MIRZA M. BULUR, in his official capacity as the Acting Public Safety Director for the City of Paterson and Appropriate Authority, City of Paterson Police Department, and ENGELBERT RIBEIRO, in his official capacity as the Police Chief of the City of Paterson Police Department,

Plaintiffs-Respondents,

v.

THE NEW JERSEY OFFICE OF THE ATTORNEY GENERAL, MATTHEW J. PLATKIN in his official capacity as Attorney General of the State of New Jersey, JOHN DOES 1-10, MARY DOES 1-10, and XYZ CORPORATIONS 1-10,

Defendants-Petitioners.

ANDRE SAYEGH, in his official capacity as the Mayor of the City of Paterson, and ENGELBERT RIBEIRO, in his official capacity as the Police Chief of the City of Paterson Police Department,

Plaintiffs-Respondents,

v.

ISA M. ABBASSI, in his official capacity as Officer-in-Charge of the Paterson Police Department, THE NEW JERSEY OFFICE OF THE ATTORNEY GENERAL, and MATTHEW J. PLATKIN, in his official capacity as Attorney General of the State of New Jersey,

Defendants-Petitioners.

SUPREME COURT OF NEW JERSEY

Docket No. 090126

CIVIL ACTION

On Petition for Certification of the Final Judgment of the Superior Court of New Jersey, Appellate Division.

Docket No. A-0629-23
A-1209-23

Entered: December 18, 2024.

Sat Below:
Hon. Morris G. Smith, J.A.D.
Hon. Mark K. Chase, J.A.D.
Hon. Christine M. Vanek, J.A.D.

COMBINED REPLY IN SUPPORT OF CERTIFICATION AND RESPONSE TO AMICUS BRIEFS

Submitted: January 14, 2025

MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY

R.J. Hughes Justice Complex
25 Market Street, P.O. Box 080
Trenton, New Jersey 08625
Attorney for Defendants-Petitioners
(862) 350-5800
Jeremy.Feigenbaum@njoag.gov

Jeremy M. Feigenbaum (No. 117762014)
Solicitor General

Michael L. Zuckerman (No. 427282022)
Deputy Solicitor General

Of Counsel and on the Brief

Leo R. Boerstoel (No. 413222022)
Stephanie Mignogna (No. 40272023)
Deputy Attorneys General

On the Brief

TABLE OF CONTENTS

Page(s)

TABLE OF AUTHORITIES

Page(s)

Cases

Statutes

Other Authorities

TABLE OF CITATIONS

ACLUb = Amicus brief of ACLU of N.J., et al.

AsGb = Amicus brief of Former N.J. Attorneys General

ILGAb = Amicus brief of N.J. Institute of Local Government Attorneys

STb = Amicus brief of Chief J. Scott Thomson, et al.

NJLMb = Amicus brief of N.J. League of Municipalities

NJSACOPb = Amicus brief of N.J. State Association of Chiefs of Police

PBAb = Amicus brief of N.J. State Policemen's Benevolent Association

Ob = Plaintiffs' combined brief in opposition to certification and a stay

Pcb = Defendants' combined brief in support of petition for certification and motion for a stay

Pca = Appendix to Defendants' combined brief in support of certification and motion for a stay[1]

Ra = Appendix to State Defendants' brief in the Appellate Division

Pa = Appendix to Plaintiffs' brief in the Appellate Division

[1] This appendix was inadvertently denominated "Sca" in the Table of Citations in Defendants-Petitioners' combined opening brief of December 31, 2024. The pages of the appendix itself are stamped "Pca."

PRELIMINARY STATEMENT

This Court should grant certification to determine whether the Attorney General can ever supersede a municipal law enforcement agency. The resolution of this case is of exceptional public importance—supersession is a critical tool when a law enforcement agency is in crisis, and the decision below is the first in state history to question, let alone eliminate, that power. Nor is its importance limited to this appeal: supersession incentivizes local law enforcement agencies across the State to comply with binding law enforcement policies, and it is a tool on which both the Attorney General and the county prosecutors have relied to address prior and ongoing crises in other agencies. The resolution of this dispute implicates the interests of justice as well, as the Paterson Police Department (PPD) was in crisis when the Attorney General took action, and the State's leadership team at PPD has made significant progress—progress that is ongoing to this day and should not be halted midstream. The panel contravened a series of state statutes, case law, and practice when it overturned the supersession, and this Court should step in to review its published decision and ultimately reverse.

ARGUMENT

THIS COURT SHOULD GRANT REVIEW AND ULTIMATELY REVERSE.

Plaintiffs and their amici fail to rehabilitate the decision below, which is contrary to New Jersey statutes, cases, and practice. And they fail to effectively

rebut the certification criteria either: the legal questions are of surpassing public importance, and their resolution impacts the interests of justice.

A. Plaintiffs And Their Amici Fail To Justify The Decision Below.

The panel erred in holding that the Attorney General categorically lacks authority to supersede a municipal law enforcement agency. That decision was contrary to multiple provisions of the Criminal Justice Act of 1970 (CJA); L. 2023, c. 94 (Chapter 94); the Internal Affairs Policy & Procedures (IAPP); and significant historical practice. Plaintiffs and their amici fail to overcome these overlapping sources of support, and their counterarguments based on Section 107, home rule, and a smorgasbord of other theories fall short.

Plaintiffs and their amici have little to say regarding the CJA itself. For fifty years, our Legislature has chosen "to provide for the general supervision of criminal justice by the Attorney General as chief law enforcement officer of the State," N.J.S.A. 52:17B-98 (Section 98); to impose on "the police officers of the several counties and municipalities" the "duty" to "cooperate with and aid the Attorney General and the several county prosecutors," N.J.S.A. 52:17B-112(b) (Section 112); and to call on courts to give a liberal construction to these and to "all" provisions of the CJA to achieve these goals, N.J.S.A. 52:17B-98. See Pcb11-14, 18-21; see also AsGb5-18 (reflecting decades-long understanding from Attorneys General that CJA sets forth unique statewide law enforcement

chain of command, giving Attorney General oversight at top). Plaintiffs make almost no mention of these provisions and never apply or analyze them, just as the panel failed to do. See Ob8-9 (arguing panel must have considered CJA provisions despite failing to cite them, without explaining how to reconcile decision below with those provisions).[2] Plaintiffs assert that "supervision" and "supersession" are "distinct," Ob8, without addressing that supersession is a tool to effectuate that supervisory power—much like directives and the IAPP are.

Plaintiffs and their amici get no further in attempting to resist the import of Chapter 94. Plaintiffs do not (and cannot) deny that the Legislature enacted Chapter 94 after hearing testimony about this precise supersession, wrote terms that applied to this supersession, and made Chapter 94 retroactive to the month this supersession began. See Pcb7-8, 15-16. Plaintiffs likewise do not deny that this Court traditionally seeks to harmonize later statutes with earlier ones on the same topic, or that an earlier law should not be read to make a subsequent one "a nullity." Pcb20-21 (citing Saint Peter's Univ. Hosp. v. Lacy, 185 N.J. 1, 15

[2] Three of plaintiffs' amici similarly overlook the CJA's provisions entirely, see ILGAb; NJSACOPb, or give it glancing treatment, NJLMb8-9, while the fourth agrees that the Attorney General has "admittedly broad discretion" as chief law enforcement officer, PBAb11-12, without explaining what tools the Attorney General has pursuant to that discretion and why supersession is not logically one of them. PBA instead invokes Morss v. Forbes, 24 N.J. 341 (1957), to support its narrow approach to the Attorney General's authority, PBAb11-13, but a 1957 decision does not cabin the powers granted by the CJA of 1970 and the myriad other subsequent statutes, reflected in decades of cases and practice alike.

(2005)); Pcb14-17. And Plaintiffs do not deny that executive-branch authority is at its height if accompanied by "express or implied" legislative ratification. Pcb16 (quoting Worthington v. Fauver, 88 N.J. 183, 208 (1982)). The failure to deny any of those points should have been dispositive, as Chapter 94—as well as the legislative appropriations to OAG for use at the PPD—only makes sense and has practical force if the Legislature accepted the PPD supersession.[3]

Plaintiffs' and amicus NJLM's responses fall short. They claim that this statute does still have practical force because there are some instances in which the Attorney General may still have power to supersede at the municipal level, and thus that Chapter 94 might not be a "nullity"—namely, where supersession is (1) based on local "consent"; (2) "potentially" effectuated by "working with the relevant County Prosecutor's Officer"; or (3) exclusively conducted as to the agency's IA function. Ob10; see NJLMb12 (making IA argument). As an initial matter, however, Plaintiffs have no answer to the Legislature's choice to make Chapter 94 retroactive to the month this supersession began—revealing the Legislature believed that its law extended beyond supersessions subject to "consent," county-led supersessions, or supersessions exclusively as to an

[3] Nor is this internally "contradictory." Ob11. The State has consistently and long understood that the Attorney General can supersede local law enforcement agencies even before Chapter 94. Chapter 94 represents the Legislature's confirmation that it understands preexisting state law the same way.

agency's IA function, none of which apply to this supersession. See c. 94 § 2. In any event, none of these three limits coheres with legislative intent.

First, the Legislature enacted Chapter 94 after hearing testimony about a supersession that lacked consent, see infra at 8-9 (noting that other supersessions have not involved consent either), and imposing this consent requirement on Chapter 94 would be perverse: departments most in need of supersession are likely the ones where oversight is least welcome, because they entail scrutiny of the mismanagement that led to the crisis. See STb10-11 (noting efforts to stymie state oversight in Camden, including by a mayor later "indicted on corruption-related charges" stemming from the same period); cf. Lippman v. Ethicon, Inc., 222 N.J. 362, 381 (2015) (declining to "engraft language" that runs counter to "important social goals" of "remedial legislation").[4] Second, Plaintiffs cannot claim that Chapter 94 has force as to supersessions involving a county prosecutor when Plaintiffs refuse to say that such supersessions would be lawful. See Ob10 (arguing panel never "implied that the county prosecutor has a statutory power of supersession"). Finally, Chapter 94 cannot apply to IA

[4] A consent requirement would also be inadministrable. Local governments are not monoliths, and various leaders—mayors, council members, police chiefs, or public safety directors—may disagree. Further, an Attorney General can hardly effect meaningful and painstaking reform if local leaders could eject the State by revoking consent. See, e.g., STb14-20. That is hardly supervision at all, let alone a reasonable approach to ascribe to the Legislature.

supersessions alone for two reasons: it does not include such a limit, and the Attorney General does not hire an OIC when superseding IA alone. That Plaintiffs cannot establish any real-world meaning for Chapter 94 is telling.

Plaintiffs and their amici spend greater time disputing whether the IAPP could give the Attorney General any further authority to supersede a department, Ob11-12; ILGAb9-10; NJLMb9-11; NJSACOPb5-7, 9, but their arguments fall short again. Plaintiffs and their amici concede that the IAPP is binding on local law enforcement agencies, N.J.S.A. 40A:14-181, and that the Attorney General may take over those agencies' IA functions in full if they fail to comply with the IAPP's terms. But Plaintiffs nowhere explain why the Attorney General cannot, by the same logic, directly supervise an agency that violates not only the IAPP but any slew of other law enforcement directives, which equally have the force of law. Paff v. Ocean Cty. Pros. Office, 235 N.J. 1, 20-21 (2018). And it is even less clear why the Attorney General would be barred from going beyond the IA function where that more limited supersession did not suffice to solve the internal affairs problem—as occurred here. See Pcb4-6 (noting Attorney General first directed Passaic CPO to supersede the PPD IA function in 2021, before finding in 2023 that agency-wide supersession remained necessary).[5]

[5] PBA does not quarrel directly with the IAPP, but erroneously theorizes that an AG supersession might interfere with county prosecutors' role in the IA process, given that they are an alternative channel for filing IA complaints. PBAb20-21

Plaintiffs and their amici also fail to undercut the extraordinary historical practice identified below. See Ob14; ILGAb11; PBAb15-16. Though Plaintiffs resist that this historical evidence is instructive, dismissing it as "administrative interpretation," Ob14, that undersells its force considerably: the record contains over two dozen supersessions, by county and state officials alike, unbroken for decades, which were never legislatively overturned but rather formed the backdrop against which Chapter 94 was enacted. See Macedo v. Dello Russo, 178 N.J. 340, 346 (2004); Cedar Cove, Inc. v. Stanzione, 122 N.J. 202, 212 (1991). Nor do Plaintiffs and their amici get further attacking the historical evidence itself: while they correctly note that eight previous supersessions involved decisions by the Attorney General to supersede county prosecutors, the lopsided majority of the 26 agency-wide supersessions involved police departments—17 supersessions of local agencies by county prosecutors, as well as the Camden supersession.

Plaintiffs and their amici cannot distinguish the 17 county-prosecutor-led supersessions. Any attempts to distinguish county-led supersessions from state-led supersessions are contrary to blackletter law: county prosecutors have no

---

(citing IAPP § 10.0.2). This proves far too much: agencies are often required to oversee their own operations and internal affairs, as county prosecutors do with respect to their offices. PBA offers no basis to question that the Attorney General and county prosecutors are able to set up independent channels for overseeing an agency and processing IA complaints during a supersession.

greater power than the Attorney General within their counties, N.J.S.A. 2A:158-5; Pcb25-26, and Plaintiffs and their amici do not cite any laws on which county prosecutors could rely to supersede that the Attorney General could not. For another, there is no basis to claim, as Plaintiffs and their amici suggest, that these county-led supersessions involved "consent." Ob16-17. Even beyond the administrability problems such a rule would generate, supra at 5 n.4, the position is irreconcilable with the record, which includes supersessions that were not—or could not plausibly have been—welcomed. E.g., Pcb27-28 (discussing Clark); Ra44 (Guttenberg PD, where concerns extended to civilian leaders); NJSACOPb15 (acknowledging Clark); see also ACLUb9 & n.11 (emphasizing that other supersessions may not have been challenged specifically because local officials understood them to be valid).[6] Instead, the natural reading of the 17 supersessions is the right one: consistent with our law enforcement chain of command, chief law enforcement officers may intervene to address local law enforcement agencies in crisis, just as the Attorney General did here.

[6] Perhaps recognizing the "consent" distinction is unavailing, PBA alone seeks to distinguish these supersessions by claiming that they involved "incapacitated" police chiefs. See PBAb15-16. PBA's use of "incapacitated," however, appears to ascribe the label to any case involving allegations of wrongdoing or scandal—in which case it is unclear why years of misconduct and mismanagement at PPD would not fit with this tradition.

Plaintiffs and their amici especially come up empty when addressing the supersession of the Camden police department. As amici explain, that history forecloses any claim (1) that the Attorney General somehow has less authority to supersede than the county prosecutors or (2) that any chief law enforcement officer's power to supersede turns on consent. See, e.g., AsGb16 (clarifying that "City officials in Camden did not consent" when then-AG Verniero directed then-Prosecutor Lee Solomon to serve as monitor); STb14 n.19 (quoting former AG Milgram recalling it was a "fight to reform" and that "local political leaders were not in favor of the work that we were trying to do"). Indeed, independence was key to the supersession's success: "AG Milgram and Chief Thomson, with help from many others, were able to disrupt the status quo, precisely because they could not be fired by local officials, who were decidedly unhappy with the steps they were taking." STb16-17. Far from supporting a consent requirement, the Camden supersession reflects the unbroken understanding that the Attorney General, as chief law enforcement officer, can step in at moments like this. See Lacy, 185 N.J. at 15 (discussing role of deference to agency readings).[7]

[7] Plaintiffs' brief, meanwhile, misunderstands Camden's relevance by focusing on putative municipal consent to form a regional police department in 2011, see Ob21 & n.4—which ignores the lack of municipal consent earlier in a saga of direct supervision that began in earnest 1998, see AsGb16. As for PBA, it makes the opposite error, focusing only on the early years in which State supervision ran through then-Prosecutor Solomon. See PBAb15.

Not only do Plaintiffs and their amici fail to overcome the collective force of the CJA, N.J.S.A. 40A:14-181, Chapter 94 and legislative appropriations, and extraordinary historical practice, but their counterarguments—based on Section 107, home rule, and a demand for additional process—are unavailing. Like the panel, Plaintiffs and their amici focus almost exclusively on N.J.S.A. 52:17B-107(a)(1) (Section 107), but largely fail to grapple with the defects the State laid out in its opening brief to this Court. Plaintiffs seize on Section 107(a)(1)(a) to limit supersessions to county prosecutors specifically, Ob12-13, but they cannot deny that subsections (a)(1)(b)-(c) authorize Attorney General involvement in "any" investigation or proceeding beyond the county prosecutor's office as well, nor do they explain why an authority that extends to "any" investigation would not naturally include the ability to oversee "all" at once when necessary—the nature of a supersession. See Pcb24-25. And that reading more appropriately harmonizes Section 107 with Section 112 and N.J.S.A. 2A:158-5—recognizing not only that county prosecutors can supersede local police departments within their counties, but that the Attorney General can supersede both, consistent with the role that the CJA assigns him at the top of the chain of command.

Assertions of home rule, on which the panel did not rely, Pca39, are similarly wanting. Contra Ob18-19; ILGAb6; NJLMb13-17; PBAb17-18. As noted, municipal discretion is subject to the "omnipresent brake" of state law.

Fraternal Order of Police, Newark Lodge 12 v. City of Newark, 244 N.J. 75, 93 (2020) (FOP); see Pcb37-38. The Attorney General does not dispute that N.J.S.A. 40A:14-118 (Section 118) allows municipalities to establish their own law enforcement agencies, but that in no way removes their departments from the CJA's chain of command; instead, Section 118 requires the municipalities to comply "with general law" in exercising that authority, which simply incorporates the underlying legal question here. See also N.J. Const. Art. IV, § VII, ¶ 11; N.J.S.A. 40:69A-30 (same). Just as local police departments must thus comply with directives of the Attorney General notwithstanding home rule, so too must these departments comply with orders of supersession.

By a similar token, decisions like Quick Check Food Stores v. Springfield Twp., 83 N.J. 438 (1980)—in which a private party challenged a municipality's authority to regulate, id. at 447—do not help Plaintiffs, see Ob26, 32. Instead, they stand for the proposition that a municipality has implicit authority to act, so long as the State has not displaced that authority. See Quick Check, 83 N.J. at 448; see also Petition of Hackensack Water Co., 196 N.J. Super. 162, 170-71 (App. Div. 1984) (cited by NLMb16 n.4) (rejecting argument that municipality could be "vested with the power to frustrate" a particular "State project"). Here, the CJA, Chapter 94, and the IAPP—bolstered by decades of practice—confirm that the grant of local control of law enforcement is subject to state supervision.

Amici get no further in arguing that this supersession was invalid absent additional pre-supersession procedure, for four reasons. See, e.g., NJSACOPb14 (demanding additional rules regarding use of supersession power to "provide the regulated community with … procedural due process"); id. at 9-16; see also ILGA13-15; NJLMb12-13. First, the issue is being raised only by amici, and thus is not properly presented. See In re Request to Modify Prison Sentences, 242 N.J. 357, 396 (2020). Second, since no one can dispute (and no amici does) that the PPD would have met any potential standards for supersession, see Pa227 (letter outlining specific bases Attorney General identified regarding Paterson), this is an especially poor case in which to consider amici's objections.

But even if this Court did consider the issue, two other reasons would still foreclose amici's arguments. Third, New Jersey law requires no added process for supersessions, just as state law requires no such process for law enforcement directives. Because the "regulated community," NJSACOPb14, that is subject to directives and supersession alike are governmental entities rather than private parties, they not private "persons" who can raise due process claims against the State, see Camden Cnty. v. Pennsauken Sewerage Auth., 15 N.J. 456, 470 (1954), and their employees are impacted in their official capacities alone, see Woodland Private Study Grp. v. DEP, 109 N.J. 62, 74-75 (1987) (extra pre-

decision process not needed absent any "substantial impact on … the regulated public"). Instead, like directives, an order to supersede is subject to arbitrary-and-capricious challenge once issued. Cf. Directives, 246 N.J. at 492. That is why, fourth, despite the many instances of supersession in our State, no Attorney General or county prosecutor has ever seen fit to adopt comprehensive pre-supersession regulatory standards—just as no Attorney General has adopted comprehensive standards for whether or when to issue a directive. Although the State has always been clear about the types of scenarios that justify supersession—like a crisis in public safety, a pattern of serious misconduct or mismanagement, a severe breakdown in public trust, or substantial fiscal challenges, e.g., Pa21; Pa227-28—the problems that naturally arise across law enforcement agencies are so varied that any purportedly binding standards would inevitably be either underinclusive or unhelpful.[8]

[8] Arguments that the Attorney General was required to go through formal APA rulemaking are even further afield. One amicus tries to distinguish Directives by arguing that it involved only "internal operations," ILGAb14, but only in the same sense that this supersession does: Directive 2020-5 plainly covered "local law enforcement," 246 N.J. at 485, yet notice-and-comment was not required, see id. at 491. And any invocation of N.J.S.A. 40A:14-118.2, see NJLMb14-15, fails most directly because that statute is part of L. 2014, c. 54—an act regarding dashcams in police vehicles—and thus concerns effectuating N.J.S.A. 40A:14-118.1, not Section 118. In any event, supersessions are not undertaken to implement Section 118, but rather as an exercise of the Attorney General's supervisory authority over law enforcement in New Jersey.

Finally, supersession does not threaten any parade of horribles—which is why none of Plaintiffs' or amici's concerns have come to pass despite the use of supersession in our State for decades. Plaintiffs and their amici raise strawman arguments about boundless discretion, see, e.g., Ob26 (fearing "unfettered, kinglike authority"); NJLM9 (fearing an authority to supersede "any time it wishes to do so, for any reason, and for whatever length of time it wishes to remain in charge"); PBAb12 (opposing "limitless authority to supersede and direct the operations of hundreds of subsidiary law enforcement"), but the State has repeatedly acknowledged that supersession is subject to arbitrary-and-capricious review—the bulwark against unsupported or invidious supersessions. See Pcb38; accord ACLUb10-11. That no party or amicus has disputed that the PPD was gravely in need of intervention for the reasons the Attorney General provided in March 2023 underscores that this supersession falls well within those appropriate guardrails.

B. In Erroneously Eliminating Supersession Power, The Decision Below Satisfies The Traditional Certification Criteria.

Far from giving the certification factors "scant" attention, Ob8, this appeal implicates questions of broad public importance and the interests of justice.

Plaintiffs cannot effectively deny that the existence—or lack thereof—of Attorney General authority to directly supervise troubled local law enforcement agencies is "a question of general public importance which has not been but

should be settled by" this Court. R. 2:12-4; see also NJLMb4 ("It would be hard to argue that this appeal does not raise an issue of general public importance."). Plaintiffs and their amici primarily argue that this petition does not implicate an issue of public importance because the Appellate Division correctly decided this issue of first impression. See, e.g., Ob7-20; ILGAb4-5; NJLMb4; NJSACOPb1; PBAb9. While the State of course disagrees, see supra at 1-11, the opposition also misses the point: the question for certification is not which party ultimately will prevail but whether their dispute involves "an unsettled question of general public importance," In re Cont. for Route 280, Section 7U Exit Project, 89 N.J. 1, 1 (1982), rather than a mere routine application of settled law "to an intensely-factual situation," Bandel v. Friedrich, 122 N.J. 235, 237 (1991). There is nothing routine about this decision, the first to declare that the Attorney General may never supersede a local law enforcement agency.

Indeed, Plaintiffs and their amici cannot seriously dispute that resolution of this case goes beyond Paterson. Initially, they admit that this case will resolve the scope of the Attorney General's authority to supersede local law enforcement agencies. But they also fail to seriously refute that it will have vast implications for county prosecutors' ability to supersede police departments too. As noted, the panel sought to distinguish county-led supersessions of police departments, Pca36 n.20, but its reasoning—that such "powers of supersession are statutory,"

Pca36—has no support, see Pcb25-27; N.J.S.A. 2A:158-5, and neither Plaintiffs nor their amici can rehabilitate it. The panel thus not only erred in ignoring this well-worn practice, but also strikingly undercut that authority—which threatens broad repercussions statewide that likewise warrant this Court's review. See, e.g., Pcb26-27 (citing supersession of Clark PD by Union CPO in light of egregious facts); accord NJSACOPb15 (acknowledging that Clark supersession "continues to the present day").

Plaintiffs and their amici only confirm the need for greater clarity on this score. Plaintiffs argue variously that the Attorney General "potentially" could supersede a police department "working with the relevant County Prosecutor's Office," Ob10, but then add that "[t]he panel in no way implied that the county prosecutor has a statutory power of supersession beyond that of the Attorney General and, in fact, specifically reserved the question," Ob10 n.1. That is the precise problem: the panel did not cite any statutory supersession power that county prosecutors enjoy but the Attorney General lacks, and none exists, so it cannot avoid these profound impacts by claiming to reserve the issue for another day. And amici are similarly confused—two avoid the question, while two make opposing claims as to whether county prosecutors retain this authority. Compare ILGAb10 (stating "county prosecutor, as chief law enforcement officer of the county, has the authority to take over a local Police Department"), with PBAb14

(arguing "that there is no specific statutory or precedential authority for County Prosecutors to supersede municipal police departments").[9] That the decision below throws into doubt not only this supersession by any supersession initiated by a county prosecutor too only underscores the case's importance.

Plaintiffs' remaining responses are unavailing. Plaintiffs contend that this case involves application of settled law not because this Court has ever assessed supersession but because it has generally "enunciated the principles of statutory interpretation." Ob3-7. But this Court often grants review of weighty statutory questions, even if statutory interpretive tools generally are well-accepted. E.g., Musker v. Suuchi, No. A-8-24; Fuster v. Twp. of Chatham, No. A-33-23. Further, Plaintiffs cannot deny that this Court has consistently granted review of disputes over law enforcement oversight, including the Attorney General's authority over law enforcement. See Directives, 246 N.J. 462;[10] FOP, 244 N.J.

---

[9] The PBA does argue that "if supersession authority exists at all, it would most logically be vested in the County Prosecutors," PBAb12 (emphasis added), but that is irreconcilable with the law enforcement chain of command that state law establishes. See N.J.S.A. 2A:158-5; N.J.S.A. 52:17B-98, -103, -112; AsGb5-7. Indeed, even though county-led supersessions are more common, there are cases in which state resources, expertise, or insulation from local political pressures are necessary—as the brief discussing the history of the Camden supersession explains well. See STb14-20 & STb20 n.35.

[10] Directives is especially difficult to square with Plaintiffs' opposition because, as Plaintiffs themselves note, the Court ultimately affirmed much of the panel's "thoughtful" decision. Ob5-6. That confirms, of course, that this Court grants certification in sufficiently consequential cases without determining at the outset

75; Paff, 235 N.J. 1; N. Jersey Media Grp., Inc. v. Twp. of Lyndhurst, 229 N.J. 541 (2017). Plaintiffs suggest this case is somehow less important to the public than those, see Ob5-6, but the amicus participation of community stakeholders, former Attorneys General, leaders of the Camden supersession, local police chiefs, one police union, and a statewide organization of municipalities confirms the opposite. Whatever the answer, this critical question merits definitive resolution by this Court.

This case presents not just an important question, but one bound up with the interests of justice. The Legislature made clear in 1970 that it is the "public policy of this State" to "provide for the general supervision of criminal justice by the Attorney General as chief law enforcement officer of the State, in order to secure the benefits of a uniform and efficient enforcement of the criminal law and the administration of criminal justice." N.J.S.A. 52:17B-98. Whether any Attorney General can effectuate this decades-long policy through supersession of a troubled law enforcement agency is not academic but part and parcel of how criminal justice is administered throughout our State.

Indeed, as amici explain, use of supersession here was made necessary by mismanagement and a loss of public trust in the PPD—and supersession can be

---

whether the decision below is incorrect—undermining Plaintiffs' claims that the decision below is unimportant because it correctly applies precedent or that the "interests of justice" turn on whether the decision is wrong. Ob6-7.

used to bring necessary reforms to a law enforcement agency in crisis. See ACLUb6-20. After all, supersession has worked in the past, see STb14-20 (discussing history of Camden supersession and dramatic impacts on police, and emphasizing that other tools had not achieved these goals), and reform efforts remain underway at PPD too. And although supersessions should always be a rare occurrence—they happen on average once per year, with two involving State oversight of a municipal department—this tool remains a crucial failsafe for the agencies that most need it, as well as an incentive to law enforcement across the State to follow the Legislature's chosen chain of command.

Plaintiffs and their amici misunderstand the issue. They mischaracterize the Attorney General's (and his predecessors') position as claiming "kinglike" power based on the purported "belief that brute force is the only way to motivate a local official." Ob19; Ob26. But that is no one's view. The Attorney General agrees that in the run of cases, supersession would not be necessary. Unfortunately, however, there are exceptions—and so there is a need for oversight to reform departments in the rare but consequential cases in which an agency loses its way, as no one seriously disputes happened in this very case. Cf. James Madison, Federalist No. 51 ("If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary."). Far from a dispute over policy,

contra ILGAb3; NJLMb15, the interests of justice are well-served by this Court granting review and assessing whether supersession is a tool that the State's chief law enforcement officer may use to bring about those reforms when they are most needed—subject as always to arbitrary-or-capricious review in our courts. Particularly in the absence of other remedies to achieve these goals, see ACLUb9-20, this Court should grant review rather than let this authority be lost.

CONCLUSION

This Court should grant certification and reverse the judgment below.

Respectfully submitted,

MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY

By: /s/ Jeremy M. Feigenbaum
Jeremy M. Feigenbaum
Solicitor General

Date: January 14, 2025