No. 20-157

IN THE

Supreme Court of the United States

EDWARD A. CANIGLIA,

Petitioner,

v.

ROBERT F. STROM, *ET AL.*,

Respondents.

On Writ Of Certiorari
To The United States Court Of Appeals
For The First Circuit

BRIEF FOR PETITIONER

Thomas W. Lyons
Rhiannon S. Huffman
STRAUSS, FACTOR, LAING & LYONS
One Davol Square
Suite 305
Providence, RI 02903

Emma S. Gardner
SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
One Manhattan West
New York, NY 10001

Shay Dvoretzky
Counsel of Record
Jonathan L. Marcus
Emily J. Kennedy
Sylvia O. Tsakos
SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
1440 New York Ave., NW
Washington, DC 20005
(202) 371-7000
shay.dvoretzky@skadden.com

Counsel for Petitioner

QUESTION PRESENTED

Whether the "community caretaking" exception to the Fourth Amendment's warrant requirement extends to the home.

PARTIES TO THE PROCEEDING

Petitioner is Edward A. Caniglia.

Respondents are Robert F. Strom, as the Finance Director of the City of Cranston; the City of Cranston; Colonel Michael J. Winquist, in his official capacity as Chief of the Cranston Police Department; Russell C. Henry, Jr., individually and in his official capacity as an Officer of the Cranston Police Department; Brandon Barth, individually and in his official capacity as an officer of the Cranston Police Department; John Mastrati, individually and in his official capacity as an officer of the Cranston Police Department; Wayne Russell, individually and in his official capacity as an officer of the Cranston Police Department; and Austin Smith, individually and in his official capacity as an officer of the Cranston Police Department.

TABLE OF CONTENTS

Page

QUESTION PRESENTED i

PARTIES TO THE PROCEEDING ii

TABLE OF AUTHORITIES v

INTRODUCTION 1

OPINIONS BELOW 3

STATEMENT OF JURISDICTION 3

CONSTITUTIONAL PROVISIONS 3

STATEMENT OF THE CASE 3

I. PETITIONER AND HIS WIFE HAVE A DISAGREEMENT IN THEIR HOME 3

II. THE OFFICERS SEIZE PETITIONER AND HIS HANDGUNS FROM HIS HOME WITHOUT A WARRANT 5

III. THE LOWER COURTS UPHOLD THE WARRANTLESS HOME ENTRY AND SEIZURES BASED SOLELY ON THE COMMUNITY CARETAKING EXCEPTION 6

SUMMARY OF ARGUMENT 10

ARGUMENT 12

I. *CADY*'S COMMUNITY CARETAKING EXCEPTION TO THE FOURTH AMENDMENT APPLIES ONLY TO SEARCHES OF AUTOMOBILES 13

A. *Cady* Tailored The Community Caretaking Exception To The Unique Context Of Motor Vehicle Searches 13

TABLE OF CONTENTS
(continued)

Page

B. The Court Has Never Applied The Community Caretaking Exception Outside The Context Of Vehicle Searches 16

C. Black-Letter Law Affirms *Cady*'s Reliance On The Reduced Privacy Interest In Vehicles 18

II. THE FOURTH AMENDMENT DEMANDS THAT HOMES BE INSULATED FROM THE COMMUNITY CARETAKING EXCEPTION 21

A. The Common Law Spurned Warrantless Intrusions Into The Home 21

B. The Fourth Amendment Prohibits Warrantless Entries Into The Home In The Absence Of Consent Or Exigent Circumstances 23

C. The Community Caretaking Exception Is Antithetical To The Fourth Amendment's Protection Of The Home 30

III. LAW ENFORCEMENT OFFICERS AND OTHERS HAVE AMPLE TOOLS TO HELP PEOPLE IN NEED WITHOUT EXTENDING *CADY* 33

IV. ARGUMENTS IN FAVOR OF EXTENDING *CADY*'S COMMUNITY CARETAKING EXCEPTION ARE UNAVAILING 40

CONCLUSION 43

TABLE OF AUTHORITIES

Page(s)

CASES

Brigham City v. Stuart,
547 U.S. 398 (2006) 29, 32, 33, 34

Cady v. Dombrowski,
413 U.S. 433 (1973) ..... *passim*

California v. Acevedo,
500 U.S. 565 (1991) 19, 28

Camara v. Mun. Ct.,
387 U.S. 523 (1967) ..... *passim*

Caniglia v. Strom,
953 F.3d 112 (1st Cir. 2020) 3

Caniglia v. Strom,
396 F. Supp. 3d 227 (D.R.I. 2019) 3

Cardwell v. Lewis,
417 U.S. 583 (1974) (plurality op.) 19

Carpenter v. United States,
138 S. Ct. 2206 (2018) 21

Carroll v. United States,
267 U.S. 132 (1925) 18, 20

Castagna v. Jean,
955 F.3d 211 (1st Cir. 1991),
cert denied, 2020 WL 7132271
(Dec. 7, 2020) 42

Chambers v. Mahoney,
399 U.S. 42 (1970) 18, 19

City & Cnty. of San Francisco v. Sheehan,
135 S. Ct. 1765 (2015) 34

TABLE OF AUTHORITIES
(continued)

Page(s)

Clift v. Narragansett Television, L.P.,
688 A.2d 805 (R.I. 1996) 39

Collins v. Virginia,
138 S. Ct. 1663 (2018).....*passim*

Colorado v. Bertine,
479 U.S. 367 (1987).....17, 20, 31

Cooper v. California,
386 U.S. 58 (1967).....18, 19, 20, 25

Florida v. Jardines,
569 U.S. 1 (2013).....23

Georgia v. Peterson,
543 S.E.2d 692 (Ga. 2001) 35

Georgia v. Randolph,
547 U.S. 103 (2006).....*passim*

Harris v. United States,
390 U.S. 234 (1968).....18, 20

Horton v. California,
496 U.S. 128 (1990).....27

Illinois v. Rodriguez,
497 U.S. 177 (1990).....27

Kentucky v. King,
563 U.S. 452 (2011).....11, 23, 28, 29

Michigan v. Fisher,
558 U.S. 45 (2009).....33, 34, 35

Michigan v. Tyler,
436 U.S. 499 (1978).....34

TABLE OF AUTHORITIES
(continued)

Page(s)

Mincey v. Arizona,
437 U.S. 385 (1978) ..... *passim*

Missouri v. McNeely,
569 U.S. 141 (2013) 36

North Carolina v. Willis,
121 S.E.2d 854 (N.C. 1961) 39

Olson v. Maryland,
56 A.3d 576
(Md. Ct. Spec. App. 2012) 36

Payton v. New York,
445 U.S. 573 (1980) ..... *passim*

People v. Woods,
145 N.E.3d 80 (Ill. App. Ct. 2019) 35

Riley v. California,
573 U.S. 373 (2014) 27, 28, 36, 40

Schneckloth v. Bustamonte,
412 U.S. 218 (1973) 27

South Carolina v. Belcher,
685 S.E.2d 802 (S.C. 2009) 39

South Carolina v. Reese,
633 S.E.2d 898, 900 (S.C. 2006) 39

South Dakota v. Deneui,
775 N.W.2d 221 (S.D. 2009) 32, 41

South Dakota v. Opperman,
428 U.S. 364 (1976) ..... *passim*

Steagald v. United States,
451 U.S. 204 (1981) ..... *passim*

TABLE OF AUTHORITIES
(continued)

Page(s)

United States v. Quezada,
448 F.3d 1005 (8th Cir. 2006).....42

United States v. Ross,
456 U.S. 798 (1982).....19

United States v. Santana,
427 U.S. 38 (1976).....29

United States v. Smith,
820 F.3d 356 (8th Cir. 2016).....35

United States v. U.S. Dist. Ct.,
407 U.S. 297 (1972).....2

United States v. York,
895 F.2d 1026 (5th Cir. 1990).....35, 41

Wisconsin v. Markov,
840 N.W.2d 137 (Table), 2013 WL
5809640 (Wis. Ct. App. Oct. 30,
2013).....36

Wisconsin v. Matalonis,
875 N.W.2d 567 (Wis. 2016).....34

Wisconsin v. Pinkard,
785 N.W.2d 592 (Wis. 2010).....36, 41

CONSTITUTIONAL AND STATUTORY AUTHORITIES

U.S. Const. amend. IV.....*passim*

28 U.S.C. § 1254.....3

83 C.J.S. Suicide § 5 (2020).....39

Ala. Code § 22-52-91.....38

Alaska Stat. Ann. § 18.66.100.....37

TABLE OF AUTHORITIES
(continued)

Page(s)

Alaska Stat. Ann. § 18.66.100.....37
Alaska Stat. Ann. § 47.30.700.....38
Ariz. Rev. Stat. Ann. § 13-3602.....37
Ariz. Rev. Stat. Ann. § 36-524.....38
Ark. Code Ann. § 20-47-210.....38
Cal. Fam. Code § 6389.....37
Cal. Penal Code §§ 18125–18148.....38
Cal. Wel. & Inst. Code § 5150.....38
Cal. Wel. & Inst. Code § 5150.05.....38
Colo. Rev. Stat. Ann. §13-14.5-103.....38
Colo. Rev. Stat. Ann. §13-14.5-104.....38
Colo. Rev. Stat. Ann. § 27-65-105.....38
Conn. Gen. Stat. Ann. § 17a-502.....38
Conn. Gen. Stat. Ann. § 29-38c.....38
Del. Code Ann. tit. 10, § 1045(a).....37
Del. Code Ann. tit. 10, § 7703.....38
Del. Code Ann. tit. 16, § 5004.....38
D.C. Code Ann. § 7-2510.4.....38
D.C. Code Ann. § 21-521.....38
Fla. Stat. Ann. § 394.463.....38
Fla. Stat. Ann. § 790.233.....37
Fla. Stat. Ann. § 790.401(4).....38
Ga. Code Ann. § 37-3-41.....38

TABLE OF AUTHORITIES
(continued)

Page(s)

Ga. Code Ann. § 37-3-43.....38
Haw. Rev. Stat. Ann. § 134-7(f).....37
Haw. Rev. Stat. Ann. § 134-64.....38
Haw. Rev. Stat. Ann. § 334-59.....38
Idaho Code Ann. § 66-326.....38
405 Ill. Comp. Stat. Ann. 5/3-606.....38
725 Ill. Comp. Stat. Ann. 5/112A-14(b)(14.5).....37
Ind. Code Ann. § 12-26-5-1.....38
Ind. Code Ann. § 34-26-5-9(d)(4).....37
Ind. Code Ann. § 35-47-3.....38
Ind. Code Ann. § 35-47-14-2.....38
Iowa Code Ann. § 229.1.....38
Iowa Code Ann. § 236.5(1)(b)(2).....37
Kan. Stat. Ann. § 59-2953.....38
Ky. Rev. Stat. Ann. § 202A.026.....38
Ky. Rev. Stat. Ann. § 202A.031.....38
La. Stat. Ann. § 28:53.....38
Me. Rev. Stat. Ann. tit. 19-A, § 4007(1)(A-1).....37
Me. Rev. Stat. Ann. tit. 34-B, § 3862.....38
Md. Code Ann., Fam. Law § 4-505(a)(2)(vii).....37

TABLE OF AUTHORITIES
(continued)

Page(s)

Md. Code Ann., Fam. Law § 4-506(f) 37
Md. Code Ann., Health–Gen § 10-622 38
Md. Code Ann., Health–Gen § 10-623 38
Md. Code Ann., Health–Gen § 10-625 38
Md. Code Ann., Pub. Safety §§ 5-602–5-605 38
Mass. Gen. Laws Ann. ch. 123, § 12 38
Mass. Gen. Laws Ann. ch. 140, § 131T 38
Mass. Gen. Laws Ann. ch. 209A, § 3B 37
Mich. Comp. Laws Ann. § 330.1427 39
Mich. Comp. Laws Ann. § 600.2950(1)(e) 37
Minn. Stat. Ann. § 253B.051 39
Miss. Code Ann. § 41-21-67 39
Mo. Ann. Stat. § 632.300 39
Mont. Code Ann. § 40-15-201(2)(f) 37
Mont. Code Ann. § 53-21-129 39
Neb. Rev. Stat. Ann. § 42-924(1)(a)(vii) 37
Neb. Rev. Stat. Ann. § 71-908 39
Neb. Rev. Stat. Ann. § 71-919 39
Nev. Rev. Stat. Ann. § 33.031 37
Nev. Rev. Stat. Ann. § 33.560 38
Nev. Rev. Stat. Ann. § 33.570 38
Nev. Rev. Stat. Ann. § 433A.150 39

TABLE OF AUTHORITIES
(continued)

Page(s)

Nev. Rev. Stat. Ann. § 433A.160.....39
N.H. Rev. Stat. Ann. § 135-C:27.....39
N.H. Rev. Stat. Ann. § 135-C:28.....39
N.H. Rev. Stat. Ann. § 173-B:4(I), (II).....37
N.J. Stat. Ann. § 2C:25-28(j).....37
N.J. Stat. Ann. § 2C:58-23.....38
N.J. Stat. Ann. § 2C:58-26.....38
N.J. Stat. Ann. § 30:4-27.2.....39
N.J. Stat. Ann. § 30:4-27.6.....39
N.M. Stat. Ann. §§ 40-17-5–40-17-07.....38
N.M. Stat. Ann. §43-1-10.....39
N.C. Gen. Stat. Ann. § 50B-3.1.....37
N.D. Cent. Code Ann. § 14-07.1-02(4)(g).....37
N.Y. C.P.L.R. § 6341.....38
N.Y. C.P.L.R. § 6342.....38
N.Y. Mental Hyg. Law § 9.39.....39
N.C. Gen. Stat. Ann. § 122C-261.....39
N.D. Cent. Code Ann. § 25-03.1-25.....39
Ohio Rev. Code Ann. § 5122.10.....39
Okla. Stat. Ann. tit. 43A, § 5-207.....39
Or. Rev. Stat. Ann. § 166.527.....38
Or. Rev. Stat. Ann. § 426.228.....39
Or. Rev. Stat. Ann. § 426.232.....39

TABLE OF AUTHORITIES
(continued)

Page(s)

Or. Rev. Stat. Ann. § 426.233 39

23 Pa. Stat. and Cons. Stat. Ann. § 6108(a)(7).....37

50 Pa. Stat. and Cons. Stat. Ann. § 7301 39

8 R.I. Gen. Laws Ann. § 8-8.3-3(b).....38

8 R.I. Gen. Laws Ann. § 8-8.3-4(a)-(b) 37

40.1 R.I. Gen. Laws Ann. § 40.1-5-7(a)(1).....39

S.C. Code Ann. § 44-17-410.....39

S.D. Codified Laws § 25-10-24 37

S.D. Codified Laws § 27A-10-1 39

S.D. Codified Laws § 27A-10-3 39

Tenn. Code Ann. § 33-6-403.....39

Tex. Fam. Code Ann. § 85.022(b)(6) 37

Tex. Health & Safety Code Ann. § 573.001.....39

Utah Code Ann. § 62A-15-629 39

Utah Code Ann. § 78B-7-603(2)(f) 37

Vt. Stat. Ann. tit. 13, § 4053 38

Vt. Stat. Ann. tit. 13, § 4054 38

Vt. Stat. Ann. tit. 18, § 7504 39

Vt. Stat. Ann. tit. 18, § 7505 39

Va. Code. Ann. § 19.2-152.14 38

Va. Code. Ann. § 37.2-808 39

TABLE OF AUTHORITIES
(continued)

Page(s)

Wash. Rev. Code Ann. §§ 7.94.010–7.94.050 38

Wash. Rev. Code Ann. § 9.41.800 37

Wash. Rev. Code Ann. § 71.05-153 39

W. Va. Code Ann. § 27-5-2 39

W. Va. Code Ann. § 48-27-403(a) 37

Wis. Stat. Ann. § 51.15 39

Wis. Stat. Ann. § 813.12(4m) 37

Wyo. Stat. Ann. § 25-10-109 39

H.R. 62, 31st Leg., 2d Sess. (Alaska 2019) 38

H.R. 2367, 88th Gen. Assemb., 2020 Sess. (Iowa 2020) 38

S. 244, 2019 Reg. Sess. (Ky. 2019) 38

H.R. 4283, 100th Leg., Reg. Sess. (Mich. 2019) 38

S. 156, 100th Leg., Reg. Sess. (Mich. 2019) 38

H.R. 9, 91st Leg. Sess., 2d Reg. Sess. (Minn. 2020) 38

Leg. 58, 106th Leg., 1st Reg. Sess. (Neb. 2019) 38

H.R. 454, 2019 Gen. Assemb., Reg. Sess. (N.C. 2019) 38

TABLE OF AUTHORITIES
(continued)

Page(s)

H.R. 1075, 203rd Gen. Assemb. (Pa. 2019).....38

H.R. 1446, 111th Gen. Assemb., 1st Reg. Sess. (Tenn. 2019).....38

S. 1178, 111th Gen. Assemb., 1st Reg. Sess. (Tenn. 2019).....38

Assemb. 573, 104th Leg., 2019-2020 Reg. Sess. (Wis. 2019).....38

OTHER AUTHORITIES

4 William Blackstone, *Commentaries on the Law of England* (4th ed. 1770).....22

1 Richard Burn, *The Justice of the Peace, and the Parish Officer* (14th ed. 1780).....22

1 Joseph Chitty, *Practical Treatise on the Criminal Law* (2019).....22

Laura K. Donohue, *The Original Fourth Amendment*, 83 U. Chi. L. Rev. 1181 (2016).....22

1 Matthew Hale, *The History of the Pleas of the Crown* (1736).....22

1 Wayne R. LaFave, Search & Seizure: A Treatise on the Fourth Amendment (5th ed. 2012).....27

INTRODUCTION

In *Cady v. Dombrowski*, 413 U.S. 433 (1973), this Court held that police officers did not violate the Fourth Amendment when they searched the trunk of a car that had been towed after an accident. The Court acknowledged that, "except in certain carefully defined classes of cases," police cannot search private property without consent or a warrant. *Id.* at 439. It emphasized, however, that "there is a constitutional difference between houses and cars." *Id.* (quoting *Chambers v. Maroney*, 399 U.S. 42, 52 (1970)). "[P]olice officers . . . frequently investigate vehicle accidents in which there is no claim of criminal liability and engage in what, for want of a better term, may be described as community caretaking functions, totally divorced from the detection, investigation, or acquisition of evidence relating to the violation of a criminal statute." *Id.* at 441. The Court thus held that a "caretaking 'search' conducted . . . of a vehicle that was neither in the custody nor on the premises of its owner . . . was not unreasonable solely because a warrant had not been obtained." *Id.* at 447–48.

Cady drew on a line of cases "treating automobiles differently from houses" for purposes of the Fourth Amendment. *Id.* at 441. And the Court limited *Cady*'s rule to vehicle searches. *See, e.g.*, *id.* at 446–48. As the opinion took pains to make clear, *Cady*'s rule does not apply to houses. *See id.* at 439–42.

That is because the Fourth Amendment's "very core" is "the right of a man to retreat into his own home and there be free from unreasonable governmental intrusion." *Collins v. Virginia*, 138 S. Ct. 1663, 1670 (2018) (citation omitted). Indeed, "physical entry of the home is the chief evil against which the

wording of the Fourth Amendment is directed." *United States v. U.S. Dist. Ct.*, 407 U.S. 297, 313 (1972). The Fourth Amendment thus draws "a firm line at the entrance to the house." *Payton v. New York*, 445 U.S. 573, 590 (1980). Absent consent or exigent circumstances—exceptions that are "jealously and carefully drawn," *Georgia v. Randolph*, 547 U.S. 103, 109 (2006) (citation omitted)—warrantless entries into the home are unreasonable and violate the Fourth Amendment.

Despite these bedrock Fourth Amendment principles, some lower courts, including the First Circuit below, have extended *Cady* to justify warrantless entries into, and seizures from, the home. These courts have reimagined the community caretaking function to include "an infinite variety of services to preserve and protect community safety." Pet. App. 16a (quotations and citation omitted). And while *Cady* carefully cabined its exception to searches of vehicles in police custody, these courts have said that the community caretaking exception "is designed to give police elbow room to take appropriate action" no matter where a public need arises. *Id.*

These lower courts are wrong. Extending an exception designed for cars (the bottom of the Fourth Amendment totem pole) to homes (the most protected of all private spaces) would eviscerate the Fourth Amendment's warrant requirement. And for no good reason: Law enforcement officers and others already have ample other tools for helping people in need.

Cady's community caretaking exception has no place in the home. The decision below should be reversed.

OPINIONS BELOW

The District Court's opinion granting Respondents' Motion for Summary Judgment in relevant part (Pet. App. 50a–79a) is published at 396 F. Supp. 3d 227 (D.R.I. 2019). The First Circuit's opinion affirming the District Court's judgment (Pet. App. 1a–49a) is published at 953 F.3d 112 (1st Cir. 2020).

STATEMENT OF JURISDICTION

The First Circuit entered judgment on March 13, 2020. The petition for a writ of certiorari was filed on August 10, 2020 and granted on November 20, 2020. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISIONS

The Fourth Amendment to the U.S. Constitution provides:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

STATEMENT OF THE CASE

I. PETITIONER AND HIS WIFE HAVE A DISAGREEMENT IN THEIR HOME

Petitioner Edward Caniglia is a 68-year-old man with no criminal history and no record of violence, misuse of guns, or self-harm. *See* J.A. 39, 46. He has been married to his wife, Kim Caniglia, for 27 years. *See id.* at 39. On August 20, 2015, Petitioner and Mrs. Caniglia had a disagreement inside their Cranston,

Rhode Island home. *See* Pet. App. 3a, 53a. When the argument escalated, Petitioner went into his bedroom and retrieved an unloaded handgun. *See id.* at 53a; J.A. 48–49. He returned downstairs. Then, in a dramatic gesture, he put the unloaded gun on the dining room table and said, "why don't you just shoot me and get me out of my misery?" *See* Pet. App. 3a, 53a; *see also* J.A. 48. When Mrs. Caniglia threatened to call the police, Petitioner left for a drive. *See* J.A. 49; *see also* Pet. App. 3a, 53a. Mrs. Caniglia did not call the police. Pet. App. 53a. After Petitioner returned home, the couple's disagreement continued, and Mrs. Caniglia decided to spend the night at a motel. *See* Pet. App. 4a, 54a.

The next day, Mrs. Caniglia called her husband. *See id.* at 54a. Petitioner was in the bathroom and missed her call. *See* J.A. 49. Because he did not answer, Mrs. Caniglia became worried and called the Cranston Police Department. *See* Pet. App. 4a, 54a. She asked the police to make a "well call" to check on Petitioner and to escort her home. *See id.* at 54a. When multiple officers arrived to meet her, Mrs. Caniglia told them what had happened the night before and that she was concerned about her husband's safety, including that he could be suicidal. *See id.*; J.A. 49; *see also* Pet. App. 4a.

After calling Petitioner, who "sounded fine," the officers escorted Mrs. Caniglia back to the home, where they instructed her to stay in the car while they spoke with Petitioner on the back deck. *See* Pet. App. 55a. During their conversation, Petitioner "seemed normal," "was calm for the most part," and said "that he would never commit suicide." *See id.*; *see also* Incident Report 1, *Caniglia v. Strom*, 15-cv-525-JJM-

LDA (D.R.I. Dec. 17, 2018), ECF No. 44-21. Petitioner told the officers about what had happened the previous night, and explained that he had said "just shoot me" in exasperation because he was sick of arguing. *See* Pet. App. 5a, 55a.

II. THE OFFICERS SEIZE PETITIONER AND HIS HANDGUNS FROM HIS HOME WITHOUT A WARRANT

Based on their conversations with Petitioner and Mrs. Caniglia, the officers believed there was a risk that Petitioner would harm himself. *See id*. at 5a, 55a. As one of the Respondents, Sergeant Barth, later admitted, he "did not consult any specific psychological or psychiatric criteria" or medical professionals in reaching this conclusion, nor did he recall any training he received on dealing with people with mental health issues. J.A. 225. Instead, "just going on [his] experience," he summoned a rescue lieutenant from the Cranston Fire Department to the Caniglia family home. *Id.*; *see* Pet. App. 55a.

That officer told Petitioner that he was taking him to a local hospital for a psychiatric evaluation. *See* Pet. App. 5a, 56a. Petitioner did not go voluntarily. He went along only after the police told him—falsely—that if he submitted to an examination, they would not confiscate his two handguns. *See id.*; J.A. 52. A physician, a nurse, and a social worker all examined Petitioner at the hospital. *See* Pet. App. 56a. They discharged him on the spot. *See id*. But Petitioner had to pay about $1,000 for the involuntary hospital visit. *See* J.A. 61.

While Petitioner was being evaluated at the hospital, the officers entered the Caniglia family home to seize Petitioner's handguns. *See* Pet. App. 6a, 56a.

The officers believed "it was reasonable to do so based on [Petitioner's] state of mind," and feared that "[Petitioner] and others could be in danger" if guns remained in the home. *See id.* at 56a. The "officers understood that the [handguns] belonged to [Petitioner] and that he objected to their seizure." *See id.* at 6a. Indeed, when the officers told Petitioner they would seize his handguns, he responded, "You're not confiscating anything." *See* J.A. 51. Even so, they falsely told Mrs. Caniglia that Petitioner had consented to confiscating the guns. *See* Pet. App. 10a–11a; J.A. 56. Based on that misrepresentation, Mrs. Caniglia led the officers to the two handguns, located in the bedroom and the garage, which the officers seized. *See* J.A. 57; Pet. App. 6a, 56a–57a.

A few days later, Mrs. Caniglia went to the police station to retrieve the handguns. *See id.* at 57a. Officers refused her request. *See id.* A month later, Petitioner went to the police station with the same request. *See id.* Again, the officers refused. *See id.* When Petitioner's attorney made the same request, he fared no better. *See id.*

III. THE LOWER COURTS UPHOLD THE WARRANTLESS HOME ENTRY AND SEIZURES BASED SOLELY ON THE COMMUNITY CARETAKING EXCEPTION

1. Petitioner sued the City of Cranston and the individual officers under 42 U.S.C. § 1983 in the Federal District Court for the District of Rhode Island. Petitioner alleged that Respondents violated his rights under the Second Amendment, the Fourth Amendment, and the Fourteenth Amendment's Due Process and Equal Protection Clauses. *See id.* at 53a. He also brought claims under Rhode Island law. *See*

id. Only after Petitioner filed suit were his guns finally returned to him. *See id.* at 57a.

The parties cross-moved for summary judgment. *See id.* at 53a. The District Court granted summary judgment for Petitioner on his Fourteenth Amendment Due Process Clause claim, finding that the City violated his due process rights by providing no process for recovering his handguns and by arbitrarily denying his requests for their return. *See id.* at 70a–72a. It granted summary judgment for Respondents on the other claims. *See id.* at 58a–78a.

At issue here is Petitioner's claim that the entry into his home and resulting seizures violated his Fourth Amendment rights. Respondents' only justification for their nonconsensual, warrantless entry and seizures was the "community caretaking" exception to the warrant requirement. *See* Pet. App. at 59a. The District Court acknowledged the circuit "split about whether the community caretaking function standard the United States Supreme Court first set forth in *Cady* [*v. Dombrowski*, 413 U.S. 433 (1973)] in the vehicle context also applies to searches of a home." *Id.* at 60a n.3. The District Court held that it does, reasoning that "community caretaking" services "could be required not only in vehicles, but also in homes." *Id.* Because the District Court found that the officers' actions were "reasonable," it held that the community caretaking exception justified the warrantless entry and seizures. *Id.* at 64a.

2. The First Circuit affirmed. In doing so, the court assumed that the seizures and "the officers' entry into the home [were] not only warrantless but also nonconsensual." *Id.* at 11a. It also emphasized that the officers "[did] not invoke either the exigent

circumstances or emergency aid exceptions to the warrant requirement," and for good reason: Neither would likely apply here. *Id.* at 11a–12a & n.5. Nor did Respondents "contend that their seizures of the plaintiff and his firearms were carried out pursuant to a state civil protection statute." *Id.* at 11a–12a. Instead, Respondents sought "to wrap both of the contested seizures in the community caretaking exception to the warrant requirement." *Id.* at 11a.

The First Circuit recognized that this Court has applied the community caretaking exception only "in the motor vehicle context," and it noted that the doctrine's reach outside of the motor vehicle context was "ill-defined." *Id.* at 12a–14a. Even so, it "join[ed] ranks with those courts that have extended the community caretaking exception" to the home. *Id.* at 16a. "In taking [that] step," the First Circuit emphasized the "'special role' that police officers play in our society." *Id.* "[A] police officer," according to the First Circuit, "must act as a master of all emergencies, who is 'expected to . . . provide an infinite variety of services to preserve and protect community safety.'" *Id.* (quoting *United States v. Rodriguez-Morales*, 929 F.2d 780, 784–85 (1st Cir. 1991)). And the community caretaking exception, according to the court, "is designed to give police elbow room" to protect public safety. *Id.*

To avoid giving police a "free pass," however, the First Circuit erected two purported "guardrails." *Id.* at 19a. First, "police officers must have 'solid, non-investigatory reasons' for engaging in community caretaking activities." *Id.* at 20a. Second, the officers' actions "must draw their essence either from state law or sound police procedure." *Id.* Yet that "'sound police

procedure' need not involve the application of either established protocols or fixed criteria." *Id.* Instead, sound police procedure means "police officers' 'reasonable choices' among available options." *Id.* (citation omitted). According to the First Circuit, "[t]he acid test" ultimately is whether the officers' actions "are within the realm of reason." *Id.* at 21a (citation omitted).

Applying the community caretaking exception to the seizure of Petitioner, the court held that the officers acted reasonably, despite "[Petitioner's] relatively calm demeanor," because "the facts available to the officers at the time . . . warranted their conclusion that [Petitioner] posed a serious and imminent risk of harming himself or others." *Id.* at 27a–28a. The court noted, however, that "imminent" does not mean "the degree of immediacy typically required under the exigent circumstances and emergency aid exceptions." *Id.* at 21a; *see also id.* at 12a n.5 (explaining that "the emergency aid exception is typically employed in scenarios in which an individual within a dwelling has already been seriously injured or may be about to sustain such injuries *in a matter of moments*" (emphasis added)). Indeed, when the officers arrived, twelve hours had passed without incident since Petitioner's supposedly suicidal statement. *Id.* at 53a–55a.

Applying the community caretaking exception to the warrantless entry into Petitioner's home and the seizure of his handguns, the court similarly concluded that "the officers could reasonably have believed, based on the facts known to them at the time, that leaving the guns in [Petitioner's] home, accessible to him, posed a serious threat of immediate harm." *Id.* at

31a. While acknowledging that the officers could "have accompanied [Petitioner] to the hospital to see how events unfolded before taking action with respect to his firearms," the court explained that "we do not require police officers to choose the least intrusive means of fulfilling their community caretaking responsibilities." *Id.* at 34a. The court also concluded that the officers' actions "were consistent with sound police procedure." *Id.* at 35a. It did not, however, identify any police procedures. Instead, it reasoned that the police "must . . . be granted some measure of discretion when taking plausible steps to protect public safety," and "[h]ere, the officers' decision to confiscate the firearms was a reasonable choice among the available alternatives." *Id.*

SUMMARY OF ARGUMENT

Respondents violated Petitioner's Fourth Amendment rights when they seized him from his home, and then seized his guns from his bedroom and garage, all without a warrant. The only justification Respondents offered for their conduct is *Cady*'s community caretaking exception. But that narrow exception for searches of vehicles in police custody does not extend to the home. A contrary rule would grant police a blank check to intrude upon the home in the name of boundless "community caretaking" functions. That result is antithetical to the Fourth Amendment, irreconcilable with this Court's precedent, and unnecessary to protect people in need.

I. The community caretaking exception that this Court recognized in *Cady* is a narrow carveout from the Fourth Amendment's warrant requirement. It is inextricably tied to three critical aspects of the search in *Cady*: a vehicle, in police custody, searched

pursuant to standard police caretaking procedures. Indeed, in crafting this exception, *Cady* was careful to emphasize the "constitutional difference" between automobiles—which have long been afforded little privacy protection—and homes, which are at the pinnacle of the Fourth Amendment's privacy interests. *Cady*, 413 U.S. at 439. The Court has never applied *Cady*'s exception outside the vehicle context; to the contrary, *Cady*'s progeny, like *Cady* itself, explicitly recognize that searches of fixed structures should be treated differently than searches of automobiles. That diminished privacy interest in motor vehicles is firmly grounded in black-letter Fourth Amendment doctrine.

II. When it comes to searches of the home, *Cady*'s justifications for a community caretaking exception are inapposite. "Freedom from intrusion into the home or dwelling is the archetype of the privacy protection secured by the Fourth Amendment." *Payton*, 445 U.S. at 587 (citation omitted). The common law spurned warrantless intrusions into the home. In keeping with that long tradition, the Court repeatedly has recognized that "searches and seizures inside a home without a warrant are presumptively unreasonable." *Kentucky v. King*, 563 U.S. 452, 459 (2011) (citation omitted).

The "firm line" that the Fourth Amendment draws "at the entrance to the house" does not waver to permit warrantless entries based on community-caretaking-like concerns about health and safety. *Payton*, 445 U.S. at 590; *see Camara v. Mun. Ct.*, 387 U.S. 523, 538 (1967). That firm line also means that warrantless searches and seizures that are permissible in some locations are unconstitutional in the home. And the limited circumstances in which the

Court has permitted warrantless entry into the home—consent and exigent circumstances—are "jealously and carefully drawn." *Randolph*, 547 U.S. at 109 (citation omitted).

Extending the community caretaking exception to homes would be anathema to the Fourth Amendment. *Cady*'s vehicle-specific rationales cannot justify giving police free rein to intrude homes in the name of community caretaking.

III. Law enforcement officers and others already have ample tools to help people in need without extending *Cady*. The emergency aid doctrine recognizes that police can enter a home to protect occupants from imminent injury. If there is no true emergency, police may be able to obtain a warrant. And in the context of mental health crises, states have statutory schemes that enable not only police, but also family members, friends, and professionals, to intervene.

IV. The lower courts that have extended *Cady* to the home have not even tried to reconcile their rule with the core principles underlying the Fourth Amendment. Instead, they emphasize the importance of police officers' caretaking responsibilities. But they fail to acknowledge the many existing tools that law enforcement and others have at their disposal. Finally, although courts have identified some purported limits on the community caretaking doctrine, those limits are illusory, and in any event cannot redeem a rule that is fundamentally incompatible with bedrock Fourth Amendment principles.

ARGUMENT

The community caretaking exception is a narrow carveout to the Fourth Amendment's warrant

requirement. There is no basis for expanding that vehicle-specific exception to justify warrantless intrusions into the home. To the contrary, the Fourth Amendment prohibits doing so. Nor is there any good reason to grant police such sweeping authority when they already have ample other tools for helping people in need.

I. *CADY*'S COMMUNITY CARETAKING EXCEPTION TO THE FOURTH AMENDMENT APPLIES ONLY TO SEARCHES OF AUTOMOBILES

In *Cady*, this Court recognized a limited community caretaking exception to the Fourth Amendment's warrant requirement that applies only to searches of cars. The Court has never applied *Cady*'s exception beyond that narrow context; in fact, *Cady* and its progeny explicitly recognize that searches of fixed structures should be treated differently. That diminished privacy interest in vehicles is firmly grounded in established Fourth Amendment doctrine.

A. *Cady* Tailored The Community Caretaking Exception To The Unique Context Of Motor Vehicle Searches

Cady considered the constitutionality of a police search of an automobile conducted in the wake of a car accident. 413 U.S at 436–37. The defendant was a Chicago police officer who had crashed a rental car in West Bend, Wisconsin. *Id.* at 435–36. After being picked up by a passing motorist, the defendant called the police. *Id.* at 436. Two officers met him at a tavern and drove him back to the scene of the single-vehicle accident. *Id.* On the way, the officers observed that the defendant was drunk. *See id.* Upon arriving at the scene of the accident, the officers called a tow truck to

move the damaged car to a private garage. *See id.* at 436.

Believing that "Chicago police officers were required by regulation to carry their service revolvers at all times," the officers looked for the defendant's revolver before the car was towed. *Id.* at 436–37. They did not find it on his person, on the car's front seat, or in the glove compartment. *Id.* at 436. After taking the defendant to the West Bend police station—where he was interviewed, arrested for drunk driving, and ultimately transported to the hospital—one of the officers drove to the garage where the rental car had been towed. *Id.* The car had been "left outside by the wrecker, and no police guard was posted." *Id.* The purpose of returning to the car "was to look for [the defendant's] service revolver," consistent with that police department's standard practice, in order "to protect the public from the possibility that a revolver would fall into untrained or perhaps malicious hands." *Id.* at 437, 443. While searching for the revolver, the officer discovered various items in the car that led to the defendant's prosecution and conviction for murder. *See id.* at 437–39.

The Court upheld the warrantless search of the defendant's car under a newly minted "community caretaking" exception to the Fourth Amendment's warrant requirement. *Id.* at 441, 448. *Cady* carefully tailored the phrase "community caretaking" to the work that "[l]ocal police officers" do in "investigat[ing] vehicle accidents": "Local police officers, unlike federal officers, frequently investigate vehicle accidents in which there is no claim of criminal liability and engage in what, for want of a better term, may be described as community caretaking functions,

totally divorced from the detection, investigation, or acquisition of evidence relating to the violation of a criminal statute." *Id.* at 441.

In concluding that "the type of caretaking 'search' conducted here . . . was not unreasonable solely because a warrant had not been obtained," *id.* at 447–48, the Court emphasized three important aspects of the search. *First* and foremost, the search was of a *vehicle*, so it fell within "at least a partial exception" to the rule that "a search of private property without proper consent is 'unreasonable' unless it has been authorized by a valid search warrant." *Id.* at 439 (quoting *Camara*, 387 U.S. at 528–29). Nearly every page of the Court's opinion recognizes "[t]he constitutional difference between searches of and seizures from houses and similar structures and from vehicles." *Id.* at 442; *see id.* at 439–47; Pet. 20–22 (collecting quotes). That longstanding distinction "stems both from the ambulatory character of the latter and from the fact that extensive, and often noncriminal contact with automobiles will bring local officials in 'plain view' of evidence, fruits, or instrumentalities of a crime, or contraband." *Cady*, 413 U.S. at 442; *see also id.* at 441 ("Because of the extensive regulation of motor vehicles and traffic, and also because of the frequency with which a vehicle can become disabled or involved in an accident on public highways, the extent of police-citizen contact involving automobiles will be substantially greater than police-citizen contact in a home or office.").

Second, the already-reduced Fourth Amendment protections in this context were further diminished because the car "was neither in the custody nor on the premises of its owner." *Id.* at 447–48; *see id.* at 442–

43. Instead, it was in a form of "lawful" police custody. *Id.* at 448. The wrecked car was "a nuisance along the highway," and the defendant (intoxicated and later comatose) could not have arranged to have it towed. *Id.* at 443.

Third, the police department's custody of the car triggered department protocols for securing the vehicle and its contents. *See id.* at 439, 443, 447. "[T]he search of the trunk to retrieve the revolver was 'standard procedure in (that police) department,' to protect the public from the possibility that a revolver would fall into untrained or perhaps malicious hands." *Id.* at 443.

B. The Court Has Never Applied The Community Caretaking Exception Outside The Context Of Vehicle Searches

The community caretaking exception is inextricably tied to these three critical aspects of the search in *Cady*: a vehicle, in police custody, searched pursuant to standard police "caretaking" procedures. *Id.* at 447. Indeed, the Court has applied *Cady*'s community caretaking exception only twice—both times to searches that share those characteristics.

South Dakota v. Opperman involved a "routine inventory search of an automobile lawfully impounded by police for violations of municipal parking ordinances." 428 U.S. 364, 365 (1976). In holding that the warrantless search did not violate the Fourth Amendment, *Opperman* noted that "automobiles are frequently taken into police custody" as part of "community caretaking functions." *Id.* at 368 (quoting *Cady*, 413 U.S. at 441). As in *Cady*, the Court tied that phrase to the role police play in assisting with accidents and other "traffic-control

activities," including removing "disabled," "damaged," or illegally parked vehicles that "imped[e] traffic or threaten[] public safety and convenience." *Id.* at 368–69. When police do remove or impound a vehicle, "local police departments generally follow a routine practice of securing and inventorying the automobiles' contents." *Id.* at 369.

Although *Opperman* determined that such "caretaking procedures" were reasonable, it emphasized that "warrantless examinations of automobiles have been upheld in circumstances in which a search of a home or office would not." *Id.* at 367, 369. In particular, the Court noted that while a warrant is required for an "administrative entry into and inspection of private dwellings or commercial premises to ascertain health or safety conditions," a warrant "has never been held applicable to automobile inspections for safety purposes." *Id.* at 367 n.2 (citing *Camara*, 387 U.S. 523); *see also infra* 23–25.

Colorado v. Bertine likewise upheld an inventory search of a van before it was towed to an impoundment lot. 479 U.S. 367, 369 (1987). Surveying cases "accord[ing] deference to police caretaking procedures designed to secure and protect vehicles and their contents within police custody," *Bertine* explained that automobile "inventory searches are now a well-defined exception to the warrant requirement of the Fourth Amendment." *Id.* at 371–72. Those standardized procedures "help[] guard against claims of theft, vandalism, or negligence," and protect the "police or others" from "dangerous instrumentalities." *Id.* at 373. When "administered in good faith" and according to "standardized criteria,"

such inventory procedures "satisfy the Fourth Amendment." *Id.* at 374 & n.6.

C. Black-Letter Law Affirms *Cady*'s Reliance On The Reduced Privacy Interest In Vehicles

The Fourth Amendment has been interpreted "practically since the beginning of the government, as recognizing a necessary difference between a search of a store, dwelling house, or other structure . . . and a search of a ship, motor boat, wagon, or automobile for contraband goods, where it is not practicable to secure a warrant." *Carroll v. United States*, 267 U.S. 132, 153 (1925).

The earliest justifications for according diminished privacy rights to automobiles were based on their ready mobility, which made the destruction of evidence more likely and the process of obtaining a warrant less practical. *See id.*; *see also Opperman*, 428 U.S. at 367; *Chambers*, 399 U.S. at 51 ("[T]he car is movable, the occupants are alerted, and the car's contents may never be found again if a warrant must be obtained.").

But the Court also has upheld warrantless searches even when there is no risk the car will be moved, "because the expectation of privacy with respect to one's automobile is significantly less than that relating to one's home or office." *Opperman*, 428 U.S. at 367; *see Harris v. United States*, 390 U.S. 234, 236 (1968); *Cooper v. California*, 386 U.S. 58, 61–62 (1967). "Automobiles, unlike homes, are subjected to pervasive and continuing governmental regulation and controls, including periodic inspection and licensing requirements." *Opperman*, 428 U.S. at 368. "As an everyday occurrence, police stop and examine

vehicles when license plates or inspection stickers have expired, or if other violations, such as exhaust fumes or excessive noise, are noted, or if headlights or other safety equipment are not in proper working order." *Id.* In addition, "[o]ne has a lesser expectation of privacy in a motor vehicle because its function is transportation and it seldom serves as one's residence or as the repository of personal effects." *Cardwell v. Lewis*, 417 U.S. 583, 590 (1974) (plurality op.). Moreover, "[a] car has little capacity for escaping public scrutiny. It travels public thoroughfares where its occupants and its contents are in plain view." *Id.*

Given these diminished privacy interests, the Fourth Amendment allows warrantless searches of cars in many instances where "the result might be the opposite in a search of a home, a store, or other fixed piece of property." *Cooper*, 386 U.S. at 59. Officers may, for example, "search an automobile without having obtained a warrant so long as they have probable cause to do so." *Collins*, 138 S. Ct. at 1670 (citing *Carney*, 471 U.S. at 392–93); *see, e.g.*, *California v. Acevedo*, 500 U.S. 565, 580 (1991) (upholding warrantless search of containers within vehicle); *United States v. Ross*, 456 U.S. 798, 825 (1982) (same); *Chambers*, 399 U.S. at 52 (upholding warrantless search of a car that police had probable cause to believe contained evidence of a robbery); *Carroll*, 267 U.S. at 162 (upholding warrantless search of a car that police had probable cause to believe contained contraband). By contrast, probable cause alone is *not* sufficient to search a home; absent consent or exigent circumstances, police cannot search a home without a warrant. *Steagald v. United States*, 451 U.S. 204, 217 (1981); *see infra* 23–30.

Apart from the investigation of crime, police also may search cars that, like the defendant's car in *Cady*, are in some form of police custody. *See, e.g.*, *Cooper*, 386 U.S. 58 (1967) (upholding warrantless search of a vehicle impounded for forfeiture proceedings); *Harris*, 390 U.S. at 236 (upholding inventory search of car in police custody). There are several justifications for those "caretaking searches": securing "the owner's property"; protecting "the police against claims or disputes over lost or stolen property"; safeguarding the police or others from any dangers that the property may pose; and determining "whether a vehicle has been stolen and thereafter abandoned." *Opperman*, 428 U.S. at 369 (citations omitted); *Bertine*, 479 U.S. at 373; *see also Harris*, 390 U.S. at 236 (search was "a [permissible] measure taken to protect the car while it was in police custody"); *Cooper*, 368 U.S. at 61–62 ("It would be unreasonable to hold that the police, having to retain the car in their custody for such a length of time, had no right, even for their own protection, to search it.").

* * *

Cady carved out a narrow exception to the Fourth Amendment's warrant requirement that is closely tied to the distinct features of vehicle searches. *Cady* itself, the cases on which it relied, and its progeny offer no basis for extending that exception beyond the narrow context in which it was created. To the contrary, as *Cady* recognized, "the result might be the opposite in a search of a home, a store, or other fixed piece of property." 413 U.S. at 440 (quoting *Cooper*, 386 U.S. at 59).

II. THE FOURTH AMENDMENT DEMANDS THAT HOMES BE INSULATED FROM THE COMMUNITY CARETAKING EXCEPTION

Not only is *Cady* by its terms limited to searches of cars, but fundamental Fourth Amendment principles also block the community caretaking exception from overtaking the home. Cars are at the bottom of the Fourth Amendment pile. Homes, by contrast, are at the top. "[W]idespread hostility" to the Crown's intrusions into the home were a "driving force behind" the Fourth Amendment's adoption. *Carpenter v. United States*, 138 S. Ct. 2206, 2239 (2018) (Thomas, J., dissenting) (citation omitted). This Court repeatedly has recognized that warrantless entries into the home are unreasonable absent consent or exigent circumstances. Allowing the police to invade the home based on their everyday "catchall" community caretaking responsibilities would be anathema to the Fourth Amendment. Pet. App. 13a.

A. The Common Law Spurned Warrantless Intrusions Into The Home

The common law prized the sanctity of the home against warrantless intrusion. "The zealous and frequent repetition of the adage that a 'man's house is his castle,' made it abundantly clear that both in England and in the Colonies 'the freedom of one's house' was one of the most vital elements of English liberty." *Payton*, 445 U.S. at 596–97.

By the time of the Framing, "English legal treatises, prominent law lords, the Court of Common Pleas, the Court of King's Bench, Parliament, and the general public had come to embrace the broad understanding that," in general, "a warrant must issue prior to search or seizure within the home."

Laura K. Donohue, *The Original Fourth Amendment*, 83 U. Chi. L. Rev. 1181, 1239 (2016); *see id.* at 1216–40. Entering a home without permission—commonly called the "breaking of doors"—was considered "so violent, obnoxious, and dangerous a proceeding, that it should be adopted only in extreme cases, where an immediate arrest is requisite." 1 Joseph Chitty, *Practical Treatise on the Criminal Law* 36 (1819); *see* 4 William Blackstone, *Commentaries on the Laws of England* 226 (4th ed. 1770) (common-law term "breaking of doors" did not require forcible entry but included even "lifting up the latch").

The principal common-law commentaries thus reflect a "clear" "norm": "in order to enter into a home, the constable was required to first have a warrant—unless he was in pursuit of a felon." Donohue, *supra*, at 1228–29; *see id.* at 1229–30. Some common-law commentaries also recognized limited exigent circumstances that would justify warrantless entry: the need to "prevent bloodshed" arising from a violent affray in a house; to suppress disorderly conduct "in a house, at an unseasonable time of night, especially in inns, taverns, or alehouses"; or to recapture a prisoner who had escaped from custody. 1 Richard Burn, *The Justice of the Peace, and the Parish Officer* 102–03 (14th ed. 1780); 1 Matthew Hale, *The History of the Pleas of the Crown* 589 (1736). Apart from these limited exceptions, however, entering the home without a warrant or consent constituted trespass. Donohue, *supra*, at 1314; *see, e.g.*, Burn, *supra*, at 103; Blackstone, *supra*, at 223.

B. The Fourth Amendment Prohibits Warrantless Entries Into The Home In The Absence Of Consent Or Exigent Circumstances

Reflecting this common-law tradition, the Fourth Amendment draws "a firm line at the entrance to the house." *Payton*, 445 U.S. at 590; *see Florida v. Jardines*, 569 U.S. 1, 6 (2013) ("[W]hen it comes to the Fourth Amendment, the home is first among equals."). At its "very core," the Fourth Amendment prioritizes "the right of a man to retreat into his own home and there be free from unreasonable governmental intrusion." *Payton*, 445 U.S. at 589–90 (citation omitted). The Court has thus "consistently held that the entry into a home to conduct a search or make an arrest is unreasonable under the Fourth Amendment unless done pursuant to a warrant." *Steagald*, 451 U.S. at 211; *see King*, 563 U.S. at 459 ("[S]earches and seizures inside a home without a warrant are presumptively unreasonable." (citation omitted)).

1. The Fourth Amendment's rigid protection of the home does not bend to permit warrantless entries based on community-caretaking-like "considerations of health and safety." *Camara*, 387 U.S. at 538. In *Camara*, an apartment lessee was criminally prosecuted for refusing to permit municipal officials to inspect his dwelling for possible violations of the local housing code. *Id.* at 525–27. He claimed that such forced warrantless entries violated the Fourth Amendment, and the Court agreed. *Id.* at 527, 534.

Camara acknowledged that "a routine inspection of the physical condition of private property is a less hostile intrusion than the typical policeman's search for the fruits and instrumentalities of crime," but

emphasized that such searches nevertheless "jeopardize" the Fourth Amendment's protections. *Id.* at 530; *see id.* at 534 ("[A]dministrative searches [of the home] are significant intrusions upon the interests protected by the Fourth Amendment."). The Court explained, moreover, that broad "statutory safeguards" reflecting "legislative or administrative assessment of broad factors such as the area's age and condition" are not sufficient to protect those interests. *Id.* at 531–32. "The practical effect . . . is to leave the occupant subject to the discretion of the official in the field"—the very type of latitude the Court "ha[s] consistently circumscribed by a requirement that a disinterested party warrant the need to search." *Id.* at 532–33.

Camara rejected the local government's "vigorous[] argu[ments] that the health and safety of entire urban populations is dependent upon enforcement of minimum fire, housing, and sanitation standards," and that warrantless "routine systematized inspection[s]" were "the only effective means of enforcing such codes." *Id.* at 533. "In assessing whether the public interest demands creation of a general exception to the Fourth Amendment's warrant requirement, the question is not whether the public interest justifies the type of search in question, but whether the authority to search should be evidenced by a warrant." *Id.* Because there was no reason to doubt that "fire, health, and housing code inspection programs" could "achieve their goals within the confines of a reasonable search warrant requirement," the Court did "not find the public need argument dispositive." *Id.* The defendant "had a constitutional right to insist that the inspectors obtain a warrant to search," although "the facts that would

justify an inference of 'probable cause' to make an inspection are clearly different from those that would justify such an inference [in] a criminal investigation." *Id.* at 538, 540.

2. The "firm line" that the Fourth Amendment draws "at the entrance to the house" also means that a search or seizure that would be permissible in other locations is often unconstitutional if it involves "warrantless entry into a home." *Payton*, 445 U.S. at 590; *see also Collins*, 138 S. Ct. at 1670; *Cooper*, 386 U.S. at 59.

Particularly salient here, *Collins* confirmed that vehicle-specific exceptions to the Fourth Amendment do not "permit[] a police officer, uninvited and without a warrant, to enter the curtilage of a home in order to search a vehicle parked therein." 138 S. Ct. at 1668. The Court recognized that warrantless searches of automobiles can be reasonable, in light of their "ready mobility" and "pervasive regulation." *Id.* at 1669–70; *see supra* 18–20. But those "rationales appl[y] only to automobiles and not to houses." *Collins*, 138 S. Ct. at 1670; *id.* at 1672 ("[T]he rationales underlying the automobile exception are specific to the nature of a vehicle and the ways in which it is distinct from a house."). And "[w]hen it comes to the Fourth Amendment, the home is first among equals." *Id.* (citation omitted). By physically intruding on the curtilage of the defendant's home, the police officer "not only invaded [the defendant's] Fourth Amendment interest in the item searched, *i.e.*, the motorcycle, but also invaded [the defendant's] Fourth Amendment interest in the curtilage of his home." *Id.* at 1671.

The Court thus rejected Virginia's argument that "the automobile exception justifie[d] the invasion of the curtilage." *Id.* "Nothing in our case law," *Collins* explained, "suggests that the automobile exception gives an officer the right to enter a home or its curtilage to access a vehicle without a warrant." *Id.* To the contrary, "[e]xpanding the scope of the automobile exception in this way would both undervalue the core Fourth Amendment protection afforded to the home and . . . untether the automobile exception from the justifications underlying it." *Id.* (citation omitted).

As *Collins* noted, the Court has "declined to expand the scope of other exceptions to the warrant requirement to permit warrantless entry into the home." *Id.* at 1672. For example, while it is a "settled rule that warrantless arrests in public places are valid," police may not enter a home to make an arrest without a warrant (unless an exception such as exigent circumstances applies). *Payton*, 445 U.S. at 587–90 (arrest warrant required to make arrest in suspect's home); *see also Steagald*, 451 U.S. at 217 (search warrant required to make arrest in third party's home). That is because "[f]reedom from intrusion into the home or dwelling is the archetype of the privacy protection secured by the Fourth Amendment." *Payton*, 445 U.S. at 587 (citation omitted). Thus, even when there is probable cause for a suspect's arrest, "judicially untested determinations are not reliable enough to justify" intrusions into a home. *Steagald*, 451 U.S. at 213; *see Payton*, 445 U.S. at 583, 587–90. "A contrary conclusion—that the police, acting alone and in the absence of exigent circumstances, may decide when there is sufficient justification for searching the home of a third party for the subject of an arrest warrant—would create a

significant potential for abuse." *Steagald*, 451 U.S. at 215.

Similarly, the plain-view doctrine allows officers to seize incriminating evidence without a warrant, but only if they "have a lawful right of access to the object itself." *Horton v. California*, 496 U.S. 128, 136–37 (1990); *see id.* at 137 n.7 ("[E]ven where the object is contraband, this Court has repeatedly stated and enforced the basic rule that the police may not enter and make a warrantless seizure."). An officer therefore cannot enter a house to seize "illegal drugs" that he sees "through the window," *Collins*, 138 S. Ct. at 1672, even though he could seize the same item from a public place, *see, e.g.*, *Horton*, 496 U.S. at 137; 1 Wayne R. LaFave, Search & Seizure: A Treatise on the Fourth Amendment § 2.2(a) (5th ed. 2012) (discussing plain-view doctrine).

3. The limited exceptions in which the Court has permitted warrantless entry into the home—consent and exigent circumstances—are "jealously and carefully drawn." *Randolph*, 547 U.S. at 109 (citation omitted). That approach both preserves the primacy of the warrant process and ensures that police officers have "clear guidance . . . through categorical rules." *Riley v. California*, 573 U.S. 373, 398, (2014).

The Court has long recognized that the Fourth Amendment's prohibition on unreasonable searches and seizures "does not apply . . . to situations in which voluntary consent has been obtained, either from the individual whose property is searched, or from a third party who possesses common authority over the premises." *Illinois v. Rodriguez*, 497 U.S. 177, 181 (1990) (citing *United States v. Matlock*, 415 U.S. 164, 171 (1974); *Schneckloth v. Bustamonte*, 412 U.S. 218

(1973)). After all, tenants who share their quarters assume the risk that "any of the co-inhabitants has the right to permit the inspection in his own right" and that "any one of them may admit visitors, with the consequence that a guest [is] obnoxious." *Randolph*, 547 U.S. at 110–11 (citation omitted).

But the Court has narrowly circumscribed this exception, holding that "a warrantless search of a shared dwelling for evidence over the express refusal of consent by a physically present resident cannot be justified as reasonable as to him." *Id.* at 120. A "cooperative occupant's" consent to a search cannot "counter the force of an objecting individual's claim to security against the government's intrusion into his dwelling place." *Id.* at 115. The Court acknowledged that it was "drawing a fine line" by requiring a physically present, vocal objector, but concluded that such "formalism" was "justified" by the "practical value" of easily applicable rules. *Id.* at 121; *see also Acevedo*, 500 U.S. at 577 (emphasizing "the virtue of providing clear and unequivocal guidelines to the law enforcement profession" (citation omitted)).

Another "well-recognized exception" to the warrant requirement arises when exigent circumstances "make the needs of law enforcement so compelling that [a] warrantless search is objectively reasonable under the Fourth Amendment." *King*, 563 U.S. at 460 (alteration in original) (citation omitted). "Such exigencies could include the need to prevent the imminent destruction of evidence in individual cases, to pursue a fleeing suspect, and to assist persons who are seriously injured or are threatened with imminent injury." *Riley*, 573 U.S. at 402.

As with other exceptions, however, the exigent circumstances exception is "strictly circumscribed," *Randolph*, 547 U.S. at 113 n.3 (citation omitted), and must "be supported by a genuine exigency," *King*, 563 U.S. at 470. Thus, the destruction of evidence must be "imminent," *id.* at 460 (citation omitted), and a "hot pursuit" requires "some sort of a chase," *United States v. Santana*, 427 U.S. 38, 42–43 (1976).

The exigency of "emergency aid" requires officers to have "an objectively reasonable basis for believing that an occupant is *seriously injured* or *imminently* threatened with such injury." *Brigham City v. Stuart*, 547 U.S. 398, 400, 402 (2006) (emphasis added). This exigency is limited to situations where police "reasonably believe that a person within is in need of *immediate* aid," so police need to act in a matter of moments "to protect or preserve life or avoid serious injury." *Mincey v. Arizona*, 437 U.S. 385, 392 (1978) (emphasis added) (citation omitted). *Mincey* thus rejected Arizona's so-called "murder scene exception" allowing warrantless searches conducted in the investigation of a homicide, even after the suspects had been apprehended. *Id.* at 389, 395. The Court acknowledged "the vital public interest in the prompt investigation of the extremely serious crime of murder," but held that "the seriousness of the offense under investigation" does not "itself create[] exigent circumstances" that would justify a warrantless search. *Id.* at 393–94. Nor did state supreme court guidelines for such searches counterbalance a homeowner's invasion of privacy: the "unbridled discretion" they conferred upon individual officers was "precisely th[e] kind of judgmental assessment of the reasonableness and scope of a proposed search that the Fourth Amendment requires be made by a

neutral and objective magistrate, not a police officer." *Id.* at 395.

C. The Community Caretaking Exception Is Antithetical To The Fourth Amendment's Protection Of The Home

Extending the vehicle-specific community caretaking exception articulated in *Cady* to the home is irreconcilable with the Fourth Amendment principles discussed above.

To begin, vehicles and homes are at opposite ends of the spectrum when it comes to the Fourth Amendment's protections. *See supra* 18–20, 23–30. And unlike the vehicles searched in *Cady, Opperman*, and *Bertine*, which were entitled to even *less* protection because they were in police custody, homes are, by definition, "in the custody" and "on the premises of [their] owner." *Cady*, 413 U.S. at 447–48. As with other vehicle-specific exceptions, "the rationales underlying" the community caretaking exception "are specific to the nature of a vehicle and the ways in which it is distinct from a house." *Collins*, 138 S. Ct. at 1672; *see supra* 18–20. Those rationales cannot justify warrantless entries into the home, "[g]iven the centrality of the Fourth Amendment interest in the home and its curtilage and the disconnect between that interest and the justifications behind the automobile exception." *Collins*, 138 S. Ct. at 1673.

The community caretaking exception's broad concerns about "health and safety" cannot justify invading the home either. *Camara*, 387 U.S. at 538; *see also Mincey*, 437 U.S. at 393–94 (rejecting "vital public interest" arguments for categorical murder-scene exception). "In assessing whether the public

interest demands creation of a general exception to the Fourth Amendment's warrant requirement, the question is not whether the public interest justifies the type of search in question, but whether the authority to search should be evidenced by a warrant." *Camara*, 387 U.S. at 533.

Lower courts have held that officers engaged in "catchall" community caretaking are not bound by "established protocols or fixed criteria" and need not select the "least intrusive" of "reasonable choices among available options." Pet. App. 13a, 20a (quotation marks and citations omitted); *but see Bertine*, 479 U.S. at 374 ("Our decisions have always adhered to the requirement that inventories be conducted according to standardized criteria."). This wide latitude to invade private property is "precisely th[e] kind of judgmental assessment of the reasonableness and scope of a proposed search that the Fourth Amendment requires be made by a neutral and objective magistrate, not a police officer." *Mincey*, 437 U.S. at 395; *see Camara*, 387 U.S. at 532–33 ("The practical effect of this system is to leave the occupant subject to the discretion of the official in the field. This is precisely the discretion to invade private property which we have consistently circumscribed by a requirement that a disinterested party warrant the need to search."). As in *Steagald*, "[a] contrary conclusion—that the police, acting alone and in the absence of exigent circumstances, may decide when there is sufficient justification [to invade a home]—would create a significant potential for abuse." 451 U.S. at 215.

The breadth and scope of "community caretaking" functions, moreover, make it an exception inherently

incapable of being "jealously and carefully drawn." *Randolph*, 547 U.S. at 109 (citation omitted). The "myriad" potential "community caretaking" functions are "too numerous to list." *South Dakota v. Deneui*, 775 N.W.2d 221, 242 (S.D. 2009); *see* Pet. App. 13a (describing community caretaking as "a catchall for the wide range of responsibilities that police officers must discharge aside from their criminal enforcement activities") (citation omitted). And unlike exceptions based on exigent circumstances, the community caretaking exception is "not imbued with any definite temporal dimensions" and does not require the same "degree of immediacy." Pet. App. 21a; *see also Opperman*, 428 U.S. at 373 (upholding vehicle search that took place one week after impoundment).

Extending the community caretaking exception to the home would create an "exigency-lite" exception to the Fourth Amendment and eviscerate the limitations the Court has drawn on true exigent circumstances. *See Brigham City*, 547 U.S. at 402; *see supra* 29–30. It would short-circuit the warrant requirement for no good reason, since—absent a real exigency—officers have time to obtain the warrant the Constitution requires. *See infra* 36. And it would give officers no guidance on what the bounds of "community caretaking" might be.

In sum, "to allow an officer to rely on" the community caretaking exception "to gain entry into a house . . . would unmoor the exception from its justifications, render hollow the core Fourth Amendment protection the Constitution extends to the house . . . , and transform what was meant to be an exception into a tool with far broader application." *Collins*, 138 S. Ct. at 1672–73.

III. LAW ENFORCEMENT OFFICERS AND OTHERS HAVE AMPLE TOOLS TO HELP PEOPLE IN NEED WITHOUT EXTENDING *CADY*

Nor do law enforcement officials need the blunt force of a boundless, discretionary community caretaking exception—especially at the cost of vital Fourth Amendment rights and "a significant potential for abuse." *Steagald*, 451 U.S. at 215. To be sure, the "wide range" of everyday "catchall" responsibilities that police officers perform may serve the public interest. Pet. App. 13a (citation omitted). But a variety of existing tools already satisfy that interest. And police are not the only ones in society who can address the array of "community caretaking" needs; medical and mental health professionals are often better suited for the task.

A. Police already have ample tools to address a number of "community caretaking" concerns in homes in a manner consistent with the Fourth Amendment.

1. As discussed above, the longstanding exigent circumstances exception allows police to "enter a home without a warrant to render emergency assistance to an injured occupant or to protect an occupant from imminent injury." *Brigham City*, 547 U.S. at 403 (citing *Mincey*, 437 U.S. at 392); *see supra* 29–30. "Officers do not need ironclad proof of a likely serious, life-threatening injury," but only "an objectively reasonable basis for believing that medical assistance was needed, or persons were in danger." *Michigan v. Fisher*, 558 U.S. 45, 49 (2009) (quotation marks and citation omitted).

This Court has recognized the reasonableness of warrantless entries to render true emergency aid in a number of situations, including to extinguish a fire,

Michigan v. Tyler, 436 U.S. 499, 509 (1978); to suppress a bloody fist fight, *Brigham City*, 547 U.S. at 400–01; to help a "gravely disabled," schizophrenic resident of a group home who had just threatened to kill her social worker with a knife, *City & Cnty. of San Francisco v. Sheehan*, 135 S. Ct. 1765, 1769–70, 1774–75 (2015); and to help potential victims when officers responding to a disturbance encountered a smashed vehicle, bloody clothing, broken windows, and resident screaming and throwing objects in the house, *Fisher*, 558 U.S. at 45–46.

Many of the cases in which courts have extended the community caretaking exception to the home involve facts that likely would give officers "an objectively reasonable basis for believing that medical assistance was needed, or persons were in danger." *Id.* at 49 (quotation marks and citation omitted). For example:

- Officers responded to a medical call at 3 a.m., followed a trail of blood to a door that was covered in blood, and observed blood in the foyer and leading up to the stairwell while speaking to the apparently uninjured occupant, *Wisconsin v. Matalonis*, 875 N.W.2d 567, 570–71 (Wis. 2016); *cf. Fisher*, 558 U.S. at 45–46, 48 (emergency aid doctrine applied where officers saw "signs of a recent injury" and reasonably could have believed victims were inside);
- A man asked for police assistance to safely remove his family and their belongings from a home after a co-occupant had come home drunk and threatened the man and

his children, *United States v. York*, 895 F.2d 1026, 1029–30 (5th Cir. 1990); *cf. Randolph*, 547 U.S. at 118 (recognizing police authority to assist occupants complaining of domestic violence as they "collect belongings and get out safely");

- An individual reported that his friends left a four-month-old baby alone in a house late at night and that the baby was crying out, *see People v. Woods*, 145 N.E.3d 80, 82, 84, 88 (Ill. App. Ct. 2019); *cf. Georgia v. Peterson*, 543 S.E.2d 692, 696 (Ga. 2001) ("Knowledge or the reasonable belief that minor children in a residence are without adult supervision is an exigent circumstance that authorizes police entry to help those believed to be in need of immediate aid."); and

- Police received a report that a woman likely was being held against her will by her ex-boyfriend, with whom she had a "no-contact order," and who had weapons in his home, *United States v. Smith*, 820 F.3d 356, 358 (8th Cir. 2016); *cf. Fisher*, 436 U.S. at 49 (emergency aid doctrine applies where officers have "an objectively reasonable basis for believing" that "persons were in danger").

2. When there is no exigency sufficient to justify warrantless intrusion into the home, the Fourth Amendment demands a warrant. *See Steagald*, 451 U.S. at 211. "[T]he warrant requirement is 'an important working part of our machinery of

government,' not merely 'an inconvenience to be somehow "weighed" against the claims of police efficiency.'" *Riley*, 573 U.S. at 401 (quoting *Coolidge v. New Hampshire*, 403 U.S. 433, 481 (1971)). But the process of obtaining a warrant is increasingly "more efficient." *Id.* Most jurisdictions now "allow police officers or prosecutors to apply for search warrants remotely through various means, including telephonic or radio communication, electronic communication such as e-mail, and video conferencing." *Missouri v. McNeely*, 569 U.S. 141, 154 (2013).

In many cases where courts have extended the community caretaking exception, officers could have obtained a warrant if a judge agreed there was probable cause that a crime was being committed. *See, e.g.*, *Olson v. Maryland*, 56 A.3d 576, 605 (Md. Ct. Spec. App. 2012) ("[T]he police had probable cause to believe that appellant had committed and was intending to commit the crime of disturbing the peace."); *Wisconsin v. Pinkard*, 785 N.W.2d 592, 595, 603 (Wis. 2010) ("reliable anonymous tip" that people were inside residence with "cocaine, money and a digital scale"); *Wisconsin v. Markov*, 840 N.W.2d 137 (Table), 2013 WL 5809640, at *1 (Wis. Ct. App. Oct. 30, 2013) (woman's employer reported that she unexpectedly missed work for two days and could not be reached, and her son, who had a history of "conflict" with his father, gave implausible explanation of his parents' whereabouts and told obvious lies to the police).

B. While police have a number of tools for discharging their "wide range of [community caretaking] responsibilities," Pet. App. 13a, they are not the only people in society—or the ones best

suited—to address the array of concerns that arise every day. Particularly in the context of mental health issues, most jurisdictions have statutory schemes that enable not only police, but also family members, friends, and health professionals, to address particular problems.

In a domestic violence situation, for example, most states allow a person to seek a temporary or permanent order for protection that would limit an individual's access to firearms.[1]

Other laws address broader concerns about the possession of firearms. At least nineteen states and the District of Columbia have enacted so-called "red flag laws" that enable an individual to get a court order to seize firearms from someone who "poses a significant danger of causing imminent personal injury to self or others." 8 R.I. Gen. Laws Ann. § 8-8.3-

---

[1] *See, e.g.*, Alaska Stat. Ann. §§ 18.66.100, 18.66.110; Ariz. Rev. Stat. Ann. § 13-3602; Cal. Fam. Code § 6389; Del. Code Ann. tit. 10, § 1045(a)(8), (11); D.C. Code Ann. § 16-1005(c)(10); Fla. Stat. Ann. § 790.233; Haw. Rev. Stat. Ann. § 134-7(f); 725 Ill. Comp. Stat. Ann. 5/112A-14(b)(14.5); Ind. Code Ann. § 34-26-5-9(d)(4); Iowa Code Ann. § 236.5(1)(b)(2); Me. Rev. Stat. Ann. tit. 19-A, § 4007(1)(A-1); Md. Code Ann., Fam. Law §§ 4-505(a)(2)(vii), 4-506(f); Mass. Gen. Laws Ann. ch. 209A, § 3B; Mich. Comp. Laws Ann. § 600.2950(1)(e); Mont. Code Ann. § 40-15-201(2)(f); Neb. Rev. Stat. Ann. § 42-924(1)(a)(vii); Nev. Rev. Stat. Ann. § 33.031; N.H. Rev. Stat. Ann. § 173-B:4(I), (II); N.J. Stat. Ann. § 2C:25-28(j); N.Y. Fam. Ct. Act § 842-a; N.C. Gen. Stat. Ann. § 50B-3.1; N.D. Cent. Code Ann. § 14-07.1-02(4)(g); 23 Pa. Stat. and Cons. Stat. Ann. § 6108(a)(7); 8 R.I. Gen. Laws Ann. § 8-8.1-3(a)(4); S.D. Codified Laws § 25-10-24; Tex. Fam. Code Ann. § 85.022(b)(6); Utah Code Ann. § 78B-7-603(2)(f); Wash. Rev. Code Ann. § 9.41.800; W. Va. Code Ann. § 48-27-403(a); Wis. Stat. Ann. § 813.12(4m).

4(a)-(b); *see id.* § 8-8.3-3(b).[2] At least ten more states are considering similar laws.[3]

In addition, every state has an emergency hold law providing for the temporary involuntary commitment of individuals who are mentally ill and pose a danger to themselves or others.[4] Depending on the particular

---

[2] *See, e.g.*, Cal. Penal Code §§ 18125–18148; Colo. Rev. Stat. Ann. §§ 13-14.5-103, 13-14.5-104; Conn. Gen. Stat. Ann. § 29-38c; Del. Code Ann. tit. 10, § 7703; D.C. Code Ann. § 7-2510.4; Fla. Stat. Ann. § 790.401(4); Haw. Rev. Stat. Ann. § 134-64; 430 Ill. Comp. Stat. Ann. 67/35; Ind. Code Ann. §§ 35-47-14-2, 35-47-3; Md. Code Ann., Pub. Safety §§ 5-602 to 5-605; Mass. Gen. Laws Ann. ch. 140, § 131T; Nev. Rev. Stat. Ann. §§ 33.560, 33.570; N.J. Stat. Ann. §§ 2C:58-23, 2C:58-26; N.M. Stat. Ann. §§ 40-17-5 to 40-17-07; N.Y. C.P.L.R. §§ 6341, 6342; Or. Rev. Stat. Ann. § 166.527; Vt. Stat. Ann. tit. 13, §§ 4053, 4054; Va. Code. Ann. § 19.2-152.14; Wash. Rev. Code Ann. §§ 7.94.010–7.94.050.

[3] *See* H.R. 62, 31st Leg., 2d Sess. (Alaska 2019); H.R. 2367, 88th Gen. Assemb., 2020 Sess. (Iowa 2020); S. 244, 2019 Reg. Sess. (Ky. 2019); H.R. 4283, 100th Leg., Reg. Sess. (Mich. 2019); S. 156, 100th Leg., Reg. Sess. (Mich. 2019); H.R. 9, 91st Leg. Sess., 2d Reg. Sess. (Minn. 2020); Leg. 58, 106th Leg., 1st Reg. Sess. (Neb. 2019); H.R. 454, 2019 Gen. Assemb., Reg. Sess. (N.C. 2019); H.R. 1075, 203rd Gen. Assemb. (Pa. 2019); H.R. 1446, 111th Gen. Assemb., 1st Reg. Sess. (Tenn. 2019); S. 1178, 111th Gen. Assemb., 1st Reg. Sess. (Tenn. 2019); Assemb. 573, 104th Leg., 2019-2020 Reg. Sess. (Wis. 2019).

[4] *See* Ala. Code § 22-52-91; Alaska Stat. Ann. § 47.30.700; Ariz. Rev. Stat. Ann. § 36-524; Ark. Code Ann. § 20-47-210; Cal. Welf. & Inst. Code §§ 5150, 5150.05; Colo. Rev. Stat. Ann. § 27-65-105; Conn. Gen. Stat. Ann. § 17a-502; Del. Code Ann. tit. 16, § 5004; D.C. Code Ann. § 21-521; Fla. Stat. Ann. § 394.463; Ga. Code Ann. §§ 37-3-41, 37-3-43; Haw. Rev. Stat. Ann. § 334-59; Idaho Code Ann. § 66-326; 405 Ill. Comp. Stat. Ann. 5/3-606; Ind. Code Ann. § 12-26-5-1; Iowa Code Ann. § 229.1; Kan. Stat. Ann. § 59-2953; Ky. Rev. Stat. Ann. §§ 202A.026, 202A.031; La. Stat. Ann. § 28:53; Me. Rev. Stat. Ann. tit. 34-B, § 3862; Md. Code Ann., Health–Gen. §§ 10-622, 10-623, 10-625; Mass. Gen Laws Ann. ch.

state, this process can be initiated by physicians, mental health professionals, family members, or law enforcement officials.

And if these procedures are somehow insufficient to address concerns about suicide that do not rise to the level of an emergency, police officers may be able to seek a warrant in jurisdictions that consider suicide a crime. *See, e.g., Clift v. Narragansett Television, L.P.*, 688 A.2d 805 (R.I. 1996); *North Carolina v. Willis*, 121 S.E.2d 854 (N.C. 1961); *South Carolina v. Reese*, 633 S.E.2d 898, 900 (S.C. 2006), *overruled on other grounds by South Carolina v. Belcher*, 685 S.E.2d 802 (S.C. 2009); *see generally* 83 C.J.S. Suicide § 5 (2020).

C. In contrast to these specialized tools, the community caretaking exception grants law enforcement broad discretion to invade homes to discharge any of the "wide range" of everyday, "catchall" responsibilities they handle "apart from criminal enforcement." Pet. App. 13a. Particularly in

---

123, § 12; Mich. Comp. Laws Ann. § 330.1427; Minn. Stat. Ann. § 253B.051; Miss. Code Ann. § 41-21-67; Mo. Ann. Stat. § 632.300; Mont. Code Ann. § 53-21-129; Neb. Rev. Stat. Ann. §§ 71-908, 71-919; Nev. Rev. Stat. Ann. §§ 433A.150, 433A.160; N.H. Rev. Stat. Ann. §§ 135-C:27, 135-C:28; N.J. Stat. Ann. §§ 30:4-27.2, 30:4-27.6; N.M. Stat. Ann. § 43-1-10; N.Y. Mental Hyg. Law § 9.39; N.C. Gen. Stat. Ann. § 122C-261; N.D. Cent. Code Ann. § 25-03.1-25; Ohio Rev. Code Ann. § 5122.10; Okla. Stat. Ann. tit. 43A, § 5-207; Or. Rev. Stat. Ann. §§ 426.228, 426.232, 426.233; 50 Pa. Stat. and Cons. Stat. Ann. § 7301; 40.1 R.I. Gen. Laws Ann. § 40.1-5-7(a)(1); S.C. Code Ann. § 44-17-410; S.D. Codified Laws §§ 27A-10-1, 27A-10-3; Tenn. Code Ann. § 33-6-403; Tex. Health & Safety Code Ann. § 573.001; Utah Code Ann. § 62A-15-629; Vt. Stat. tit. 18, §§ 7504, 7505; Va. Code Ann. § 37.2-808; Wash. Rev. Code Ann. § 71.05.153; W. Va. Code Ann. § 27-5-2; Wis. Stat. Ann. § 51.15; Wyo. Stat. Ann. § 25-10-109.

the context of sensitive mental health issues, those are not the "judgmental assessment[s]" that police officers should be making. *Mincey*, 437 U.S. at 395.

This case proves the point. In deciding to seize Petitioner from his home for "involuntary emergency psychiatric evaluation," Sergeant Barth "did not consult any specific psychological or psychiatric criteria," or any medical professionals. J.A. 225–26. Nor did he "remember" any training on dealing with individuals with mental health issues. *Id.* at 226. Instead, he was "just going on [his] experience." *Id.* at 225.

Police officers are not mental health professionals equipped to make sensitive judgments about specialized psychological issues. Requiring them to do so, especially without any "clear guidance . . . through categorical rules," *Riley*, 573 U.S. at 398, places unrealistic demands on officers and jeopardizes vital Fourth Amendment rights. *See supra* 30–33. The cost is not worth it.

IV. ARGUMENTS IN FAVOR OF EXTENDING *CADY*'S COMMUNITY CARETAKING EXCEPTION ARE UNAVAILING

The reasons that lower courts have offered for extending *Cady* beyond the vehicle context to the home are unpersuasive.

As an initial matter, none of the courts that has embraced an expansive view of community caretaking even tried to grapple with the constitutional ramifications of its rule. Indeed, several of those courts *acknowledge* that *Cady* relied on the "'constitutional difference'" between vehicles and homes. Pet. App. 12a–13a (quoting *Cady*, 413 U.S. at

442); *see also, e.g.*, *Pinkard*, 785 N.W.2d at 598; *York*, 895 F.2d at 1030. But they then make no effort to explain how Fourth Amendment doctrine allows *Cady*'s vehicle-specific community caretaking exception to balloon beyond its own terms. That fundamental flaw in their analysis is dispositive. *See supra* 21–33.

Instead of analyzing whether the community caretaking exception is consistent with the Fourth Amendment, courts skip to the importance of the caretaking roles that police play. They emphasize that "[t]hreats to . . . community safety are not confined to the highways," and that police must have the ability to address "unforeseen circumstances present[ing] some transient hazard that requires immediate attention." Pet. App. 16a; *see also, e.g.*, *Deneui*, 775 N.W.2d at 239 ("The need to protect and preserve life or avoid serious injury cannot be limited to automobiles."). But as we have explained, even a "vital public interest" cannot excuse warrantless intrusions of the home. *Mincey*, 437 U.S. at 393; *supra* 23–25; *see also Camara*, 387 U.S. at 533. And these courts fail to explain why existing doctrines and statutory schemes are insufficient for police to help those in legitimate need. *See supra* 33–39.

In an apparent effort to justify the "carte blanche" that the community caretaking exception grants officers to intrude upon the home, some courts have pointed to two "guardrails" that curb officer discretion. Pet. App. 19a. But no "guardrail" can redeem a rule that is fundamentally incompatible with the Fourth Amendment, *see supra* 30–33, and neither purported limitation protects Fourth Amendment interests anyway.

First, courts have emphasized the "'non-investigatory'" nature of "community caretaking activities." Pet. App. 20a (quoting *United States v. Rodriguez-Morales*, 929 F.2d 780, 785 (1st Cir. 1991)); *see also Castagna v. Jean*, 955 F.3d 211, 220–21 (1st Cir. 2020) ("The function performed must be distinct from the normal work of criminal investigation to be within the heartland of the community caretaking exception." (quotation marks and citation omitted)), *cert denied*, 2020 WL 7132271 (Dec. 7, 2020); *United States v. Quezada*, 448 F.3d 1005, 1007 (8th Cir. 2006) (emphasizing that "community caretaking" functions "are unrelated to the officer's duty to uncover criminal activity"). But non-investigatory activities, even if "'less hostile" than "search[es] for the fruits and instrumentalities of crime," still "jeopardize" the Fourth Amendment's protections and constitute "significant intrusions" upon the home. *Camara*, 387 U.S. at 530–31, 534; *see supra* 23–25. The non-investigatory nature of community caretaking in a home does not make an officer's intrusion any less of a constitutional violation.

Second, the First Circuit noted that officers must act in accordance with state law or "sound police procedure." Pet. App. 20a. But that is hardly a "guardrail," because as that court also explained, "'sound police procedure' need not involve the application of either established protocols or fixed criteria"; rather, it requires only "reasonable choices among available options." *Id.* at 19a–20a (citation omitted); *cf. Quezada*, 448 F.3d at 1008 (officer's entry into dwelling lies outside the community caretaking exception "only if no reasonable officer could have believed that an emergency was at hand"). And in any event, guidelines and standard procedures do not

substitute for a warrant when it comes to invading the home. *See Mincey*, 437 U.S. at 394–95; *Camara*, 387 U.S. at 531–33. Such broad criteria leave an "occupant subject to the discretion of the official in the field" and usurp the warrant requirement. *Camara*, 387 U.S. at 532–33.

In sum, the courts that have extended the community caretaking exception provide no sound basis for doing so. Their rule is incompatible with the Fourth Amendment's protection of the home; they ignore existing tools that police already have for helping people during emergencies; and the purported limitations they cite are illusory. There is no good reason to grant police this blank check, and the Fourth Amendment prohibits it.

* * * * *

Respondents violated Petitioner's Fourth Amendment rights when they seized him from his home, and then seized his guns from his bedroom and garage, all without a warrant. The First Circuit held that *Cady*'s community caretaking exception—and that exception alone—justified Respondents' actions. Pet. App. 11a, 30a, 37a. But that narrow exception to the warrant requirement applies only to automobiles, and certainly does not extend to the home. *See supra* 14–16, 30–33. The First Circuit's contrary conclusion is wrong.

CONCLUSION

The judgment below should be reversed.

January 8, 2021

Respectfully submitted,

Thomas W. Lyons
Rhiannon S. Huffman
STRAUSS, FACTOR, LAING & LYONS
One Davol Square, Suite 305
Providence, RI 02903

Emma S. Gardner
SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
One Manhattan West
New York, NY 10001

Shay Dvoretzky
Counsel of Record
Jonathan L. Marcus
Emily J. Kennedy
Sylvia O. Tsakos
SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
1440 New York Ave., NW
Washington, DC 20005
(202) 371-7000
shay.dvoretzky@skadden.com

Counsel for Petitioner