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IN THE SUPERIOR COURT OF PENNSYLVANIA

No. 1452 EDA 2024

JEROME COFFEY

Appellant,

v.

COMMONWEALTH OF PENNSYLVANIA

Appellee.

ON APPEAL FROM THE COURT OF COMMON PLEAS
FIRST JUDICIAL DISTRICT
CP-51-CR-0441411-1993

BRIEF OF AMICI CURIAE
THE LAW ENFORCEMENT ACTION PARTNERSHIP AND THE NATIONAL POLICE ACCOUNTABILITY PROJECT
IN SUPPORT OF APPELLANT

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STATEMENT OF INTEREST OF AMICI CURIAE

The Law Enforcement Action Partnership (LEAP) is a non-profit organization whose members include police, prosecutors, judges, corrections officials, and other law enforcement officials advocating for criminal justice and drug policy reforms that will make our communities safer and more just. Founded by five police officers in 2002 with a sole focus on drug policy, today LEAP's speakers bureau numbers more than 200 criminal justice professionals advising on police community relations, incarceration, harm reduction, drug policy, and global issues. Through speaking engagements, media appearances, testimony, and support of allied efforts, LEAP reaches audiences across a wide spectrum of affiliations and beliefs, calling for more practical and ethical policies from a public safety perspective.

The National Police Accountability Project (NPAP) was founded in 1999 by members of the National Lawyers Guild to address misconduct by law enforcement officers through coordinating and assisting civil-rights lawyers. NPAP has approximately 550 attorney members practicing in every region of the United States, including a number of members who represent clients who have been falsely arrested and wrongfully convicted. Every year, NPAP members litigate the thousands of egregious cases of law enforcement abuse that do not make news headlines as well as the high-profile cases that capture national attention. NPAP

provides training and support for these attorneys and resources for non-profit organizations and community groups working on police and correction officer accountability issues. NPAP also advocates for legislation to increase police accountability and appears regularly as *amicus curiae* in cases, such as this one, presenting issues of particular importance for its members and their clients.

SUMMARY OF ARGUMENT

Coercive interview tactics, like the ones used to obtain a false accusation against Appellant Jerome Coffey, do not advance the primary objective of the criminal justice system, which is to fairly and accurately determine guilt or innocence. Instead, these tactics have a documented propensity to lead to the wrongful conviction of criminal defendants like Mr. Coffey. Data and legal scholarship reveal that threats and other coercive tactics carry a high likelihood of producing inaccurate testimony and lead to the incarceration of people who were not responsible for the crime. Courts across the country have similarly identified these harmful and counterproductive outcomes of coercive interview tactics, overturning convictions and excluding evidence when law enforcement officers obtain statements through these methods. Given the established connection between coercive interview practices and wrongful convictions, it is unsurprising that the Philadelphia Police Department (PPD) homicide unit's reliance on these tactics in the 1980s and 1990s led to dozens of innocent people serving lengthy

prison sentences. *Amici* respectfully urge this Court to consider the role threats of prosecution and coercion play in wrongful convictions as well as the prevalence of these practices in PPD at the time Mr. Coffey was convicted.

ARGUMENT

I. Coercive Interview Practices Are a Common Source of Wrongful Convictions.

A. Studies Have Found Coercive Interview Practices Are Likely to Lead to Wrongful Convictions.

The prevalence of law enforcement deception and manipulation to induce false testimony is borne out by the robust body of legal and empirical scholarship on wrongful convictions. According to the National Registry of Exonerations, 315 of 2,400 (13%) of exonerees were convicted through a codefendant's false confession. Samuel R. Gross et al., *Government Misconduct and Convicting the Innocent*, Nat'l Registry of Exonerations, 60 (2000). An even larger number of exonerations—409 of 2,400 (17%)—involved "witness tampering," or the false testimony of third-party witnesses. *Id*. at 35. Similarly, a Northwestern University study focusing on the false testimony of police informants specifically found that as many as "*45.9 percent* of documented wrongful capital convictions ha[d] been traced to false informant testimony, making 'snitches the leading cause of wrongful convictions in U.S. capital cases.'" Alexandra Natapoff, *Beyond*

Unreliable: How Snitches Contribute to Wrongful Convictions, 37 Golden Gate U. L. Rev. 107, 108 (2006) (emphasis added) (quoting Rob Warden, *The Snitch System: How Snitch Testimony Sent Randy Steidl and Other Innocent Americans to Death Row*, Center on Wrongful Convictions, Nw. U. Sch. of L. Ctr. on Wrongful Convictions (2004)).

Law enforcement investigators use a variety of coercive interrogation techniques to obtain these false witness accounts and confessions. Some of these techniques, such as physical violence and threats of violence, are formally recognized as misconduct in both law and scholarship. *See* Gross et al., *supra*, 49-55 (listing types of prohibited interrogation and interview tactics and reporting on exoneration cases where such misconduct was present). But police interrogations and interviews are designed to rely on several coercive and manipulative tactics short of physical violence, including "isolation, accusation, attacks on the suspect's alibi, cutting off of denials," and even confrontation with fabricated evidence incriminating the supposed suspect. Steven A. Drizin & Richard A. Leo, *The Problem of False Confessions in the Post-DNA World*, 82 N.C. L. Rev. 891, 911-12 (2004).

These manipulative interrogation and interview tactics are tolerated in large part due to the powerful yet verifiably false suggestion that such techniques cannot induce false testimony. *See* Miriam S. Gohara, *A Lie for a Lie: False Confessions*

and the Case for Reconsidering the Legality of Deceptive Interrogation, 33 Fordham Urb. L.J. 791, 811 (2006); *see also* Iris Blandón-Gitlin, K. Sperry & R. Leo, *Jurors Believe Interrogation Tactics Are Not Likely to Elicit False Confessions: Will Expert Witness Testimony Inform Them Otherwise?*, 17 Psych., Crime, & L. 239 (2011). But these techniques, which are designed "to manipulate the perceptions, reasoning, and decision-making of a custodial suspect," can—and often do—induce false confessions from criminal defendants and false statements from third-party witnesses. Drizin & Leo, *supra*, at 910. *See also* Richard A. Leo & Deborah Davis, *From False Confessions to Wrongful Convictions: Seven Psychological Processes*, 38 J. Psychiatry & L. 35 (2009) ("An explicit goal of interrogators, as recommended and explained in interrogation manuals[,] . . . is to control the goals of the suspect during interrogation—such that he will give up on the goal of establishing innocence and focus on the goal of achieving the least serious consequences of his guilt.").

A significant number of exonerations come from cases where a law enforcement officer used "threats to coerce witnesses to change their testimony." Gross, et al., *supra* at 30. These threats included telling witnesses "that if they did not cooperate, they or close relatives would be charged with crimes, [they would be] sentenced to prison or to death, [and/or they] would lose custody of their children." *Id*. Indeed, the most widely used police interview manual explicitly

instructs investigators struggling to elicit inculpatory testimony from a witness to "accuse the subject of committing the crime (or of being implicated in it in some way) and proceed with an interview as though the person was, in fact, considered to have involvement in the crime." Fred E. Inbau et al., Criminal Interrogation and Confessions 337 (Jones & Bartlett Learning 5th ed. 2013).

Investigators also manipulate witnesses by showing them "false evidence of the defendants' guilt or trick[ing] [them] into thinking they saw things that did not happen." *See* Natapoff, *supra*, at 108. They also routinely manipulate witness testimony through bribery, offering informants or accomplice witnesses leniency in their own criminal cases, release from custody, cash rewards, or other benefits in exchange for their perjured testimony. *Id*. *See also* Ethan Cohen, *No One Else Was in the Room Where it Happened*, 172 U. Pa. L. Rev. 33, 34 (2024) ("Prosecutors exercise a remarkable power to give witnesses things of value in exchange for their favorable testimony. . . . These inducements are extremely common.").

As numerous scholars have observed, accusations made by incentivized witnesses are highly unreliable. *See, e.g.*, Christopher T. Robertson, *Incentives, Lies, and Disclosure*, 20 J. Const. L. 33 (2017) (describing empirical studies and other research showing that "incentivizing witnesses creates a severe risk of wrongful convictions"); R. Michael Cassidy, *Soft Words of Hope: Giglio, Accomplice Witnesses, and the Problem of Implied Inducements*, 98 Nw. U. L.

Rev. 1129 (2004) ("Because an offer of leniency allows [an informant] to avoid the full penal consequences of his own misconduct, such a reward may provide not only a powerful incentive to cooperate, but also a powerful incentive to lie."). However, most juries never learn about these witnesses' incentives to lie, as police and prosecutors often insist on keeping their informants' identities, and the circumstances of their testimonies, confidential. *See* Natapoff, *supra*, at 112. In many cases, police and prosecutors proactively suppress impeachment evidence from the defense. In as many as 805 of the 2,400 exonerations reviewed by the National Registry of Exonerations, police and prosecutors "hid statements in which the prosecution witnesses said the opposite of what they testified to in court, attempts by those witnesses to retract their accusations or testify that the defendants were innocent, known histories of deception and crime by prosecution witnesses, money favors received by the witnesses or deals that saved then years in prison in return for nailing the defendants." Gross et al., *supra*, at 32.

The role that coerced statements and in-court testimony play in securing wrongful convictions cannot be overstated. As discussed above, they account for anywhere between 12% and 45.9% of wrongful convictions. *See id.* at 31; Natapoff, *supra*, at 108; Drizin & Leo, *supra*, at 902. And because the majority of exonerations involving false testimony are murder cases, which carry the possibility of a life sentence or even the death penalty, the stakes are invariably

extreme. *See* Samuel R. Gross, et al., *Government Misconduct and Convicting the Innocent*, at 47, 61. Law enforcement officers—both investigators and prosecutors—are particularly incentivized to elicit and rely upon false testimony when they otherwise lack strong evidence of a suspect's guilt. *See, e.g.*, Jon B. Gould et al., *Predicting Erroneous Convictions,* 99 Iowa L. Rev. 471, 502 (2014) ("In several of our erroneous convictions, a prosecutor, convinced of the defendant's guilt despite a lack of conclusive proof, . . . enlisted a snitch or other non-eyewitness to provide dubious corroborating testimony."). Accordingly, innocent criminal defendants—against whom inculpatory evidence is necessarily lacking—are particularly vulnerable to the devastating consequences of these coercive interrogation tactics that are specifically designed to elicit inculpatory testimony, not to uncover the truth. *See, e.g.,* Jonathan Neumann & William K. Marimow, *The homicide files: How Phila. detectives compel murder 'confessions'*, Phila. Inquirer (July 10, 2020), https://www.inquirer.com/news/homicide-files-1977-series-police-beatings-confessions-20200710.html (describing the coercive tactics PPD officers use to elicit false confessions from defendants).

B. Federal and State Courts Have Also Long Recognized That Threatening Witnesses With Prosecution or Otherwise Giving Them Incentives to Avoid Prosecution Contributes to Wrongful Convictions.

One of the fundamental purposes of our criminal justice system is to protect the liberty of the accused and maintain public welfare by seeking truth in

convictions. *Mooney v. Holohan*, 294 U.S. 103, 112 (1935). This truth-seeking function is severely undermined when law enforcement officers "turn a blind eye to the manifest potential for malevolent disinformation," encourage perjured testimony, or craft fabricated evidence. *Commonwealth of Northern Mariana Islands v. Bowie*, 243 F.3d 1109 (9th Cir. 2001); *see also Mooney*, 294 U.S. at 112 ("[T]he presentation of testimony known to be perjured . . . to procure the conviction and imprisonment of a defendant is as inconsistent with the rudimentary demands of justice as is the obtaining of a like result by intimidation").

The United States Supreme Court, federal courts of appeal, and Pennsylvania courts have all acknowledged that law enforcement officers can and do subvert the justice system's truth-seeking function when they use coercive and manipulative interview tactics to elicit perjured testimony against criminal defendants. *See, e.g.*, *Pyle v. Kansas*, 317 U.S. 213, 215-16 (1942); *Halsey v. Pfeiffer*, 750 F.3d 273, 293 (3rd Cir. 2014) (determining that the use of coercive interrogation tactics to elicit a defendant's false confession amounts to the "police officer's fabrication and forwarding to prosecutors of known false evidence," which "works an unacceptable corruption of the truth-seeking function of the trial process") (internal quotation marks and citations omitted); *Napue v. People of State of Illinois*, 360 U.S. 264, 269 (1959); *Commonwealth of Northern Mariana Islands*, 243 F.3d at 1124 ("False testimony and false evidence corrupts the

criminal justice system and makes a mockery out of its constitutional goals and objectives"); *Commonwealth v. Strong*, 761 A.2d 1167, 1174 (Pa. Sup. Ct. 2000).

Although the courts permit law enforcement officers to employ deceptive interview tactics to some extent, they also caution that such tactics may become so coercive as to induce involuntary testimony, in violation of the criminal defendant's due process rights. *See, e.g., Halsey*, 750 F.3d at 303-04 (discussing factors for the court to consider when determining whether psychological interrogation tactics crossed the line from permissible methods to unconstitutional coercion); *Livers v. Schenck*, 700 F.3d 340, 352 (8th Cir. 2012) (same).

The facts *of Halsey v. Pfeiffer* offer a striking illustration of how readily police interrogators' use of deception and manipulation tactics can coerce false testimony and contribute to wrongful convictions. In *Halsey*, police officers investigating the brutal murders of two children immediately focused on Mr. Halsey, an innocent man, as their prime suspect. *Id*. at 280. The Third Circuit described their ensuing interrogation of Mr. Halsey in detail:

> Over the course of less than two days, [the investigators] detained Halsey, a man of limited intelligence and little education, who was unaccompanied by a friend or an attorney, for about 30 hours and questioned him almost continuously for about 17 of those hours, of which about nine were highly confrontational . . . [The investigators] persisted in telling Halsey that he was guilty, 'hollering and screaming' at him, despite being aware of Halsey's mental limitations and despite Halsey's repeated protestations of his innocence. Furthermore, Halsey cried and, according to [one of the investigators], went into a trance towards the end of the interrogation. *Id*. at 306.

Mr. Halsey's interrogators drafted a detailed "confession" in which they "inserted nonpublic facts about the crime (of which Halsey could not have been aware)." *Id*. at 289. Mr. Halsey, who was "'tired …, drained, frustrated'" by the end of the hours-long interrogation, ultimately signed it in order to "'get away' from the detectives, who had been 'coming at [him]' all night, causing him to 'fear[] for [his] life.'" *Id*. at 284 (quoting Mr. Halsey's later testimony). This so-called "confession was the sole direct evidence linking Halsey to the crimes as there was no physical evidence or eyewitness testimony supplying such a link." *Id*. at 285. Mr. Halsey was convicted of the murders and sentenced to two life terms in prison. *Id*. Years later, Mr. Halsey was exonerated by DNA evidence that "confirmed, beyond dispute, that Halsey was innocent." *Id*.

As several courts have detailed, police investigators do not reserve these coercive tactics for their suspects, but also use them against third-party witnesses. For example, the investigators in *Halsey* "told Halsey that two witnesses . . . had given statements contradicting his account of his [alibi]." *Id*. at 282. Years later, both witnesses told the County Prosecutor's office that the investigators had "'badgered' . . . and coerced [them] until they agreed to change earlier statements" to falsely incriminate Mr. Halsey. *Id*. at 283. Similarly, in *Clark v. Abdallah*, the police pressured a witness into giving a statement contrary to the accused's alibi by threatening to take her children away. No. 21-10001, 2023 WL 4852230,

at *10 (E.D. Mich. July 28, 2023). The police did so despite knowing that the witness's account was probably false, as she had repeatedly given inconsistent statements throughout her interview. *Id*. The jury convicted the accused almost exclusively on this witness's false testimony. *Id*. *See also Moore v. City of Chicago*, 2020 U.S. Dist. LEXIS 101340, at *1-2 (N.D. Ill. Jun. 10, 2020) (describing how police investigators threatened three murder eyewitnesses with arrest after they had each insisted on the suspect's innocence, thus coercing the eyewitnesses to provide perjured testimony against the innocent man, resulting in his wrongful conviction).

Prosecutors are also capable of eliciting false testimony from witnesses, or, relatedly, using coercive or intimidating tactics to interfere with a witness's decision to testify. *See, e.g.*, *United States. v. Vavages*, 151 F.3d 1185, 1189 (9th Cir. 1998); *United States v. Serrano*, 406 F.3d 1208, 1216 (10th Cir. 2005) ("Interference is substantial when the government actor actively discourages a witness from testifying through threats of prosecution, intimidation, or coercive badgering"). For example, in *Smith v. Baldwin*, a prosecutor successfully prevented a witness from recanting his prior testimony inculpating his co-defendant for felony murder by threatening to charge the witness with the death penalty if he chose to recant. 466 F.3d 805, 809-10 (9th Cir. 2006) (vacated and rev'd on other grounds by *Smith v. Baldwin*, 510 F.3d 1127 (9th Cir. 2007) (en

banc)) *See also United States v. Orozco*, 291 F.Supp.3d 1267, 1279 (D. Kan. 2017) (finding a prosecutor substantially interfered with the defense witness when he made statements that were "unnecessarily strong and unjustified" thereby intimidating the defense witness into not testifying); *Pyle v. Kansas*, 317 U.S. 213, 214 (1942) (describing documents alleging that the prosecution "coerced and threatened" multiple witnesses "to testify falsely against the petitioner"). Likewise in *United States v. Morrison*, a defendant's girlfriend was going to testify that it was she, and not the defendant, who had conspired to distribute hashish. 535 F.2d 223, 225 (3rd Cir. 1976). Subsequently, the prosecution sent the defendant's girlfriend three separate warnings threatening to charge her with perjury if she so testified. *Id*. The prosecutor's actions intimidated the defendant's girlfriend and affected her testimony. *Id*. at 226.

Courts have also recognized that prosecutors may manipulate their witnesses by offering them significant benefits in exchange for their testimony inculpating the defendant. Prosecutors are permitted to—and routinely do—incentivize defendant witnesses to testify against their co-defendants by offering them plea deals with reduced charges and significantly lighter sentences. *See, e.g.*, *Commonwealth v. Strong*, 761 A.2d 1167, 1170 (Pa. Sup. Ct. 2000) (describing how a co-defendant witness was offered a light prison sentence of 40 months in exchange for his testimony against the defendant, who was convicted of first-

degree murder and sentenced to death). But because such incentives can encourage witnesses, acting out of self-preservation and under extreme pressure, to provide perjured testimony, courts require prosecutors to disclose evidence of any such incentives to the defense and the jury as a matter of due process. *See id*. at 1174 (granting the appellant's petition for post-conviction relief because the prosecution had struck a deal with the appellant's co-conspirator and then lied to the appellant's defense attorney about the deal's existence); *Napue v. People of State of Illinois*, 360 U.S. 264, 269 (1959) (holding that the State knowingly obtained a tainted conviction when it offered its primary witness a reduced sentence in exchange for his testimony and then did not correct the witness when he testified that he had not received any such consideration). All too often, however, prosecutors fail to disclose this impeachment evidence, allowing juries to unknowingly convict criminal defendants based on compromised, or even perjured, testimony.

II. The Coercive Interview Practices Used by the Philadelphia Police Department (PPD) During the '80s and '90s Led to Numerous Wrongful Convictions, Including the Conviction of Jerome Coffey.

Coercive interview tactics were a staple of the Philadelphia Police Department's homicide investigations throughout the 1980s and 1990s. As a result, dozens of Black men during this period were wrongfully convicted due to false testimony secured through threats and other methods of police intimidation. PPD's

interview methods that led to Mr. Coffey's wrongful conviction mirrored those used in other cases where courts have determined that PPD maintained illegal interview practices. PPD's established illegal methods should are critical context for evaluation of Mr. Coffey's Post-Conviction Relief Act petition.

PPD homicide investigators regularly used intimidation tactics against community members to coerce them into falsely accusing a suspect of homicide. One common tactic used to coerce false accusations was for an investigator to threaten to charge the person they were interrogating with the murder. For instance, in the 1989 conviction of Pedro Alicea, PPD homicide investigators threatened to charge Ray Velez with the murder they were investigating if he did not sign a statement identifying Mr. Alicea as the shooter. *See Swainson v. City of Philadelphia*, No. 2:22-cv-02163, ECF No. 91-17 (Deposition of Charles Brown at 46:16-19*, Alicea v. City of Phila.*, No.22-cv-3437-JS (E.D. Pa. 2022)). Bruce Murray and Gregory Holden were wrongfully convicted of a 1980 murder when PPD investigators coerced one of the perpetrators into implicating Mr. Murray and Mr. Holden. *Swainson*, No. 2:22-cv-02163, ECF No. 91-7 (Joint Stipulations of Fact and Proposed Conclusions of Law, *Holden v. Wynder*, No.06-5202 (AB) (E.D. Pa. 2024)) at 4. This is precisely the method that investigators used to obtain Nemo Kennedy's statement implicating Mr. Coffey. Investigators used a statement

implicating Mr. Kennedy in the murder to threaten him with prosecution and pressure him into accusing Mr. Coffey of the crime.

There are also several cases from this period where investigators would threaten community members with physical violence or arrest on unrelated charges to coerce a false accusation. In many cases the community member was not a witness and had no knowledge about the crime in question. For example, in the 1993 wrongful conviction of Percy St. George, PPD homicide investigators threatened to "lock [] up" an individual involved in the case if he did not sign a statement implicating St. George. *Swainson*, No. 2:22-cv-02163, ECF No. 91-55 (Motion to Bar Prosecution Based on Due Process Violations, *Commonwealth v. St. George*, No. 1257 (Ct. C.P. 1993)) at 3. The individual was also coerced into identifying St. George via photograph. *Id.* Chester Hollman was wrongfully convicted of a 1991 murder based on the coerced statement from an individual who had no knowledge of the crime. *Swainson*, No. 2:22-cv-02163, ECF No. 91-23 (Joint Stipulations of Fact of Petitioner Chester Hollman, III and Respondent Commonwealth of Pennsylvania, *Commonwealth v. Hollman*, No. CP-51-CR-0933111-1991 (Ct. C.P. 2019)) at 8. Eugene Gilyard and Lance Felder were convicted when a witness—who had previously stated that Felder was not the person he saw at the crime scene—identified Felder after a series of harassing home visits and physical coercion. *Swainson*, No. 2:22-cv-02163, ECF No. 91-36

(Affidavit of Keith Williams, *Commonwealth v. Gilyard*, No. CP-51-CR-0408371-1998 (Ct. C.P. 2012)) at 1. Andrew Swainson was also falsely identified and wrongfully convicted of a 1988 murder when PPD homicide investigators pressured a witness to falsely implicate Mr. Swainson. *Swainson v. City of Phila.*, No. 22-2163, 2023 WL 144283, at *2 (E.D. Pa. Jan. 10, 2023).

These are just a few examples of PPD's coercive interview tactics at play during the 1980s and 1990s. There are many more documented instances of coerced false accusations and identifications resulting in wrongful convictions. *See* Samantha Melamed, *Dozens accused a detective of fabrication and abuse. Many cases he built remain intact*. Phila. Inquirer (May 13, 2021), https://www.inquirer.com/news/philadephia-homicide-detective-james-pitts-losing-conviction-exonerations-murder-20210513.html (discussing PPD Detective James Pitts's "long-standing 'pattern and practice' of coercive tactics that was improperly concealed from the defense."). Some of the individuals wrongfully convicted include Donald Ray Adams (police threatened witness and offered financial support to get her to make a statement inculpating the defendant); Troy Coulston (police coerced false statements from teenager to inculpate defendant); Ronald Johnson (police coerced witnesses by placing them in the same interrogation room); Walter Ogrod (police coerced and fabricated a false confession from defendant to murder of a four-year-old girl); Recco Ford (police

detained two juvenile witnesses without their parents' knowledge, pressuring them into identifying the defendant as perpetrator of a murder); Steven Lazar (police fabricated witnesses statements and secured a false confession by subjecting defendant to more than 30 hours of interrogation while, as police knew, he was undergoing severe opioid withdrawal); Willie Veasy (prosecution used false confession secured by police using physical force to convict defendant).

In fact, the National Registry of Exonerations has recorded thirty-two individuals who were exonerated from murder convictions between 1980 and 1999 in Philadelphia where a false accusation contributed to the conviction. This striking number is likely underinclusive, as the data do not account for cases involving coerced accusations that did not result in a conviction or cases resulting in conviction where the investigators' coercive tactics have never been uncovered. PPD's practice of preying on people vulnerable to threats of incarceration based on their contacts with the criminal legal system and flagrant disregard for the truth of the statements they were coercing was well-established in 1994 at the time that Mr. Coffey was convicted. This Court should consider this pattern of misconduct in evaluating Mr. Coffey's appeal.

The record of Mr. Coffey's trial is replete with examples of the types of coercion against third party witnesses that characterized PPD tactics in the '80s and '90s. Nemo Kennedy described the coercion tactics that investigators

employed to obtain his false testimony at Mr. Coffey's material witness bond hearing. Kennedy testified that detectives made thinly veiled death threats explaining, "'Well, the cops keep saying they'll come to my funeral in a black suit that's about it, the detectives.' . . . "All I know that the police officer kept saying something going to happen to me this and that threatening me and that what's going to happen to me." N.T. 5/24/94, 84, 88. At a subsequent evidentiary hearing, Mr. Kennedy detailed how PPD detectives also threatened him with prosecution for the murder if he did not implicate Mr. Coffey:

> A: "They showed me a statement of Renaldo Robichaw saying that I did that to Johnny Moss." N.T. 9/12/23, 51.
> Q: "And were you afraid that police were going to charge you with this murder?" A: "Yes. Absolutely." N.T. 9/12/23, 52.
>
> Q: "Why did you think that police were showing you that [Robichaw] statement?" A: "to threaten me saying that if you don't do this, we're going to blame this on you. That's what that was." N.T. 9/12/23, 55.

PPD also threatened violence and prosecution against Mr. Kennedy's aunt, who was on probation, to force him to provide a false accusation. Mr. Kennedy testified at the material witness hearing that "[PPD] started threatening my aunt … They threatened they told her that if she don't turn me over to them that she would be locked up." N.T. 5/24/94, 77. At the evidentiary hearing, Mr. Kennedy testified that he received a call from then-Philadelphia District Attorney Lynne Abraham, who indicated that the PPD was "threatening [her] to say something about [his aunt's] probation officer or something . . . Threaten to send her back to jail, you

know, threatening just to send her back to jail, the parole officer." N.T. 9/12/23, 44-48.

Mr. Kennedy had only become a suspect in the murder himself because PPD detectives coerced another person—Renaldo Robinchaw—to implicate Kennedy by threatening Robinchaw with prosecution. Robinchaw testified that he implicated Kennedy because he was shown a statement of Kennedy implicating him. N.T. 9/11/23, 26-28.

As explained above, these coercive tactics are not conducive to accurate or truthful testimony. Both Mr. Kennedy and Mr. Robinchaw provided accusations that they knew were untrue in order to protect themselves and their loved ones. Mr. Coffey was wrongfully accused and subsequently wrongfully convicted because of PPD's standard practice of coercing accusations through the threat of prosecution. The Court should consider the effect of these practices on Mr. Coffey and his case.

CONCLUSION

For the foregoing reasons, *Amici* respectfully urge the Court to reverse the lower court and grant Mr. Coffey's PCRA petition.

Respectfully submitted,

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