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

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INTRODUCTION

Society demands and deserves that first responders, including police, protect and serve their communities. This expectation expands beyond criminal law enforcement to include what has been called the community caretaking function, which encompasses those activities undertaken to determine, protect against, and prevent harms that are "totally divorced from the detection, investigation, or acquisition of evidence relating to the violation of a criminal statute." *Cady v. Dombrowski*, 413 U.S. 433, 441 (1973). It is in their caretaking obligations that police "'aid those in distress, combat actual hazards, prevent potential hazards from materializing and provide an infinite variety of services to preserve and protect public safety.'" Pet. App. 60a. Whether it is preventing suicide, protecting domestic partners, responding to natural disasters, or helping children and the elderly, such functions can be and have been performed for over two centuries consistent with the Fourth Amendment.

Privacy is not the only consideration in determining when community caretaking obligations apply inside a home. Rather, the Fourth Amendment's reasonableness standard requires a balancing of the scope of the intrusion against the public interest being served. Demanding an absolute exclusion of officials from the home in community caretaking circumstances is not only directly contrary to the Fourth Amendment's reasonableness standard but will prevent those officials from meeting societal

caretaking demands. The judgment below should be affirmed.

STATEMENT OF THE CASE

I. FACTUAL BACKGROUND.

On the evening of August 20, 2015, Petitioner and his wife began arguing at their home over a coffee mug. J.A. 161. As the argument escalated, Petitioner left the room and returned with a handgun, *id.* at 142-43, 172, which he threw on a table, saying, "why don't you just shoot me and get me out of my misery?" *Id.* at 143-44, 199-200.[1] Finding the gesture "shocking" and wanting him to know that the gun had "brought [the argument] to a different level," Mrs. Caniglia threatened to call 911. *Id.* at 144, 153.

Petitioner then went "for a ride." J.A. 144. Mrs. Caniglia, worried that her husband was depressed and afraid that he was going to use the gun to either hurt himself or take his own life, hid the gun in the bedroom between the mattress and the box spring, while hiding the magazine in a drawer. *Id.* at 145, 154.

Petitioner's return a short time later reignited the argument, prompting Mrs. Caniglia to stay at a hotel for the night. J.A. 162-63. When Petitioner called her

[1] Although Mrs. Caniglia gave conflicting accounts during discovery as to whether the handgun was loaded, J.A. 143, 144, 145, 206, that morning she informed Officer John Mastrati that Petitioner produced both the weapon and magazine. *Id.* at 176, 177.

later that night, he was upset and angry. *Id.* at 163-64. The next morning, Mrs. Caniglia tried to call her husband. *Id.* at 173. When he did not answer, she "became concerned for his well-being." *Id.* Worried, she called her therapist, who suggested that she call the police and ask for a "well-call." *Id.* at 164. Mrs. Caniglia then called the Cranston Police Department, telling the dispatcher that she was "a little afraid" of her husband. *Id.* at 187.[2] Crying, she recounted the argument from the day before, noting that "little things set [Petitioner] off." *Id.* She was "worried about what [she would] find" at the house, *id.* at 165, and was "incredibly worried that her husband was going to harm himself or commit suicide," and thus requested an escort home. *Id.* at 208. The dispatcher advised her to stay in the parking lot and that he would send an officer to meet her there. *Id.* at 187.

Respondents met Mrs. Caniglia shortly thereafter. J.A. 176. She described the unfolding events, again stating that she "was afraid of what [she] would find when [she] got home." *Id.* at 166, 176. Officer Mastrati called Petitioner, who told him that he was home and was willing to speak with the police. *Id.* at 179-80. Mrs. Caniglia and Respondents then proceeded to the Caniglia house. *Id.* at 166-67. Because they knew that Petitioner had a firearm, the officers had Mrs. Caniglia wait in her car while they spoke with him outside. *Id.* at 168, 180-81. Petitioner confirmed his wife's version of events and added that he asked her to shoot him

[2] The joint appendix includes a compact disc containing a digital recording of Mrs. Caniglia's telephone call to the police.

because he was "sick of the arguments" and "couldn't take it anymore." *Id.* at 176-77, 191, 198. When the officers asked him about his mental health, he told them it was "none of their business" but, contrary to his express demand the night before, denied that he was suicidal. *Id.* at 50-51. Although Petitioner appeared "normal" to Officer Mastrati and "very polite" and "welcoming" to Officer Wayne Russell, Sergeant Brandon Barth described him as "[a]gitated" and "angry." *Id.* at 51, 140, 241-42. Petitioner also became "very upset" with Mrs. Caniglia when she approached the house, confirming her earlier assertion that "little things set him off." *Id.* at 174, 187. After their discussion, Officer Mastrati remained concerned about Petitioner's mental state, because a "normal person would [not] take out a gun and ask his wife to end his life." *Id.* at 157, 182, 213. Officer Mastrati believed that Petitioner was a danger to himself, *id.* at 157, and Sergeant Barth interpreted Petitioner's statement to his wife to be "suicidal." *Id.* at 158, 193-94, 213.

Based on the totality of the circumstances, the officers determined that Petitioner was imminently dangerous to himself and others. J.A. 184, 244. Sergeant Barth believed that Petitioner "obviously [was] not in his right frame of mind" and that his statement to his wife the night before "was enough that he needed to seek medical attention." *Id.* at 192, 228. Officer Mastrati called an ambulance to the scene and rescue personnel took over, speaking privately with Petitioner and eventually informing Officer Mastrati

that Petitioner would be transported to a nearby hospital. *Id.* at 177.

After Petitioner left, the officers learned of a second gun at the house. J.A. 177; *see also* Pet. App. 5a-6a. Sergeant Barth, with telephonic approval from Captain Russell Henry, decided to seize both of Petitioner's guns, for the protection of both Petitioner and Mrs. Caniglia. J.A. 177, 192-93, 201-02. Captain Henry explained:

> [S]o in this instance, my thought process was how intrusive are the steps that we're taking versus the potential consequences if we don't. If we don't take action—this man already put a gun on the table, asked his wife to use it on him to kill him. Based on—he was upset, was emotionally disturbed. . . . She left for the night. She was afraid that he had killed himself, apparently, because she hadn't heard from him, that's why she called us. That's why the officers went to the house, to check on his well-being.
>
> So my thought process was, okay, he has firearms, if we leave him there with the firearms, potentially he's in danger, she could be in danger, the neighbors could be in danger, any person that comes in contact with [Petitioner] could be in danger. It could be another police officer.

Id. at 201. Mrs. Caniglia led the officers to the guns, magazines, and ammunition, which the officers seized. *Id.* at 171, 174, 177. No criminal charges resulted. Pet.

App. 6a. Meanwhile, Petitioner was evaluated at the hospital but not admitted. J.A. 174. Although Mrs. Caniglia said that "there was something wrong with [her] husband," *id.* at 238, hospital staff decided to discharge Petitioner. According to hospital records, this was based in part on the staff's "confiden[ce] that the guns had been confiscated by Police" and that Mrs. Caniglia would not be home that night. Dist. Ct. Rec. 44-25, at 2.

II. PROCEEDINGS BELOW.

A. District Court Proceedings.

Petitioner filed an action against the City of Cranston and the individual officers, claiming Second,[3] Fourth, and Fourteenth Amendment violations powered by 42 U.S.C. § 1983, along with several state-law claims. Pet. App. 53a. The parties eventually filed cross-motions for summary judgment, supported by detailed and mostly agreed-upon facts. *Id.*; *see also* J.A. 39-63, 152-60, 204-16, 224-27, 230-34, 245-82, 287-92, 295-304. The District Court granted Petitioner's motion with respect to only his Fourteenth Amendment

[3] Although amici have voiced Second Amendment concerns, neither the petition for writ of certiorari nor Petitioner's merits brief refers to the Second Amendment or to Petitioner's claim thereunder, for good reason. The District Court granted summary judgment for Respondents on Petitioner's Second Amendment claim. The First Circuit affirmed, granting the individual officers qualified immunity and deeming the Second Amendment claim against the City abandoned. Pet. App. 38a-39a, 41a-42a. No Second Amendment issue is presented for this Court's consideration.

due process claim—finding that the City lacked a process for returning his guns. Pet. App. 71a-72a. Respondents did not appeal the due process finding and Petitioner received nominal damages. *Id.* at 7a n.2.

The District Court granted Respondents' summary judgment motion as to all other claims, applying the community caretaking doctrine to defeat the Fourth Amendment challenge to the home entry and the seizures of Petitioner and his guns. Pet. App. 78a-79a. With respect to these two alleged seizures, the District Court first determined that Petitioner voluntarily submitted to the mental health evaluation and therefore was not seized. *Id.* at 62a. Nevertheless, the court determined that, had Petitioner been seized, any such seizure was reasonable considering the officers' "legitimate safety concern" for Petitioner and his wife. *Id.* at 62a-63a. The District Court noted that the officers' response "was not part of a criminal investigation and had no law enforcement investigatory purpose." *Id.* at 62a. Ultimately, it found that the decision to send Petitioner to the hospital was "a quintessential community caretaking function" because "the officers had a legitimate safety concern for the Caniglia's [sic] at the time." *Id.* at 63a. The court reached the same conclusion with respect to the seizure of Petitioner's guns based on the officers' belief that the Caniglias "were in crisis"—Petitioner was "depressed," Mrs. Caniglia was "afraid and worried about her husband," and "Captain Henry believed that if the officers left [Petitioner] at his home with the guns, he, his wife, and their neighbors could potentially be in danger." *Id.* at 63a-64a.

Notwithstanding its finding that no Fourth Amendment violation occurred, the District Court extended qualified immunity to Respondents. *Id.* at 64a-66a.

B. First Circuit Proceedings.

The First Circuit affirmed, "join[ing] ranks with those courts that have extended the community caretaking exception beyond the motor vehicle context."[4] Pet. App. 16a. The court recognized "the importance of the roles that [police officers] play in preserving and protecting communities," noting that "[t]hreats to individual and community safety are not confined to the highways." *Id.* at 2a, 16a. In its view, the community caretaking function is "designed to give police elbow room to take appropriate action" in "unforeseen circumstances." *Id.* at 16a.

The First Circuit identified several criteria to guide police officers' exercise of their community caretaking function. Specifically:

- Officers may act in response to some "transient hazard that requires immediate attention."[5] Pet. App. 16a.

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[4] Because the First Circuit concluded that the community caretaking doctrine applies to home searches, it did not address Respondents' alternative argument that the officers are entitled to qualified immunity. Should this Court find that the community caretaking doctrine does not apply to homes, the Court should nevertheless affirm the judgment on the basis of qualified immunity.

[5] The court cautioned that the terms "immediate" and "imminent" "are not imbued with any definite temporal dimensions,"

- There must be "solid, non-investigatory reasons" for taking action. *Id.* at 20a.
- Officers must also have "specific articulable facts" that are "sufficient to establish that an officer's decision to act in a caretaking capacity was justified on objective grounds." *Id.*
- Their actions "must be narrowly circumscribed, both in scope and in duration," to match what the particular situation reasonably requires. *Id.*
- These actions "must draw their essence either from state law or from sound police procedure," defined as "encompass[ing] police officers' reasonable choices among available options" and not necessarily involving "the application of either established protocols or fixed criteria." *Id.*
- Finally, officers "may not use the doctrine as a mere subterfuge for investigation." *Id.*

As summarized by the First Circuit, the ultimate "acid test" is "whether decisions made and methods employed" are "within the realm of reason." *Id.* at 21a.

Applying this framework, the First Circuit found that "the facts available to the officers" placed their conclusion that Petitioner was at imminent risk of harming himself or others "well within the realm of

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and that its use of both terms was not "meant to suggest that the degree of immediacy typically required under the exigent circumstances and emergency aid exceptions is always required in the community caretaking context." Pet. App. 21a.

reason." Pet. App. 23a. "Faced with the unenviable choice between sending [Petitioner] to the hospital and leaving him (agitated, ostensibly suicidal, and with two handguns at his fingertips)," the court noted, "the officers reasonably chose to be proactive and to take preventive action." *Id.* at 24a.[6] 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. Specifically, the officers could reasonably have discerned "a real possibility that [Petitioner] might refuse an evaluation and shortly return home in the same troubled mental state." *Id.* at 33a. It also found that the officers seized the guns in a reasonable manner, noting that they "did not ransack [Petitioner's] home, nor did they engage in a frenzied top-to-bottom search for potentially dangerous objects," and instead "tailored their movements to locate only the two handguns bearing a close factual nexus to the foreseeable harm." *Id.* at 36a. The court ultimately concluded that neither "the officers' belief that [Petitioner] posed an imminent risk of harm to himself or others" nor "their belief that reasonable prudence dictated seizing the handguns and placing them beyond [Petitioner's]

[6] Though it found "no evidence that any police officers, emergency services personnel, or hospital staff physically compelled [Petitioner] to submit to a psychiatric evaluation once he reached the hospital," the First Circuit assumed for purposes of the appeal that Petitioner was seized. Pet. App. 9a-10a.

reach" could rationally be deemed unreasonable. *Id.* at 36a-37a.

SUMMARY OF ARGUMENT

1. Forty-eight years ago, this Court gave a name to the function that Respondents performed in this case. In *Cady*, this Court determined that a warrantless search of an automobile was reasonable, because the purpose was to locate and secure a handgun which, in the wrong hands, could be dangerous. The "community caretaking doctrine" sprang from the recognition that non-investigatory functions performed by police officers, as long as they are reasonable, do not violate the Constitution. *Cady* allowed evidence seized during that search to be introduced in a murder trial. Here, the Court is presented with the quintessential community caretaking situation, as no criminal charges or investigation either prompted the encounter or followed the limited entry into the home. Applying the protection afforded by that doctrine to reasonable entries into a home is consistent with the Fourth Amendment.

2. Entries into a home and seizures of the person that occur without a warrant must be "reasonable" pursuant to the Fourth Amendment. The probable cause standard is one used in criminal prosecutions and has no place in cases presenting pure community caretaking functions. Instead, when examining such functions, the Constitution demands only objective reasonableness. Determining whether a community caretaking function was

reasonably performed depends on specific, articulable facts sufficient to establish that the decision to act was justified on objective grounds, based on either state law or sound police procedure. Pet. App. 20a. The objective considerations supporting the search in this case included the transient nature of the hazard requiring immediate attention, *id.* at 16a, that the police had solid, non-investigatory reasons for entry, *id.* at 20a, and that the search was narrowly circumscribed in both scope and duration, *id.* Petitioner's interests in preserving the sanctity of his home and his person, balanced against the public's powerful interest in community safety, leads to the conclusion that Respondents' actions were reasonable.

3. Although the Court below, echoing *Cady*, denominated the community caretaking doctrine as an "exception" to the Fourth Amendment, in a pure caretaking case with no criminal implications, the function is more suitably analyzed under the Amendment's first clause. In other words, if there is no resulting search or seizure related to law enforcement functions, there is no possibility of or requirement for obtaining a warrant. The question is one of reasonableness, and there is no need to craft or expand an exception to the warrant requirement. Nor do either the "exigent circumstances" or "emergency aid" exceptions comfortably fit pure caretaking cases like this one. The community caretaking doctrine presents a functional analysis that stands on its own in its application to an officer's obligation "to protect and to serve." The clarity needed to allow officers and other responders to perform their jobs without

violating the Fourth Amendment necessitates this stand-alone doctrine.

4. Warrantless searches of the home are allowed in narrowly drawn circumstances. This is one such instance. In pure community caretaking cases, warrants are both unavailable and impracticable. This Court allows home entries in situations requiring immediate attention as long as the entry is reasonable in scope and duration. The Court's reasoning in those decisions supports a conclusion that the community caretaking doctrine applies to searches of the home.

5. The Fourth Amendment does not impose a "least restrictive means" standard. Respondents chose a reasonable alternative from those available. The patchwork of different legislative "solutions" offered by Petitioner simply does not provide the needed clarity and consistency for first responders to do their jobs effectively. In fact, several of those solutions simply were not available to Respondents in this case. Legislation is sometimes cumbersome and always subject to change. The Constitution imposes only a single immutable standard: reasonableness. The First Circuit and other courts that have allowed community caretaking functions in the home did so after careful deliberation and weighing of the interests involved. Adopting a ban on home entry as urged by Petitioner would cause an upheaval in federal and state courts, as well as with police and other first responders, and leave members of the community who need help largely to their own devices. Respondents urge this Court to approve the

reasoning and ultimate holdings of the First,[7] Fifth,[8] Sixth,[9] Seventh,[10] Eighth[11] and Ninth[12] Circuits and allow officers, when performing a caretaking function, to enter the home when warranted under all of the circumstances. This common-sense approach offers clarity to modern first responders who must enter the home to protect the citizens they serve.

ARGUMENT

The Fourth Amendment permits the exercise of legitimate community caretaking functions to extend into the home when there is an objectively reasonable basis to conclude that the situation requires intervention and the scope of the intrusion is reasonable. This Court has recognized that local police engage in "community caretaking functions, totally divorced from the detection, investigation, or acquisition of evidence

[7] *MacDonald v. Town of Eastham*, 745 F.3d 8 (1st Cir. 2014); *Caniglia v. Strom*, Pet. App. 1a; *Castagna v. Jean*, 955 F.3d 211 (1st Cir. 2020), *cert. denied*, 208 L. Ed. 2d 452 (2020).

[8] *United States v. York*, 895 F.2d 1026 (5th Cir. 1990), *reh'g denied*, 899 F.2d 11 (5th Cir. 1990) (en banc).

[9] *United States v. Rohrig*, 98 F.3d 1506 (6th Cir. 1996) (applying a hybrid community caretaking/exigent circumstances test to a home entry, finding it reasonable).

[10] *Dix v. Edelman Fin. Servs., LLC*, 978 F.3d 507 (7th Cir. 2020), *reh'g denied*, 2020 U.S. App. LEXIS 36140 (7th Cir. Nov. 17, 2020) (en banc).

[11] *United States v. Quezada*, 448 F.3d 1005 (8th Cir. 2006).

[12] *Rodriguez v. City of San Jose*, 930 F.3d 1123 (9th Cir. 2019), *cert. denied*, 141 S. Ct. 610 (2020).

relating to the violation of a criminal statute." *Cady*, 413 U.S. at 441. More recently, this Court affirmed the right of officers to enter a home "without a warrant when they 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 (2006). This case allows for the logical next step—to expressly hold that warrantless entries into the home are permissible if: a true community caretaking function is being performed; specific articulable facts are shown that would lead an officer to believe that such entry was justified on objective grounds; and the entry was limited in scope. That rubric can be applied to home entries consistent with the Fourth Amendment and such a rule would provide clarity for all first responders, including police officers who perform significant, non-criminal public safety functions daily.

I. THE FOURTH AMENDMENT ALLOWS OBJECTIVELY REASONABLE, WARRANTLESS SEARCHES OF THE HOME, AND, AS REASONABLENESS IS THE TOUCHSTONE OF THE COMMUNITY CARETAKING DOCTRINE, THERE IS NO REASON TO EXCLUDE CARETAKING ENTRIES INTO THE HOME

The Fourth Amendment to the United States 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.

U.S. Const. amend. IV (emphasis added).

The text of "the Fourth Amendment does not by its terms require a prior warrant for all searches and seizures; it merely prohibits searches and seizures that are unreasonable." *California v. Acevedo*, 500 U.S. 565, 581 (1991) (Scalia, J., concurring); *see also Elkins v. United States*, 364 U.S. 206, 222 (1960). Nevertheless, "this Court has inferred that a warrant must generally be secured for a search to comply with the Fourth Amendment." *Mitchell v. Wisconsin*, 139 S. Ct. 2525, 2539-40 (2019) (Thomas, J., concurring) (internal quotation marks omitted). It has "also recognized, however, that this warrant presumption may be overcome in some circumstances because [t]he ultimate touchstone of the Fourth Amendment is reasonableness," *id.* at 2540 (quoting *Kentucky v. King*, 563 U.S. 452, 459 (2011)) (internal quotation marks omitted), that is, "the reasonableness in all the circumstances" of the action under review. *Maryland v. Wilson*, 519 U.S. 408, 411 (1997) (citation omitted).

> The test of reasonableness under the Fourth Amendment is not capable of precise definition or mechanical application. In each case it requires a balancing of the need for the particular search against the invasion of personal

> rights that the search entails. Courts must consider the scope of the particular intrusion, the manner in which it is conducted, the justification for initiating it, and the place in which it is conducted.

Bell v. Wolfish, 441 U.S. 520, 559 (1979).

This flexible reasonableness standard "should not be read to mandate a rigid rule . . . that ignores countervailing law enforcement interests." *Wilson v. Arkansas*, 514 U.S. 927, 934 (1995). This Court has held, "almost without exception," that a Fourth Amendment analysis should be based on "an objective assessment of an officer's actions in light of the facts and circumstances then known to him." *Scott v. United States*, 436 U.S. 128, 137 (1978). Accordingly, the constitutionality of any search depends on "a balance between the public interest and the individual's right to personal security free from arbitrary interference by law officers." *United States v. Brignoni-Ponce*, 422 U.S. 873, 878 (1975); *see also Terry v. Ohio*, 392 U.S. 1, 19 (1968).

Recognizing the many hats worn by first responders and the myriad situations they face every day, it is both pragmatic and constitutionally permissible to judge their actions using a clear and straightforward test that can be easily and predictably applied. *See Birchfield v. North Dakota*, 136 S. Ct. 2160, 2197 (2016) (Thomas, J., concurring) (noting police officers "depend on predictable rules to do their jobs"). This Court has recognized that:

> the Fourth Amendment has to be applied on the spur (and in the heat) of the moment, and the object in implementing its command of reasonableness is to draw standards sufficiently clear and simple to be applied with a fair prospect of surviving judicial second-guessing months and years after an arrest or search is made.

Atwater v. City of Lago Vista, 532 U.S. 318, 347 (2001).

It is in concert with this "command of reasonableness" that this Court decided *Cady*, recognizing and defining the "community caretaking doctrine." In *Cady*, a Chicago police officer was involved in a motor vehicle accident and officers had his car towed to a private garage. 413 U.S. at 435-36. The officers searched the car without a warrant based on the belief that, because Chicago officers were required to carry their service revolvers at all times, a weapon was in the car and needed to be secured. *Id.* at 436. The officers justified the warrantless search based on their concern for the public, "who might be endangered if an intruder removed a revolver from the trunk of the vehicle." *Id*. at 447.

Cady first concluded that the search was not unreasonable solely because of the lack of warrant. *Id.* at 447-48. The Court then applied the Fourth Amendment's settled "reasonableness" standard, considering the scope of intrusion into the privacy interest afforded automobiles as well as the public interest served by the officers' exercise of their caretaking function. *Id.* Although recognizing a privacy interest in automobiles,

this Court also found that the officers were performing the caretaking function of protecting the safety of the general public. *Id.* at 447. This Court held that on balance the search was reasonable within the meaning of the Fourth Amendment because there was a reasonable basis to believe the automobile contained a gun and the automobile was vulnerable to intrusion by vandals if the officers did not act. *Id.* at 448. In doing so, this Court reaffirmed that the Framers of the Fourth Amendment provided the general standard of "unreasonableness" as a measure of whether searches and seizures are constitutional. *Id.*

Most notably, *Cady* did not hold that the constitutionality of the caretaking function was limited to automobiles or that the mobility of the vehicle was a deciding factor in the reasonableness of the act. To the contrary, this Court held that there was no "detailed formula for judging cases such as this" other than the "ultimate standard . . . of reasonableness." *Id.* at 439, 448.

This Court twice has had the opportunity to limit the community caretaking doctrine to vehicles but has not done so. In *South Dakota v. Opperman*, 428 U.S. 364, 366 (1976), after a car was impounded for multiple parking tickets, the police noticed valuables in plain view inside the car. An inventory search of the entire car uncovered marijuana in the glove compartment. *Id.* *Opperman* noted that warrantless searches had been allowed even where there was no immediate danger that the vehicle would be moved. *Id.* at 367. Once again, the Court held that reasonableness was the

standard but that "[t]he test of reasonableness cannot be fixed by per se rules; each case must be decided on its own facts." *Id.* at 373 (quoting *Coolidge v. New Hampshire*, 403 U.S. 443, 509-10 (1971) (Black, J., concurring in part)). In holding that the inventory search in *Opperman* was reasonable, this Court recognized that the police were performing the clear caretaking function of protecting the contents of an impounded vehicle. *Id.* at 375. The general and thorough search of the entire car was thus reasonable in light of the expectation of privacy in the impounded car. *Id.* at 376.

The second post-*Cady* community caretaking case taken up by this Court was *Colorado v. Bertine*, 479 U.S. 367 (1987). After a motorist was arrested for drunk driving, police impounded his van and conducted an inventory search of the entire vehicle. *Id.* at 368-69. During the search, officers found controlled substances and drug paraphernalia in a closed backpack and sealed containers located in the van. *Id.* On writ of certiorari, the Court was presented with the prime opportunity to limit the caretaking function to an inventory of the automobile itself while rejecting an extension of the caretaking function to a search of the personal items in the car. This Court declined to limit the caretaking role of the police, specifically noting that the location of the search was not critical for its analysis. Rather, the Court reaffirmed the principle that reasonableness provides the "single familiar standard [] essential to guide police officers, who have only limited time and expertise to reflect on and balance the social and individual interests involved in the

specific circumstances they confront." *Id.* at 375 (quoting *Illinois v. Lafayette*, 462 U.S. 640, 648 (1983)). *Bertine* thus held that the search of closed containers inside the vehicle was reasonable under Fourth Amendment standards because the police were exercising routine caretaking functions.

Cady, *Opperman*, and *Bertine* did not establish a hard and fast rule limiting community caretaking searches to automobiles. To the contrary, in each case, this Court reaffirmed that the reasonableness of the act is determined by balancing the need for the particular search against the invasion of the privacy rights involved. Notably, in all three cases, the more diminished privacy interest in automobiles was balanced against the extensive search of the vehicles and found reasonable. As explained in more detail below, Respondents also balanced Petitioner's privacy interest in determining the scope of the search conducted. Rather than conducting an extensive search, such as those performed in *Cady*, *Opperman*, and *Bertine*, Respondents limited their action to taking the weapons identified and located by Mrs. Caniglia. As the First Circuit held, on balance, such actions were a reasonable exercise of the officers' community caretaking functions and did not violate the Fourth Amendment.

II. ALLOWING CARETAKING FUNCTIONS IN THE HOME IS CONSISTENT WITH THE CONSTITUTION, PRECEDENT AND THE PRACTICAL NEEDS OF THE COMMUNITY

Utilizing the reasonableness standard leads to the inescapable conclusion that in the proper context the community caretaking doctrine can be extended into the home without violating the Fourth Amendment. To be sure, at the "very core" of the Fourth Amendment stands "the right of a man to retreat into his own home and there be free from unreasonable government intrusion." *Florida v. Jardines*, 569 U.S. 1, 6 (2012) (citation omitted). While this Court has found that a warrantless entry is presumed unreasonable, it has never found that this presumption is irrebuttable. *King*, 563 U.S. at 459. "What [a person] is assured by the Fourth Amendment . . . is not that no government search of his house will occur unless he consents; but that no such search will occur that is 'unreasonable.'" *Illinois v. Rodriguez*, 497 U.S. 177, 183 (1990) (citation omitted). Thus, because the "essential purpose" of the Fourth Amendment is "to impose a standard of 'reasonableness' upon the exercise of discretion" by law enforcement, *Delaware v. Prouse*, 440 U.S. 648, 653-54 (1979) (footnote and citation omitted), warrantless entry into the home is reasonable when the need for the particular intrusion outweighs the claimed impact on the home's privacy protection. *See, e.g.*, *Brigham City*, 547 U.S. at 406; *Georgia v. Randolph*, 547 U.S. 103, 118-19 (2006) (recognizing "undoubted right of the police to enter [a home] in order to protect a victim"); *United*

States v. Santana, 427 U.S. 38, 43 (1976) (entry allowed in hot pursuit).

Petitioner argues that permitting the police to engage in community caretaking activities in the home without a warrant would be inconsistent with the Framers' intent. But these arguments ignore that the Framers' main concern was with intrusive and warrantless searches of the home done for investigative purposes. *Riley v. California*, 573 U.S. 373, 403 (2014) ("Our cases have recognized that the Fourth Amendment was the founding generation's response to the reviled 'general warrants' and 'writs of assistance' of the colonial era, which allowed British officers to rummage through homes in an unrestrained search for evidence of criminal activity."). In sharp contrast, the community caretaking doctrine is concerned with limited searches and seizures that are performed for non-investigative purposes, "totally divorced from the detection, investigation, or acquisition of evidence relating to the violation of a criminal statute." *Cady*, 413 U.S. at 441. As illustrated below, history, the common law, and this Court's precedents support permitting the police to engage in community caretaking activities, even in the home, without a warrant.

A. Community Policing Is Not At Odds With The Fourth Amendment

In 1285, the Statute of Winchester was enacted in England. 7 & 8 Geo. 4, ch. 27, 67 Statutes at Large 153 (cited in *Atwater*, 532 U.S. at 333 n.7 (2001)). Under the

Statute of Winchester, "night watchmen were authorized and charged 'as . . . in Times past' to 'watch the Town continually all Night, from the Sun-setting unto the Sun-rising' and were directed that 'if any Stranger do pass by them, he shall be arrested until Morning. . . .'" *Atwater*, 532 U.S. at 333 (citing 13 Edw. 1, ch. 4, §§ 5-6, 1 Statutes at Large 232-33). The town watchmen "were the first in England to have community caretaker duties." *State v. Bridewell*, 759 P.2d 1054, 1065 (Or. 1988) (Peterson, C.J., concurring in part, dissenting in part). "Under Charles II, the 'Charlies' were required to perform duties of municipal housekeeping such as lighting lamps, calling the time, and reporting unsanitary conditions." *Id.* (citing Thomas A. Reppetto, *The Blue Parade* 3 (1978)). The town watchman was "[o]ne precursor of the present-day police department[.]" *Bridewell*, 759 P.2d at 1065 (Peterson, C.J., concurring in part, dissenting in part).

As in England, the American Colonies also had watchmen, "supplemented by officers supported largely by fees for enforcement services." *Id.* at 1066. For example, "Boston created a watch in 1631 and New Amsterdam (New York) in 1643." *Id.* (citing Bayley, *Police History* in 3 Encyclopedia of Crime and Justice 1120, 1124 (1983)). Moreover, constables were permitted to "break doors to enter homes to 'see Peace kept.'" George C. Thomas III, *Stumbling Toward History: The Framers' Search and Seizure World*, 43 Tex. Tech L. Rev. 199, 201, 226 (2010) (citing Conductor Generalis 56 (2d ed. 1749); William Nelson, *The Office and Authority of a Justice of Peace* 148 (1704)). Although the

Framers undoubtedly viewed the Fourth Amendment as preventing the government from engaging in warrantless searches for the purposes of detecting criminal activity, Petitioner cites to no evidence—and Respondents are aware of none—that the Framers viewed community caretaking activities to be "unreasonable" within the meaning of the Fourth Amendment. Rather, the historical evidence outlined by Petitioner merely show the Framers' concern for general warrants and writs of assistance, which have no parallel to non-investigatory community caretaking activity.

The common law confirms the reasonableness of non-investigatory community caretaking activities. *Cf. Atwater*, 532 U.S. at 326 (recognizing that the common law is informative of whether a search or seizure is "unreasonable" under the Fourth Amendment). Early common law recognized the right of peace officers to enter a home when there was "reasonable cause," and the officer was responding to a wife's cries for help. *Hancock v. Baker*, 126 Eng. Rep. 1270 (C.P. 1800). *See also Dilger v. Commonwealth*, 11 S.W. 651 (Ky. 1889) (allowing warrantless arrest where police overheard cries for help).

Petitioner suggests that by extending the community caretaking doctrine to the home, this Court would be authorizing conduct that constitutes a trespass at common law. Pet. Br. 22. This suggestion is incorrect. Under common-law principles, not all entries onto private property are tortious. For instance, "One is privileged to enter or remain on land in the possession of

another if it is or reasonably appears to be necessary to prevent serious harm to" "the other or a third person . . . unless the actor knows or has reason to know that the one for whose benefit he enters is unwilling that he shall take such action." Restatement (Second) of Torts § 197(1)(b) (Am. Law. Inst. 1965). "[I]t is sufficient to the existence of the privilege that the actor's conduct is necessary or reasonably believed by him to be necessary for accomplishing the purpose of his entry and that the measures taken by him are reasonable in the light of all the circumstances." *Id.* comment f. This standard is consistent with the standard adopted by the First Circuit, which requires, among other things, that community caretaking activity in the home be "narrowly circumscribed, both in scope and in duration, to match what is reasonably required to perform community caretaking functions." Pet. App. 20a.

This Court's precedents further confirm the Fourth Amendment distinction between: (i) searches/seizures done for the purposes of ensuring public safety; and (ii) searches/seizures done merely to obtain evidence of criminal wrongdoing. For example, in striking down the use of suspicionless searches at a drug interdiction checkpoint, this Court contrasted such searches from the sobriety checkpoints that it had upheld against a Fourth Amendment challenge, explaining that sobriety checkpoints permissibly furthered the purpose of "removing drunk drivers from the road[.]" *City of Indianapolis v. Edmond*, 531 U.S. 32, 37 (2000) (citing *Michigan Dep't of State Police v. Sitz*, 496 U.S. 444 (1990)). In contrast, the drug interdiction

checkpoint impermissibly sought "to detect evidence of ordinary criminal wrongdoing." *Id.* at 38; *see also id.* at 41-42 ("Because the primary purpose of the Indianapolis narcotics checkpoint program is to uncover evidence of ordinary criminal wrongdoing, the program contravenes the Fourth Amendment."). Similarly, this Court should recognize here a distinction between: (i) searches and seizures in the home performed to investigate criminal wrongdoing (which are presumptively invalid without a warrant); and (ii) non-investigatory searches/seizures in the home that are performed under the narrow standard adopted by the First Circuit.

B. This Court Has Consistently Recognized The Necessity Of Allowing Police Officers And Other First Responders To Enter The Home To Render Aid

Recent applications of the Fourth Amendment further support allowing community caretaking functions in the home. In *Randolph*, officers responded to a domestic dispute in a home. 547 U.S. at 107. The issue presented was the validity of the wife's consent to a home search where her husband was present and objected. *Id.* at 106. Although this Court invalidated the search, it recognized the "undoubted right of the police to enter [a home] in order to protect a victim." *Id.* at 118-19. Before addressing the dispositive issue of consent, *Randolph* stated:

> No question has been raised, or reasonably could be, about the authority of the police to

> enter a dwelling to protect a resident from domestic violence; so long as they have good reason to believe such a threat exists, *it would be silly to suggest that the police would commit a tort by entering, say, to . . . determine whether violence (or threat of violence) has just occurred or is about to (or soon will) occur*, however much a spouse or other co-tenant objected.

Id. at 118 (emphasis added). Even though *Randolph* determined that an extensive search for drugs was not valid, it noted that the question "whether the police might lawfully enter over objection in order to provide any protection that might be reasonable is easily answered yes." *Id.*

Randolph not only recognizes the practical and common-sense notion that police must be allowed warrantless entry into a home to ensure the safety of any occupant, it also indicates that the police do not have to wait for first blood (or worse). According to *Randolph*, the police may enter "whether violence (or threat of violence) has just occurred or is about to (or soon will) occur." *Id.*

That same term, *Brigham City* upheld a warrantless entry into a home upon officers' observation of a fist fight that could have escalated. 547 U.S. at 400. While *Brigham City* involved subsequent criminal charges, the initial entry was determined to be reasonable because of the immediate threat presented by the occupants' actions, and the possibility that it could get worse. *Id.* at 406.

Brigham City assessed "whether police may enter a home without a warrant when they have an objectively reasonable basis for believing that an occupant is seriously injured or immediately threatened with such injury," and concluded that they could. *Id.* at 400. *Brigham City* found the warrantless entry into a home was "plainly reasonable" because as officers were responding to complaints of a loud party at 3:00 a.m. they heard and saw a fist fight where one pugilist ended up spitting blood. *Id.* at 401. They entered to break up the fight and subsequently arrested some of the partygoers. *Id.* This Court did not stop the officers "at the threshold" in the way Petitioner urges. Instead, the totality of the circumstances provided an "objectively reasonable basis" for believing that the injured person may need help and that "the violence in the kitchen was just beginning." *Id.* at 406.

Brigham City applied an "objective reasonableness" standard to the officers' conduct in entering the home and stopping the fight. *See id.* Paving the way for the application of the community caretaking doctrine to the home, this Court recognized that:

> Nothing in the Fourth Amendment required [officers] to wait until another blow rendered someone "unconscious" or "semi-conscious" or worse before entering. *The role of a peace officer includes preventing violence and restoring order, not simply rendering first aid to casualties*; an officer is not like a boxing (or

> hockey) referee, poised to stop a bout only if it becomes too one-sided.

Id. (emphasis added). *See also United States v. Brown*, 64 F.3d 1083, 1086 (7th Cir. 1995) (nothing in the Fourth Amendment requires an officer to "stand outside an apartment, despite legitimate concerns about the welfare of the occupant, unless they can hear screams").

C. Situations Demanding Caretaking Functions Are Not Limited To The Automobile, And The Legitimate And Significant Government Interest In Public Safety Counsels In Favor Of Allowing These Functions To Extend Into The Home

First responders have "complex and multiple tasks to perform in addition to identifying and apprehending persons committing serious criminal offenses." 3 W. LaFave, Search and Seizure § 6.6 (6th ed. 2020). Police officers are also expected to " 'reduce the opportunities for the commission of some crimes through preventative patrol and other measures,' 'aid individuals who are in danger of physical harm,' 'assist those who cannot care for themselves,' 'resolve conflict,' 'create and maintain a feeling of security in the community,' and 'provide other services on an emergency basis.' " *Id.* (citation omitted). "[A]cademic studies clearly indicate that what the police do is maintain order and provide services. People call the police to obtain services or to get help in maintaining order." John S. Dempsey, Linda S. Forst, "The Police Role and Police

Discretion," *An Introduction to Policing* 135 (7th Ed. 2014). One hypothesis is that "our [contemporary] society . . . is an impersonal one. Many of us do not know the names of our next-door neighbors. Because of this, tasks that neighbors, friends or relatives may have performed in the past now fall to the police." *People v. Ray*, 981 P.2d 928, 934 (Cal. 1999) (quoting *Bridewell*, 759 P.2d at 1068).

Rhode Island has long recognized that many police functions and responsibilities are non-investigatory in nature. In rejecting a narrow interpretation of the "duty" of a police officer to "playing such games as 'cops and robbers,' " Rhode Island's Supreme Court in 1982 noted that:

> Any police officer at any given time may perform the responsibilities of the office by acting as a domestic-relations counselor in an attempt to reconcile two belligerent spouses who at some prior time had solemnly promised to love and honor each other, or as a midwife to a newcomer to this planet who cannot delay his or her appearance until the cruiser makes it to the hospital, or as a sympathetic emissary who has the unpleasant task of informing some citizen of the loss of a loved one, or even as a taker of measurements or the preparer of accident reports that may prove of value solely to some insurance adjuster.

State v. Cook, 440 A.2d 137, 139 (R.I. 1982).

Under the Fourth Amendment, a police officer, firefighter, child protective services worker, or any

number of officials charged with protecting and serving their community may enter a residence without a warrant when it is reasonable to do so. In *Terry*, this Court encouraged responsible community policing efforts, allowing an officer to perform a "pat down" frisk based on specific and articulable facts not rising to the level of probable cause. 392 U.S. at 20-22. The *Terry* Court acknowledged "the nature and extent of the governmental interests involved" and refused to "blind [itself] to the need for law enforcement officers to protect themselves and other prospective victims of violence in situations where they may lack probable cause for an arrest." *Id.* at 22, 24. *Terry* allowed a minimal intrusion to ensure that the threat of physical harm was neutralized, stating without equivocation that it would be "clearly unreasonable" not to, and affirmed Officer McFadden's "carefully restricted" search of the person and resulting seizure of a concealed weapon. *Id.* at 24, 30. *Terry* acknowledged that "[e]ncounters are initiated by the police for a wide variety of purposes, some of which are wholly unrelated to a desire to prosecute for crime." *Id.* at 13.

As noted, this Court recognized in *Cady* and later cases that such non-investigatory community policing functions performed by police every day are constitutionally sound. *See Cady*, 413 U.S. at 446. *See also Brigham City*, 547 U.S. at 406; *Randolph*, 547 U.S. at 118; *Bertine*, 479 U.S. at 368-69; *Opperman*, 428 U.S. at 367. While these cases confirmed the constitutionality of the community caretaking functions in the context of automobiles, the majority of, the better reasoned,

and the most recent cases examining whether the community caretaking doctrine should apply outside of automobile inventories have answered that question affirmatively. Even those cases that would not apply *Cady* to the home have, for the most part, found the caretaking function provided the "reasonableness" required by the Fourth Amendment, and offered shelter under some similar doctrine.

Presently pending on *certiorari* is *United States v. Sanders*, 956 F.3d 534 (8th Cir. 2020), *petition for cert. filed*, U.S. Nov. 20, 2020 (No. 20-6400). There, law enforcement officers responding to a report of a domestic disturbance were found to reasonably have believed that there existed an emergency situation that required their immediate attention. *Id.* at 539. A 911 call reported a fight in a home with children present. *Id.* at 537. Officers were told that a gun was in the home, which they searched for and found in the couch cushions. *Id.* at 537-38. Sanders was arrested on state and federal charges. *Id.* at 538. He challenged the search. *Id.* at 537.

In the face of Sanders's argument that his home was sacrosanct, the Eighth Circuit first determined that the officers were performing a community caretaking function, and that the entry was carefully tailored to satisfy the caretaking purposes of separating the combatants and securing the gun. *Id.* at 539-40. As the search was confined to locating the gun, it was determined to be reasonable. *Id.* at 540.

Just this term the Court declined to review a community caretaking case where a dozen firearms were seized from a home. *Rodriguez*, 930 F.3d 1123. Applying the community caretaking doctrine to this home search, the Ninth Circuit wrote that "[a] seizure of a firearm in the possession or control of a person who has been detained because of an acute mental health episode likewise responds to an immediate threat to community safety." *Id.* at 1138. That court recognized that "(1) the public safety interest; (2) the urgency of that public interest; and (3) the individual property, liberty, and privacy interests . . . must be balanced, based on all of the facts available to an objectively reasonable officer, when asking whether such a seizure of a firearm falls within an exception to the warrant requirement." *Id.*

Dix, recently decided, puts the Seventh Circuit squarely in the column of those that have applied the community caretaking doctrine to searches of the home. Officers there were asked to oversee a tenant/boyfriend's reluctant move from his girlfriend/landlord's home. *Id.* at 511-12. Although the focus had been whether a seizure occurred and the nature of the property interests involved, the Seventh Circuit held that the interaction between the spurned partner and the officers "comfortably qualifies as one of those instances in which 'police officers may, as part of their community care-taking function, separate parties to a domestic disturbance by ordering one party to leave the premises. . . ." *Id.* at 517 (quoting *Lunini v. Grayeb*, 184 F. App'x 559, 562 (7th Cir. 2006)).

Six Circuit Courts have recognized that certain circumstances allow entry into the home without a warrant for bona fide community caretaking purposes. *See infra* notes 1-6. Petitioner warns that allowing caretaking home entries will result in widespread abuses, but he has presented nothing in the way of support. Rather than allowing officers to ride roughshod through the community, courts have applied the community caretaking doctrine outside the automobile setting as follows: assisting a houseguest gather family's belongings from the home of their drunk and belligerent host, *York*, 895 F.2d at 1030 (cited with approval by Petitioner); entering a home to investigate noise complaints, *Rohrig*, 98 F.3d at 1522; serving court papers, *Quezada*, 448 F.3d at 1008; performing "wellness checks," *United States v. Smith*, 820 F.3d 356, 362 (8th Cir. 2016); checking on a home when a neighbor called, worried because the door was open and she thought the owner was away, *MacDonald*, 745 F.3d at 14; same, *Hunsberger v. Wood*, 570 F.3d 546, 554 (4th Cir. 2009), *cert. denied*, 559 U.S. 938 (2009) (holding that entry was justified under both community caretaking and exigent circumstances doctrines); calls of a loud party on St. Patrick's Day in Boston, *Castagna*, 955 F.3d at 222 (affording officers qualified immunity); transporting an unwilling homeowner to a psychiatric hospital after he appeared to be hallucinating on paint fumes, *Samuelson v. City of New Ulm*, 455 F.3d 871, 877-78 (8th Cir. 2006); stopping an apparently intoxicated individual in dark clothes wandering in traffic, *United States v. Rideau*, 949 F.2d 718, 720 (5th Cir. 1991), *vacated on other grounds*, 969 F.2d 1572 (5th Cir. 1992)

(en banc); seizure of a gun seen falling out of the pocket of a man asleep at a bus station, *United States v. Harris*, 747 F.3d 1013, 1018 (8th Cir. 2014), *cert. denied*, 574 U.S. 910 (2014); checking on a drunken man, *United States v. Nord*, 586 F.2d 1288, 1290 (8th Cir. 1978); checking on a disoriented person in a parking lot, *United States v. Gilmore*, 776 F.3d 765, 772 (10th Cir. 2015); calls of an attempted suicide, *Bloom v. Palos Heights Police Dep't*, 840 F. Supp. 2d 1059, 1068 (N.D. Ill. 2012); entry into a home to check for possible gas leak, *State v. Deneui*, 775 N.W. 2d 221, 244 (S.D. 2009); checking on an intoxicated and possibly injured motorist, *State v. Gracia*, 826 N.W. 2d 87, 100-01 (Wis. 2013); checking on possible overdose victims, *State v. Pinkard*, 785 N.W.2d 592, 608 (Wis. 2010); stopping a young girl suspected of being a runaway, *State v. Kelsey C.R. (In the interest of Kelsey C.R.)*, 626 N.W.2d 777, 793 (Wis. 2001); and "helping stranded motorists, returning lost children to anxious parents, [and] assisting and protecting citizens in need," *Ray*, 981 P.2d at 931. The totality of the circumstances presented in each case was found reasonable by the reviewing courts. There is no reason they cannot continue to review and decide these cases, if called upon, applying guidance from this Court.

D. Officers Need Not Wait Until Serious Injury Or Death Occurs Before Entering A Home To Perform A Bona Fide Caretaking Function

Petitioner seems to argue that his case and cases like it do not present situations dangerous enough to allow the caretaking doctrine to apply in the home setting. This defies law, logic, and common sense. The Sixth Circuit allowed a community-caretaking entry into a home after calls were made regarding a noise complaint. *Rohrig*, 98 F.3d at 1522. Recognizing that the circumstances and community concern allowed for a warrantless entry, that court wrote "because nothing in the Fourth Amendment requires us to set aside our common sense, we decline to read that Amendment's reasonableness requirement as authorizing timely governmental responses only in cases involving life-threatening danger." 98 F.3d at 1521.

Officers "do not need ironclad proof of 'a likely serious, life-threatening' injury" before acting. *Michigan v. Fisher*, 558 U.S. 45, 49 (2009) (referring to *Brigham City* and the "emergency aid" exception). *Fisher* presented a "tumultuous situation" during a domestic disturbance. *Id.* at 48. In a *per curiam* opinion, this Court rejected the Circuit Court's hindsight determination that there was really no emergency requiring intervention. *Id.* at 49. Rather, only an "objectively reasonable" basis was required for believing that medical assistance was needed, or that persons were in danger. *Id.* (citing *Brigham City*, 547 U.S. at 406). "It does not meet the needs of law enforcement or the demands of

public safety to require officers to walk away from a situation like the one they encountered here." *Id.* "'[T]he role of a peace officer includes preventing violence and restoring order, not simply rendering first aid to casualties.'" *Id.* (citing *Brigham City*, 547 U.S. at 406). This Court found that it was reasonable to believe that Fisher was about to hurt himself or someone else or had already done so. *Id. See also Mincey v. Arizona*, 437 U.S. 385, 392 (1978) (entry undertaken to protect human life and safety permissible when officers "could reasonably believe that a person within is in need of immediate aid"). A warrant is not required to break down a door to prevent a shooting. *Wayne v. United States*, 318 F.2d 205, 212 (D.C. Cir. 1963) (Burger, J.) When the "on-the-spot observations of the officer on the beat" have required "necessarily swift action," the Court has held the officer's conduct to the objective standard of the "reasonably prudent" officer. *Terry*, 392 U.S. at 20, 27.

E. When The Scope Of The Intrusion Into The Home Is, On Balance, Reasonable, No Fourth Amendment Violation Has Occurred

The mandate of "reasonableness" determines what course(s) of action are allowed to address a particular situation. Petitioner suggests a "least restrictive means" test limited mostly to the political whims of state legislatures, and his entire case is built on nothing but hindsight. As discussed in Section IV(C), *infra*, such an argument is not just wrong, it is

dangerous. Nothing in the Constitution requires a perfect response to the myriad situations encountered by first responders. "The reasonableness of any particular governmental activity does not necessarily or invariably turn on the existence of alternative 'less intrusive' means." *Bertine*, 479 U.S. at 374 (citing *Lafayette*, 462 U.S. at 647).

III. THERE IS NO NEED FOR AN ADDITIONAL EXCEPTION TO THE FOURTH AMENDMENT'S WARRANT REQUIREMENT IN ORDER TO ALLOW COMMUNITY CARETAKING FUNCTIONS TO BE PERFORMED IN THE HOME, NOR ARE EITHER THE EXIGENT CIRCUMSTANCES OR THE EMERGENCY AID DOCTRINES A GOOD FIT FOR PURE CARETAKING CASES

Because of the recognition that a warrant is not always possible, the warrant requirement is subject to certain "exceptions." Respondents submit that it is a misnomer to refer to community caretaking activities as an "exception" to the warrant requirement, because pure caretaking cases do not implicate the warrant requirement *at all*. In other words, as the circumstances that brought the officers to the Caniglia home were not criminal in nature, nor were there ever any criminal charges filed, there were no grounds for obtaining either a search or an arrest warrant, and the standard is whether Respondents' actions were reasonable as required by the first clause of the Fourth Amendment.

The policies underlying the warrant requirement are not implicated in this case or any typical community caretaking case because the warrant requirement is aimed at the "often competitive" function of investigation and uncovering of crimes. *Johnson v. United States*, 333 U.S. 10, 14 (1948). Pure community caretaking functions cannot be judged against the requirements of a warrant: "it was no answer to say that the police could have obtained a search warrant, for the Court held the test to be, not whether it was reasonable to procure a search warrant, *but whether the search itself was reasonable*. . . ." *United States v. Edwards*, 415 U.S. 800, 807 (1974) (citation omitted). To the contrary, activities undertaken solely to aid members of the community are unrelated to the officer's duty to investigate and uncover criminal activity. *Mincey*, 437 U.S. at 392.

Mincey offered a carefully crafted explanation of the different requirements of the Fourth Amendment. This Court did not "question the right of the police to respond to emergency situations," *Id*. at 392, but cautioned that a warrantless search must be "strictly circumscribed by the exigencies which justify its initiation." *Id.* at 393 (citing *Terry*, 392 U.S. at 25-26). Using that rationale, the Court allowed the immediate search, but found that the subsequent four-day, comprehensive and intrusive search of the home without a warrant was unreasonable, as it was deemed to exceed the exigencies of the situation. *Id.* at 394.

Admittedly, the First Circuit, taking its cue from *Cady* and other community caretaking cases with a criminal component, referred to the community

caretaking doctrine as an "exception to the warrant requirement." Pet. App. 11a. Although taking the exception route is one way to reach the "reasonableness" endpoint, it is not necessary, is too cumbersome, and, in a pure community caretaking situation, ultimately futile. If a community caretaking function is being performed, first responders should never have to tell those who ask for help, "Sorry. We can't help you. We need a warrant and can't get one." *Bridewell*, 759 P.2d at 1068 (Peterson, C.J., concurring in part, dissenting in part).

Neither the exigent circumstances nor emergency aid exceptions to the warrant requirement accommodate the needs presented in a pure caretaking case. Rather, *Cady*'s community caretaking doctrine fits and should be applied no matter where the circumstances arise. In other words, there is no need to craft a "new" exception to the warrant requirement.

Circuit Courts have examined these related doctrines, noting a "substantial overlap" and the "lack of fine lines" between them. Pet. App. 12a n.5. However, the *concept* underlying the exigent circumstances and emergency aid exceptions—inability to obtain a warrant—supports application of the community caretaking doctrine to the home without need of creating or extending an additional "exception" to the Fourth Amendment.

Because the exigency and emergency aid exceptions have traditionally been applied to review the circumstances surrounding criminal investigation, they are of limited help in evaluating caretaking functions.

See Hunsberger, 570 F.3d at 554 (explaining that the community caretaking doctrine requires a court to examine the function performed, while the emergency exception requires an analysis of the circumstances). The exigency and emergency aid exceptions appear to both require a showing of probable cause, a traditional criminal law construct. *See Opperman*, 428 U.S. at 370 n.5 (probable cause peculiarly related to criminal investigations, not routine, non-criminal procedures); *United States v. Johnson*, 9 F.3d 506, 509 (6th Cir. 1993) ("[E]xigent circumstances justify a warrantless entry into a residence only where there is also probable cause to enter the residence."). The caretaking doctrine has a "more expansive temporal reach." Pet. App. 21a, and its focus is on the function being performed. Because this doctrine presumes that the police are not acting for any law enforcement purposes, whether there is time to seek a traditional criminal warrant is immaterial. *Id.* In the exigent and emergency aid exceptions, it is the circumstance of time that renders use of the warrant requirement impossible. In a caretaking case it is the lack of crime that makes obtaining a warrant impossible. Indeed, one court has questioned whether stopping to consider a warrant was "logical" where police were not acting in a law enforcement capacity. *Sutterfield v. City of Milwaukee*, 751 F.3d 542, 563 (7th Cir. 2014), *cert. denied*, 574 U.S. 993 (2014).

IV. RESPONDENTS WERE PERFORMING A BONA FIDE COMMUNITY CARETAKING FUNCTION, THEIR ACTIONS WERE OBJECTIVELY REASONABLE BASED ON SPECIFIC, ARTICULABLE FACTS AND THE ENTRY INTO THE HOME WAS REASONABLE IN SCOPE

The sole issue before this Court is whether Respondents' performance of their bona fide community caretaking function across the threshold of the home was reasonable. As the First Circuit noted, "threats to individual and community safety are not confined to the highways." Pet. App. 16a. To ensure that exercising such a function in the instant case in the home did not violate Petitioner's Fourth Amendment rights, the First Circuit, in concert with precedent from the other Circuits, established a workable and easily applied standard.

That test includes identifying, specific, articulable facts sufficient to establish that the action taken was justified on objective grounds. Pet. App. 20a. Consideration was also given to whether there was a "transient hazard" requiring the officers "immediate attention." *Id.* at 16a. In light of the privacy interest, the action must be "narrowly circumscribed, both in scope and in duration," to reasonably match the particular situation. *Id.* at 20a. This does not necessitate taking the least restrictive action. Rather, the response should be drawn from reasonable choices among available options based on state law or from sound police procedure. *Id.* Importantly, "decisions made and methods

employed" must be "within the realm of reason" in consideration of the situation confronted. *Id.* at 16a, 20a 21a.

As described below, in the instant case, Petitioner's constitutional rights were not violated because Respondents' actions clearly met all these elements and fell within the realm of the Fourth Amendment's reasonableness requirement.

A. Specific, Articulable Facts Existed To Allow Officers To Send Petitioner To The Hospital, Enter The Home And Seize His Handguns

Taking each element in turn, it becomes apparent in the first instance that there was a specific, articulable basis to seek medical care for Petitioner and enter the home to seize the weapons. When officers arrived, the situation at the Caniglia home was far from stable. The combination of a man who let little things "set him off" with handguns in an environment of constant arguing was a recipe for disaster. The First Circuit found that Respondents "could reasonably have believed, based on the facts known to them at the time, that leaving the guns in the plaintiff's home, accessible to him, posed a serious threat of immediate harm." Pet. App. 31a. *Cady* allowed a warrantless search in part because an automobile was involved, but the transient threat was posed by the *possibility* that a gun was in the car and *might be* obtained by vandals who *might then* have used it for wrongful purposes. Here, the

hazard was much more concrete—officers knew there was an angry man who had demonstrated signs of suicide and depression, along with the means and the state of mind to use his guns, to do harm to either himself or perhaps his wife. They did not know how long or how effective the medical evaluation would be at calming Petitioner, nor could they be assured that the arguments were over. In fact, Mrs. Caniglia reported that each time she thought Petitioner had calmed down over the previous 24 hours, he was set off again by "little things." J.A. 187. The uncertainty that remained after Petitioner was transported by ambulance continued, and "could have led a reasonable officer to continue to regard the danger of leaving firearms in [Petitioner's] home as immediate and, accordingly, to err on the side of caution." Pet. App. 33a. Indeed, it was the seemingly unceasing arguments that caused him to fling the gun on the table in the first place. Removing the weapon was the most reasonable means of deescalating the situation. The price of failure was great, and the choices made were objectively reasonable.

The specific articulable facts demonstrating the need for intervention can first be found in the fact that a mental health professional involved in the situation that day believed that the police should be called and urged Mrs. Caniglia to do so. J.A. 164. Mrs. Caniglia told the officers she was afraid of her husband, that he had introduced a gun into an argument over a coffee mug, and that she did not know what to expect when she got home. *Id.* at 187. The officers spoke to Petitioner, although for their own safety they did not enter

the home. *Id.* at 181. Mrs. Caniglia and some of the officers described Petitioner as "[a]gitated" or "angry." This, coupled with Mrs. Caniglia's statement that "little things" set him off, provided the officers with an objectively reasonable belief, based on the "totality of the circumstances," that Petitioner needed medical attention, and then that the two guns should be removed from the home. *Id.* at 184, 187, 244.

When officers went to the home and spoke with Mr. Caniglia, he confirmed that he brought the gun out during the argument, that he was sick of arguing with her, and that he said "just shoot me" because "he couldn't take it anymore." Pet. App. 55a. He denied being suicidal and told the officers his mental health was none of their business. *Id.* at 5a. Officer Mastrati reported that Petitioner "appeared normal" and Officer Russell described him as calm and cooperative. *Id.* Sergeant Barth, the ranking officer on the scene, thought the Petitioner was "[a]gitated" and "angry" and that he was "imminently dangerous to himself and others." *Id.* Mrs. Caniglia, who knew him better than anyone, stated that he was "very upset" with her for involving the police. *Id.*

Officers on the scene contacted Captain Henry, who approved Sergeant Barth's decision to seize Petitioner's guns based on the scene that was unfolding. *Id.* at 6a. Captain Henry was concerned that if the guns remained in the home, Petitioner and others could be in danger. *Id.* at 56a. The officers' thought process, as expressed by Captain Henry, balanced the "intrusive[ness] of the steps that we're taking versus the

potential consequences if we don't." J.A. 201. In fact, hospital staff relied on the fact that the guns had been removed from the home when deciding to discharge Petitioner. Dist. Ct. Rec. 44-25, at 2.

The "undisputed record supports [the] conclusion that the City and its officers were authorized by the community caretaking function to send Mr. Caniglia to Kent Hospital for a mental health evaluation and to seize his guns." Pet. App. 64a. As the First Circuit held, "no rational factfinder could deem unreasonable either the officers' belief that the [Petitioner] posed an imminent risk of harm to himself or others or their belief that reasonable prudence dictated seizing the handguns and placing them beyond [his] reach." *Id.* at 36a-37a.

Here, there can be no argument that a quintessential community caretaking function, supported by the strong governmental interest in public safety, was being performed. Performing wellness checks and de-escalating domestic disputes lie at the very core of community caretaking efforts.

B. The Scope Of The Search Was Reasonable And Commensurate With Circumstances Presented

In addition to there being reasonable articulable reasons for their actions, the scope of Respondents' entry or search was "reasonably related in scope to the circumstances which justified the interference in the first place." *Terry*, 392 U.S. at 19-20; *see also Cady*, 413

U.S. at 440 ("[W]hether a search and seizure is unreasonable within the meaning of the Fourth Amendment depends upon the facts and circumstances of each case.").

Mrs. Caniglia called for help after talking to her therapist. Officers chose the most reasonable means of ensuring that Petitioner was not experiencing a medical or mental health crisis. It is certainly reasonable to interpret Petitioner's introduction of a gun into an argument over a coffee mug as unreasonable and concerning. There was no way of knowing what would set him off next, and Mrs. Caniglia believed he was angry and upset with her for calling the police. Calling for medical expertise was the most reasonable response to these facts, as the First Circuit recognized. Pet. App. 30a.

The subsequent entry into the home to seize two handguns was reasonable, circumscribed, and focused on ensuring health and safety. Mrs. Caniglia led officers to the two guns, and the guns were taken. There was no further search of the home or any of its contents. The First Circuit found that the "officers could reasonably have believed . . . that leaving the guns in [Petitioner's] home, accessible to him, posed a serious threat of immediate harm." *Id.* at 31a. Any argument otherwise ignores the realities that the officers "had [no] inkling when [he] would return or what his mental state might be," *id.* at 32a, and, despite Mrs. Caniglia's assurances, whether he would be angry enough to escalate and pose a "near-term risk" to her. *Id.* Leaving the guns in the home was an "immediate" danger. *Id.*

at 33a. "The threat of peril did not evaporate once [Petitioner] was removed from the scene." *Id.* at 32a.

C. Respondents Chose A Reasonable Response To The Circumstances Presented, Especially Given The Price Of Choosing Wrong

Officers confronting "highly charged" situations, Pet. App. 2a, must be able to exercise their discretion and choose from among reasonable options. As described above, Respondents made such reasonable choices in this case. Petitioner challenges Respondents' actions, as well as challenging the extension of caretaking functions into the home, by offering suggestions largely based on state statutes. Some of these statutes did not exist in August of 2015, and none of them allowed for swift action, nor would they apply in myriad situations that confront officers every day. In short, they were not options at all, and this position is directly contrary to this Court's repeated recognition that whether warrantless entries are reasonable depends on the particular facts of a case.

Petitioner makes a thinly disguised "least restrictive means" argument. But *Cady* recognized that "[t]he fact that the protection of the public might, in the abstract, have been accomplished by 'less intrusive' means does not, by itself, render the search unreasonable." 413 U.S. at 447 (citation omitted). *See Castagna*, 955 F.3d at 222 (citing cases). Indeed, *Cady* presented a case where it would have been easy to post an officer

to guard the automobile, chain and padlock it or place it in a secure location until a warrant was obtained—but this Court did not require it. 413 U.S. at 447.

Petitioner cites *Clift v. Narragansett Television, L.P.*, 688 A.2d 805 (R.I. 1996), to support his argument that officers had the option to obtain an arrest warrant, as Rhode Island recognizes suicide as a felony. Pet. Br. 39. Arresting and charging Petitioner with attempted suicide was not an advisable option in place of seeking medical care. In *Clift*, police responded to a call of a suicidal man and set up a perimeter around the outside of his house while they explored their legal options. 688 A.2d at 806. Sadly, the man succeeded in killing himself while officers were determining how to approach the situation. *Id.* at 807. It is unclear how this decision helps Petitioner.

Petitioner suggests that Rhode Island's "red flag" law was an option for Respondents on August 20, 2015. Pet. Br. 37-38. It was not, having been enacted during the legislative session in 2018, nearly three years after this incident. *See* R.I. Gen. Laws § 8-8.3-3 (2018 R.I. Pub. Laws ch. 6, § 1; ch. 7, § 1). Even if that option is available in the future, it is focused on seizing guns, not defusing an immediate situation where medical attention was warranted, and requires law enforcement to file a petition and affidavits with the court requesting an order and search warrants. That course of action was simply not available, nor would it have addressed calming the situation or obtaining a medical evaluation for Petitioner.

Petitioner also suggests that Rhode Island's Domestic Assault law, R.I. Gen. Laws § 8-8.1-3(a)(4), was available to Respondents. Pet. Br. 37 n.1. He is wrong. That procedure is never available to law enforcement. That Act is triggered when "[a] person suffering from domestic abuse" files an action requesting an order to "protect her . . . from the abuse." R.I. Gen. Laws § 8-8.1-3(a). The order can require a Defendant to "surrender physical possession of all firearms." *Id.* § 8-8.1-3(a)(4). This option did not address obtaining medical attention for Petitioner's mental state and was simply not an option for Respondents.

Finally, Petitioner seeks to justify the exclusion of the community caretaking function from the home based on the position that state statutes, such as State mental health statutes, provide ample "tools" to help people in need "without extending *Cady*." Pet. Br. 33. First and foremost, the interpretation of the Fourth Amendment has never been dictated by state legislatures. *Powell v. McCormack*, 395 U.S. 486, 549 (1969) (Supreme Court is the ultimate interpreter of the United States Constitution). As repeatedly held by this Court, the constitutionality of a search under the Fourth Amendment is determined by the reasonableness of the act, not because state statutes offer alternatives. The argument that the community caretaking function does not extend to the home because State Mental Health statutes, which are all subject to change at the whim of state legislatures, are available, therefore should be rejected outright.

That said, the Rhode Island statute cited by Petitioner, R.I. Gen. Laws § 40.1-5-7(a)(1) (which since August of 2015 has been amended to exclude police[13]), did not provide the police with an alternative in the instant case. Section 40.1-5-7(a)(1) allowed police officers to apply for emergency certification of an individual but *only if* "no physician [was] available" to conduct an initial examination. *Id.* § 40.1-5-7(a)(1) (2006) (amended 2017). In this case, Petitioner could not show that a physician was not readily available at the hospital because, as the undisputed facts showed, a physician was available and evaluated Petitioner.[14] Consequently, section 40.1-5-7 did not permit Respondents to file an application for emergency certification themselves. Quite simply, the option chosen by Respondents in this case was reasonable and did not impinge upon Petitioner's Fourth Amendment rights.

Courts have recognized the difficult position officers face when responding to calls for help, rather than reports of crime. Especially when self-harm is threatened, decisions must be made with an eye towards deescalating and calming the situation. In *Clift*, the officers were faced with no good options and chose to wait it out, with disastrous results. *Dix* asked, "What, we wonder, was the more reasonable thing for these officers to have done? Leave the scene and let [the former romantic partners] duke it out between themselves?

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[13] *See* 2017 R.I. Pub. Laws ch. 387.

[14] As noted above, hospital staff discharged Petitioner in part because they were "confident that the guns had been confiscated by Police." Dist. Ct. Rec. 44-25, at 2.

No case supports such an argument." 978 F.3d at 517. *Rohrig* did not suggest "that the police . . . stand outside an apartment, despite legitimate concerns about the welfare of the occupant, unless they can hear screams." 98 F.3d at 1522 (citation omitted). The Sixth Circuit recognized that if officers had left the scene to obtain a warrant, citizens would have viewed their actions as "poor police work." *Id.* at 1524.

When faced with the choice to stand idly by, allowing a dangerous situation to "continue uninterrupted, or act," officers should be allowed to exercise their discretion and act, if a reasonable officer would have done so. *Harris*, 747 F.3d at 1017. There, the Court noted that officers were "permitted, and likely expected," to remove the firearm from the pocket of a sleeping man in a bus terminal. *Id.* at 109 (quoting *United States v. Collins*, 321 F.3d 691, 694-95 (8th Cir. 2003)) (holding that a brief automobile search was justified, "because not doing so 'would have been irresponsible and, quite possibly, a basis for civil liability . . . ' "). This Court understands that these decisions are often gut-wrenching. They are "damned-if-you-do, damned-if-you-don't conundrum[s]." Pet. App. 18a-19a. *Cf. DeShaney v. Winnebago Cty. Dep't of Soc. Servs.*, 489 U.S. 189, 203 (1989) (caretaking officials who "stood by and did nothing" held not liable under Due Process Clause, but this Court recognized they likely would have faced the same claim "had they moved too soon"). Under the outcome urged by Petitioner, the same call to protect or serve would be answered on the highway or bus terminal, but not in the home. The Fourth Amendment's

reasonableness standard does not require such a restrictive interpretation.

CONCLUSION

Respondents respectfully request that the judgment of the First Circuit be affirmed.

Respectfully submitted,

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