

No. 11-1032

Supreme Court, U.S.
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In The
Supreme Court of the United States

DARREN AGARANO, RYAN AIKALA,
STUART KUNIOKA, and HALAYUDHA MACKNIGHT,

Petitioners,

vs.

TROY MATTOS, JAYZEL MATTOS,

Respondents.

**On Petition For Writ Of Certiorari
To The United States Court Of Appeals
For The Ninth Circuit**

**BRIEF OF AMICI CURIAE LOS
ANGELES COUNTY POLICE CHIEFS'
ASSOCIATION, NATIONAL TACTICAL
OFFICERS ASSOCIATION, AND THREE
OTHERS IN SUPPORT OF PETITIONERS**

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The Los Angeles County Police Chiefs' Association, the National Tactical Officers Association, the Illinois Tactical Officers Association, the Kansas City Metro Tactical Officers Association, and the Rocky Mountain Tactical Team Association respectfully submit the following brief as *amici curiae* in support of petitioners Darren Agarano, Ryan Aikala, Stuart Kunioka, and Halayudha MacKnight in the above-entitled matter.

No counsel for a party authored the following *amicus curiae* brief in whole or in part, and no counsel or party made a monetary contribution intended to fund the preparation or submission of the brief. No persons other than the *amici curiae*, their members, or their counsel made a monetary contribution to the preparation or submission of the brief.

Pursuant to Supreme Court Rule 37(2)(a), the *amici curiae*, through their counsel, ensured that the counsel of record for all parties herein received notice of their intention to file an *amicus curiae* brief at least 10 days prior to the due date for the *amicus curiae* brief. All parties, through their counsel, consented to the filing of this brief, and copies of their respective consent letters will be submitted to the Court with this *amicus curiae* brief.



**STATEMENT OF IDENTITY AND
INTEREST OF *AMICI CURIAE***

The Los Angeles County Police Chiefs' Association is comprised of the chief executive officers of all of the law enforcement agencies in the County of Los Angeles, including the two largest: the Los Angeles County Sheriff's Department and the Los Angeles Police Department, which together provide law enforcement services for two-thirds of the County's population. The mission of the Association is to coordinate and standardize enforcement issues among the 47 agencies that provide law enforcement services to the residents of Los Angeles County.

The National Tactical Officers Association was established in 1983 in order to provide a link between SWAT units throughout the United States and, later, in other countries. Initially, membership in the Association was available exclusively to past or present law enforcement or military personnel assigned to SWAT and tactical teams and their support personnel. However, in 1996, the NTOA opened membership to all sworn active and retired law enforcement personnel and sworn correctional officers.

The mission of the National Tactical Officers Association is to enhance the performance and professional status of law enforcement personnel by providing a credible and proven training resource as well as a forum for the development of tactics and information exchange. The Association's ultimate goal

is to improve public safety and domestic security through training, education and tactical excellence.

The NTOA currently has more than 30,000 members, including more than 1,600 SWAT and tactical teams. It has affiliates in many individual states, and three of those affiliates – the Illinois Tactical Officers Association, the Kansas City Metro Tactical Officers Association, and the Rocky Mountain Tactical Team Association – are also appearing as *amici curiae* in this proceeding.

These *amici curiae* have a shared interest in ensuring that law enforcement officers throughout the United States are able to fulfill the role society demands of the police – arresting lawbreakers. They seek through this brief to bring to the Court's attention their concern that the Ninth Circuit's *en banc* opinion issued in this matter will interfere with the ability of law enforcement officers to fulfill that role.

Specifically (by means of incorporation of the *amicus curiae* brief filed by these same *amici curiae* in a related petition), this brief discusses the difficulties this opinion will create for law enforcement officers and officials throughout the Ninth Circuit. The brief also presents (again, through incorporation) substantive scientific evidence about the very minimal dangers associated with the use of electronic control devices (ECDs) such as the TASER used in this incident, to respond to the impression left by the majority in their *en banc* opinion that use of a TASER

represents a very serious increase in the level of force being used.

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LEGAL ARGUMENT

The underlying petition for writ of certiorari arises from an *en banc* opinion of the Ninth Circuit. The *en banc* panel reconsidered the decisions reached in two separate appeals, but chose to issue a single opinion resolving both matters. Petitions for writs of certiorari were then filed by both sets of defendants seeking review of the *en banc* decision: the pending petition here, and the petition filed in *Daman, et al. v. Brooks*, Docket No. 11-898.

On February 21, 2012, these *amici curiae* filed their “Motion for Leave to File an *Amicus Curiae* Brief and Brief of *Amici Curiae* Los Angeles County Police Chiefs’ Association, National Tactical Officers Association, and Three Others in Support of Petitioners” in Docket No. 11-898. (The motion for leave was necessitated by the refusal of the respondent in that case to consent to the filing of the *amicus curiae* brief. The *amici curiae* express their appreciation to the respondents in the present case for giving their consent for the filing of this brief.)

Given that the two pending petitions for writs of certiorari arise from the same opinion, the points that the *amici curiae* wish to make in regard to the present petition are identical to those they have already provided to this Court in the Motion and

Brief they filed in Docket No. 11-898. Accordingly, the *amici curiae* incorporate herein, as though set out in full, the Brief portion of that Motion and Brief, and request that the Court consider that incorporated Brief as their brief in support of the petitioners in the pending petition for writ of certiorari (Docket No. 11-1032).

March 23, 2012

Respectfully submitted,

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