultimately only paid for 800 hours of work based on some requesters deciding not to continue their request due to the fees. Another large front range municipality described how they could not keep up with BWC record requests when they did not charge fees but were able to do so only after implementing fees.

Section 902's misconduct complaint prerequisite provides no assistance in addressing these issues and actually creates a loophole to the CCJRA. Almost anyone can make a complaint (peace officer, civilian, newspaper, or nonprofit organization) even without having any connection to the underlying event. Section 902 provides no standards for determining whether anyone at all can initiate a complaint and therefore trigger Section 902. To get around CCJRA fees, under the

District Court's interpretation, anyone could simply make a complaint before requesting BWC footage under Section 902. Following the District Court ruling, one largest category front range county has already received a request for BWC footage encompassing every complaint of misconduct against a certain officer without any facts and with the requestor expressly disclaiming the county's ability to charge fees for production. Another largest category front range county has also recently received a similar broad request. Charging fees closes this loophole and creates an even playing field for all records requests.[4] These examples highlight the floodgates that will open without the safeguard of fees. Ultimately, fees help balance the goals of transparency with responsibly managing public funds.

B. C.R.S. § 24-31-902(2)(a) should be interpreted harmoniously with the CCJRA and the unfunded mandate statute to allow fees.

Amici adopt Boulder's argument concerning the interpretation of Section 902 and the CCJRA and supplement the City's argument to further explain how the District Court's interpretation violated Colorado's canons of statutory interpretation by improperly adding language to Section 902 to expand its scope, nullifying other statutes on the same subject, and adopting an interpretation violative of other

[4] These concerns extend beyond Section 902 requests. Upholding a prohibition on fees for this category of record requests opens the door to the General Assembly legislating all kinds of categories of records they wish to exempt from local fees.

statutes. Section 902 should be interpreted in harmony with the CCJRA and Colorado's unfunded mandate statute, C.R.S. § 29-1-304.5(1).

As ably argued by Boulder, there is no conflict between the relevant provisions of LEIA and CCJRA. The statutes can and should be read together with a law enforcement agency fulfilling the blurring and release requirements of BWC footage under LEIA, subject to the payment of appropriate and necessary fees under CCJRA. The long-standing doctrine of *in pari materia* provides "[i]n the absence of any clear intent to the contrary," statutes on the same subject matter "should be construed harmoniously, to avoid absurdities." *Martinez v. People*, 69 P.3d 1029, 1033 (Colo. 2003). Here, both Section 902 and CCJRA address the same subject matter – release of BWC recordings in response to public requests – and can both be given effect. *See M.S. v. People*, 812 P.2d 632, 637 (Colo. 1991).

LEIA's silence about fees for this specific disclosure process is critically important. When the legislature intended to ensure other existing statutes did not affect LEIA, it affirmatively carved out those other statutes, expressly stating, for example, the statutory immunities and limitations including the Colorado Governmental Immunity Act do not apply to civil LEIA claims. C.R.S. § 13-21-131(2)(a). The LEIA also expressly excludes the application of qualified immunity. C.R.S. § 13-21-131(2)(b). The legislature never similarly declared any prohibition

on charging fees for BWC recordings. Silence in one statute does not nullify another as the legislature is presumed to intend statutes on the same subject matter "are consistent with and apply to each other without having to incorporate each by express reference in the other statutory provisions." *Martinez*, 69 P.3d at 1033 (citing 2B Norman J. Singer*, Sutherland Statutory Construction*, § 51.02, at 188 (6th ed. 2000)).

Construing Section 902's silence regarding fees to prohibit fees also is inconsistent with Colorado's unfunded mandate statute. That statute prohibits imposing new mandates on local governments "unless the state provides additional moneys to reimburse such local government for the costs of such new state mandate." C.R.S. § 29-1-304.5(1). If the state does not provide money for reimbursement, the mandate becomes optional. *Id.* The Taxpayer's Bill of Rights (TABOR) furthers the defense against state mandates by authorizing local districts to reduce or end subsidizing programs delegated to them by the legislature. Colo. Const. art. X, § 20(9).

The District Court's construction of Section 902's silence as overriding the CCJRA's authorization to collect fees without providing funding to local governments means Section 902 violates the unfunded mandate statute. This interpretation does not comport with the harmonious-reading canon of statutory

interpretation under *Martinez*, 69 P.3d at 1033. Additionally, "the canon of statutory construction that specific statutory language will prevail over more general language" is "only applicable when 'a conflict between two statutory provisions is *irreconcilable*,'" which it is not in this case. *Young v. Brighton School Dist. 27J*, 325 P.3d 571, 577 (Colo. 2014). The unfunded mandate statute is addressed in more detail below.

Given the significant time and resources to comply with Section 902 due to the time to retrieve, review, and blur BWC footage, particularly for serious incidents involving multiple officers, prohibiting law enforcement agencies from charging fees for those requests would be detrimental. This is true based on the current fiscal impacts agencies currently experience but will be exacerbated as public knowledge increases if the public can obtain BWC footage for free simply by complaining of alleged officer misconduct simply to avoid CCJRA fees. Instead, *Amici* respectfully request this Court interpret Section 902 in harmony with the CCJRA and the unfunded mandate statute.

II. Limited, one-time grant funding and an interpretation requiring production of BWC recordings under C.R.S. § 24-31-902(2)(a) without allowing fees constitutes an unlawful unfunded mandate.

The District Court erred in holding Section 902 is not an unfunded mandate under C.R.S. § 29-1-304.5(1) based on two incorrect and misconceived notions: (1)

because the legislature provided some funding in relation to BWCs this is simply an "underfunded mandate" and not an unfunded mandate; and (2) C.R.S. § 29-1-304.5(1) cannot apply to Section 902 because the legislature intended Section 902 be mandatory and a contrary interpretation would yield an absurd result. CF, p. 113-14. *Amici* submit the District Court's interpretation on both points yields an absurd result as the interpretation effectively nullifies C.R.S. § 29-1-304.5(1). Instead, the alternative interpretation proposed by Boulder interprets Section 902 and C.R.S. § 29-1-304.5(1) to give effect to both statutes. *Amici* support Boulder's arguments on this issue and provide some additional considerations.

The District Court's view that partial funding for BWCs in some form reads an unwritten loophole into the unfunded mandate statute eviscerates the statute's intent. The District Court relied on a single 2021 $2 million appropriation to exempt Section 902 as an "underfunded mandate," not an unfunded mandate.[5] 2021 Colo. Sess. Laws 3054, at 3069, 3075. SB20-217 failed to allocate any money to local governments for any purpose related to BWCs. This concept of "underfunded," which the District Court added to the statute, guts the unfunded mandate statute and

[5] Although not mentioned by the District Court, the legislature appropriated an additional $4 million for the BWC grant program for the 2021-2022 fiscal year as part of Senate Bill 21-205, which is the 2021-2022 Long Appropriations Bill. 2021 Colo. Sess. Laws 3781, 4030, 4039. This additional funding does not change *Amici's* analysis.

creates an absurdity where the legislature could silently ignore the law simply by appropriating insufficient funds in the general area of the mandate.

The 2021 appropriation had nothing whatsoever to do with disclosing BWC recordings. The Colorado Division of Criminal Justice ("DCJ"), the agency responsible for managing the BWC grant program, clarified the limited, one-time funding was "to help state and local law enforcement agencies pay for body-worn cameras and related equipment, storage, data management programs, warranty, and training," *not* personnel costs. *Body-worn Cameras Grant Program*, COLORADO DIVISION OF CRIMINAL JUSTICE, https://dcj.colorado.gov/body-worn-cameras-grant-program (last visited March 19, 2025). Additionally, DCJ acknowledged the grant funding was only "to help agencies comply" and was "not intended to be the sole source of funding." *Id.* Under state fiscal requirements, all law enforcement agencies were required to spend the funds by June 30, 2022. *Id.*

Agencies reportedly requested grant funding for 2,885 BWCs, which were fully funded at $1,100 per BWC for a total of $3,173,500. *Body Worn Camera Funding*, COLORADO DIVISION OF CRIMINAL JUSTICE, https://dcj.colorado.gov/body-worn-camera-funding (last visited March 19, 2025). "The remaining $2,826,500 was divided equally among the law enforcement agencies that requested funding to purchase **body-worn camera accessories**." *Id.* As DCJ disclosed, all state grant

funding was used solely to purchase BWCs and BWC accessories, not for ongoing disclosure of BWC costs.

From these one-time grants, not all agencies received funding and even those that did received a very limited amount to assist with purchasing BWCs and accessories. DCJ reported on the grant funding by agency and amount. *See id.* Notably, Boulder received no state BWC grant funding. Five of the ten most populated municipalities (Denver, Aurora, Thornton, Westminster, Pueblo) received no grant funding either; of the remaining five who received some funding, only two received more than $80,000. *Id.*

If this case involved the acquisition or implementation of BWCs, perhaps the "underfunded mandate" argument would be colorable. But this case is about Section 902's disclosure mandates, which were not underfunded but were completely unfunded both at the time of Section 902's enactment and when the statute was modified in 2021. State funding only went to BWC equipment and provided no funding to cover the costs associated with the release of BWC footage pursuant to Section 902. The ongoing statutory mandate to retrieve, review, potentially blur, and release BWC recordings under Section 902 is clearly a new state mandate on local governments without any reimbursement provided by the state.

If this Court were to accept that the state's provision of limited one-time grant funding for a tangentially-related portion of the new law does not implicate the unfunded mandate statute, C.R.S. § 29-1-304.5(1) will be nothing more than hollow words and an empty promise that the General Assembly would not force state policy mandates on local governments to be paid for by local government taxpayers. Under the District Court's logic, the state could adopt 100 permanent mandates applicable to all 273 municipalities and 64 counties while providing funding for only one mandate in an amount that could fund only one local government. C.R.S. § 29-1-304.5(1) would not be implicated even though local governments would be responsible for adopting costly new obligations funded entirely through local funds, either by asking voter approval for new taxes, charging fees (if allowed), or diverting funds from other public needs. In another, and perhaps more poignant example, the state could pass a law with a new mandate on local governments, appropriate one dollar ($1.00) of funding for local governments, and it would be excused as an "underfunded mandate" under the District Court's approach. These examples demonstrate the fundamental flaw with the District Court's reasoning and conclusion.

The District Court's reasoning also is inconsistent with both the language and intent of C.R.S. § 29-1-304.5(1). The District Court inappropriately relied on words

not even found in the statute. *See People v. Rojas*, 450 P.3d 719, 721 (Colo. 2019) (stating courts "may not add or subtract words from the statute"). The plain language of the unfunded mandate statute says that the state must "reimburse . . . local government[s] for the costs of such new state mandate or such increased level of service." C.R.S. § 29-1-304.5(1). This is intended to provide a legislative incentive to consider the local government costs for new state mandates and then make a policy choice about whether to reimburse local governments to maintain the mandate or decline to do so in which case the mandate becomes optional and discretionary for the local government. The statute does not provide for partial reimbursement or partial defraying of costs by the state. The District Court made this up out of whole cloth.

Moreover, nowhere in C.R.S. § 29-1-304.5 is the term "unfunded state mandate" even utilized. Although "unfunded state mandate" has become the informal way of referencing this statute, the plain language of C.R.S. § 29-1-304.5(1) suggests both unfunded and underfunded mandates implicate the law. Without this protection, the legislature could place endless mandates on local government without regard to their potentially devastating fiscal impact. Much like the state must be cognizant of the fiscal impact legislation has on the state budget, C.R.S. § 29-1-304.5 requires legislative consideration of the fiscal impact of state

legislation on limited local government budgets, particularly considering the impact of TABOR on local governments.

The risks associated with judicially overturning the unfunded mandate statute go well beyond separation of powers and obvious fiscal concerns. C.R.S. § 29-1-304.5 exists as an important check on the legislature's ability to provide funding preferences to special interests without alerting the local government's constituents to the fact these preferences are being financed through local taxes. Put differently, the unfunded mandate statute exists to protect local government constituents from hidden taxation. *See* Edward A. Zelinsky, *Unfunded Mandates, Hidden Taxation, and the Tenth Amendment: On Public Choice, Public Interest, and Public Services*, 46 Vand. L. Rev. 1355, 1356 (1993).

While one could argue any interpretation of Section 902 and C.R.S. § 29-1-304.5(1) would defeat the legislature's intent, *Amici's* interpretation provides the most harmonious reading of the two statutes without rendering either entirely meaningless. *See Stevinson Imports, Inc. v. City & Cnty. of Denver*, 143 P.3d 1099, 1103 (Colo. App. 2006) ("When a court construes a statute, it should read and consider the statue as a whole and interpret it in a manner giving consistent, harmonious and sensible effect to all its parts.") (citations omitted). It is well established courts "should not interpret a statute in ways that defeat the legislature's

obvious intent or render part of the statute either meaningless or absurd." *Id.* (citing *Reg'l Transp. Dist. v. Lopez*, 916 P.2d 1187, 1192 (Colo. 1996)).

To avoid nullifying C.R.S. § 29-1-304.5(1), *Amici* urge this Court to reject the "underfunded mandate" concept manufactured by the District Court and conclude the limited, one-time grant funding for BWC equipment does not satisfy the state's obligation to fund local governments for the costs of Section 902's mandate to review, blur, and release BWC footage if Section 902 prohibits charging fees. In the absence of state funding sufficient to reimburse law enforcement agencies for this new statutory mandate, the requirements of Section 902 must be deemed optional pursuant to C.R.S. § 29-1-304.5(1). This does not preclude local governments from alleviating the burden through charging fees or the state from making a different policy choice at some point in the future to fund Section 902's mandate if the state chooses to require local governments to provide BWC footage free of charge.

CONCLUSION

The review, blurring, and release of BWC footage under Section 902 of LEIA is often an extremely expensive process for law enforcement agencies. Creating an unwritten limitation to charging reasonable CCJRA fees to help cover some of the increased costs associated with this new state mandate will have a significant detrimental fiscal impact on local governments statewide. Accordingly, CML, CCI,

and CSOC respectfully request this Court reject the District Court's interpretation of C.R.S. § 29-1-304.5(1) and hold either Section 902 of LEIA is an unfunded state mandate and therefore is optional on the part of local governments or Section 902 does not prohibit the charging of CCJRA fees to cover the costs of the unfunded mandate.

Dated this April 23, 2025.

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CERTIFICATE OF SERVICE

I hereby certify that on this April 23, 2025, I filed the foregoing **BRIEF OF *AMICI CURIAE* COLORADO MUNICIPAL LEAGUE, COLORADO COUNTIES, INC., AND COUNTY SHERIFFS OF COLORADO IN SUPPORT OF APPELLANT CITY OF BOULDER, COLORADO** via Colorado Courts E-Filing, which will send a true and correct copy to the following:

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