No. 20-843

IN THE

Supreme Court of the United States

NEW YORK STATE RIFLE & PISTOL ASSOCIATION, INC., *et al.*,

Petitioners,

v.

KEVIN P. BRUEN, IN HIS OFFICIAL CAPACITY AS SUPERINTENDENT OF NEW YORK STATE POLICE, *et al.*,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

BRIEF OF UNITED STATES SENATORS CHARLES E. SCHUMER, KIRSTEN GILLIBRAND AND 150 OTHER U.S. SENATORS AND REPRESENTATIVES AS *AMICI CURIAE* SUPPORTING RESPONDENTS

PHARA A. GUBERMAN
ZACHARY S. ZWILLINGER
ANNA S. FABER
PAUL HASTINGS LLP
200 Park Avenue
New York, NY 10166
(212) 318-6000

STEPHEN B. KINNAIRD
Counsel of Record
PAUL HASTINGS LLP
2050 M Street NW
Washington, DC 20036
(202) 551-1700
stephenkinnaird@paulhastings.com

Attorneys for Amici Curiae

September 21, 2021

307202

COUNSEL PRESS

(800) 274-3321 • (800) 359-6859

TABLE OF CONTENTS

Page

TABLE OF CONTENTS. i

TABLE OF CITED AUTHORITIES iv

IDENTITY AND INTEREST OF *AMICI CURIAE* . .1

SUMMARY OF ARGUMENT. 1

ARGUMENT. 5

I. THERE IS A LONG TRADITION OF LEGISLATURES REGULATING PUBLIC CARRY 5

A. Public Carry Regulations are Longstanding. 5

B. Public Carry Regulations Comport with a Tradition of Regulating Emerging Public Safety Threats 8

II. PUBLIC CARRY REGULATIONS ARE CONSISTENT WITH THE TRADITIONAL LEGISLATIVE ROLE TO REGULATE LETHAL FORCE IN PUBLIC 12

A. In Accord with the Self-Defense Doctrine, the "Core" of the Second Amendment Protects Defense of One's Home and Property 12

Table of Contents

Page

B. Legislatures are Best Equipped to Weigh Empirical Evidence about the Risks of Carrying Firearms in Public 14

III. UNRESTRICTED FIREARMS IN PUBLIC CAN HARM THE EXERCISE OF OTHER CONSTITUTIONAL RIGHTS ESSENTIAL TO OUR DEMOCRACY 19

A. Unrestricted Concealed Carry Can Harm First Amendment Rights 19

B. Unregulated Guns in Public Can Interfere with Elections and the Democratic Process 21

IV. NEW YORK'S "PROPER CAUSE" STANDARD FOR GRANTING CONCEALED CARRY PERMITS SHOULD BE UPHELD 26

A. This Court Should Adopt the Courts of Appeals' Consensus Framework and Apply at Most Intermediate Scrutiny 26

B. New York's Law Survives Intermediate Scrutiny 28

Table of Contents

Page

C. There Is No Support for the "Text, History and Tradition" Standard, but New York Law Would Prevail Even If This Standard Were Applied 30

CONCLUSION 31

APPENDIX 1a

TABLE OF CITED AUTHORITIES

Page

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Page

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Page

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Page

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Page

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Page

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Page

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IDENTITY AND INTEREST OF *AMICI CURIAE*

Amici curiae are 152 members of Congress who believe gun safety laws, including New York's concealed carry licensing law, are a constitutional exercise of legislative authority and a critical tool for protecting public safety and the exercise of other constitutional rights. *Amici* have an interest in the outcome of this case because they believe it is essential that the judicial branch continue to afford deference to legislative judgments regarding gun safety legislation when those judgments are permissible under the Second Amendment to the Constitution. As members of Congress, *amici* often make difficult choices in the face of competing data, constituent interests, and policy preferences. *Amici* are members of a democratically accountable branch of the federal government and have a particular interest in encouraging courts to grant flexibility to legislatures making these sensitive policy judgments.

The names of individual *amici* are listed in the Appendix.[1]

SUMMARY OF ARGUMENT

Gun violence poses a grave danger to the American people, particularly in public spaces. The failure to responsibly regulate guns in places where people travel

1. Pursuant to Supreme Court Rule 37.6, counsel for *amici curiae* states that no counsel for a party authored this brief in whole or in part, and no party or counsel for a party, or any other person other than *amici curiae* or its counsel, made a monetary contribution intended to fund the preparation or submission of this brief. All parties have consented to the filing of this brief.

and congregate has been shown to multiply the risk of mass shootings, violent crime, and deadly confrontations where lethal force could otherwise have been avoided. Beyond these everyday dangers, firearms can be wielded in public in ways that present an uncommon threat to our democratic freedoms. In the last year alone, *amici*, like many Americans, witnessed—and in some cases experienced—the presence of firearms in public as a way to intimidate, discourage certain policy choices, and attempt to force different and false electoral results.

For centuries, Congress and state legislatures have been empowered to address these threats through policies that ensure firearms are carried and used safely and responsibly. This includes the power to adopt strong licensing requirements for people carrying guns in public, a sphere where Second Amendment protections are not absolute. While gun safety laws alone will not prevent every gun death, there is compelling evidence that people are safer when the tenets of responsible gun ownership, including reasonable limits on carrying firearms in public, are enshrined into law. The recent trend toward deregulation in some state legislatures does not affect the propriety or constitutionality of gun safety laws enacted in other states, including concealed carry measures that have existed for centuries. Legislators in one state do not bind the hands of those in another.

Petitioners' constitutional challenge to New York's concealed carry licensing law threatens the traditional legislative authority to set standards for carrying firearms in public. For the following reasons, the Court should decline to recognize a dangerous new right to the unfettered public carry of firearms, which would

undermine the longstanding democratic authority of legislatures to define the circumstances in which guns may be lawfully carried and used in public.

First, the Anglo-American tradition of legislatures regulating public carry stretches back centuries and continues to this day. Public carry laws requiring a showing of "proper cause," like New York's concealed carry licensing scheme, have been in place since the early 1800s. *See, e.g.*, Saul Cornell, *The Right to Carry Firearms Outside of the Home: Separating Historical Myths from Historical Realities,* 39 Fordham Urb. L.J. 1695, 1719–25 (2012) (describing public carry restrictions enacted by numerous states from 1835 to 1878). These laws reflect another longstanding historical tradition: the adoption of more robust gun regulations in response to shifts in firearm lethality and the emergence of dangerous new forms of gun violence. *See* Robert Spitzer, *Gun Law History in the United States and Second Amendment Rights*, 80 L. and Contemp. Probs., 55–83 (2017). Legislatures are empowered and uniquely equipped to address public safety risks that accompany technological and cultural change. *See, e.g.*, *United States v. Jones*, 565 U.S. 400, 429 (2012) ("In circumstances involving dramatic technological change, the best solution . . . may be legislative.").

Second, public carry regulations are firmly rooted in both this Court's Second Amendment jurisprudence and the legislature's traditional role to regulate the use of lethal force in public. In *District of Columbia v. Heller*, 554 U.S. 570 (2008), this Court explained that the "core protection" of the Second Amendment is the "right of law-abiding, responsible citizens to use arms

in defense of hearth and home." *Id.* at 634–35. Outside the home, the carrying and use of arms has been more circumscribed to protect other citizens' ability to safely enjoy public spaces. While there are some who support different policy choices in this regard, there is ample evidence that weaker concealed carry licensing laws fuel violent crime, and that the presence of firearms can tragically escalate arguments. The debate over the proper response to this evidence involves sensitive policy judgments that traditionally have been for voters and elected legislatures—not the courts— to resolve.

Third, public carry regulations are consistent with the Constitution. The practice of carrying guns in public without meaningful oversight threatens participation in civic life, undermining our democracy and other constitutional rights. As the last year has shown, the unrestricted public carry of firearms can and does interfere with the proper functioning of democracy. It can inhibit First Amendment expression and the electoral process, and directly disrupt the workings of government. Our democracy cannot tolerate these harms and the Second Amendment does not compel us to. "The Constitution is not a suicide pact," *Edmond v. Goldsmith*, 183 F.3d 659, 663 (7th Cir. 1999) (Posner, J.), and this Court should not decide this case in a way that makes it one. *See Terminiello v. Chicago*, 337 U.S. 1, 37 (1949) (Jackson, J., dissenting) (rejecting that "all local attempts to maintain order are [unconstitutional] impairments of the liberty of the citizen").

For these reasons, the Court should uphold New York's requirement that an individual who wishes to carry a firearm with ammunition in public must first establish that they have "proper cause." The Court should also decline

the invitation to create an unbounded constitutional right to carry concealed guns in public spaces. Such a right is unprecedented in American history and would thwart efforts by *amici* and other elected leaders to protect their constituents from gun violence in ways *Heller* and *McDonald* promised would not happen. *Heller*, 554 U.S. at 626 ("nothing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms . . ."); *McDonald v. City of Chicago, Ill.*, 561 U.S. 742, 786 (2010) ("Heller . . . recognized that the right to keep and bear arms is not 'a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose.'").

ARGUMENT

I. THERE IS A LONG TRADITION OF LEGISLATURES REGULATING PUBLIC CARRY

A. Public Carry Regulations are Longstanding

Throughout American history, legislatures have always had the power to regulate firearms in the public sphere—a power that they routinely exercised. History demonstrates that the Second Amendment was never intended nor commonly understood to limit a legislature's authority to restrict firearms in public.

Public carry restrictions passed by colonial legislatures pre-date the Second Amendment.[2] *See, e.g.*, 1686 N.J.

2. The Anglo-American tradition of regulating public carry of deadly weapons dates back even before the Founding, to mid-thirteenth century English laws. *See, e.g.*, Frederick Pollock &

Laws 289, 289–90, ch. 9 (providing that no one "shall presume privately to wear any pocket pistol" or "other unusual or unlawful weapons within this Province" and that "no planter shall ride or go armed with sword, pistol or dagger"); No. 6, 1694 Mass. Laws 12; 1699 N.H. Laws 1.

States passed additional laws restricting firearms in public shortly after the ratification of the Bill of Rights, and continued regulating the presence of firearms in public throughout the late eighteenth- and nineteenth-centuries. *See e.g.*, 1792 N.C. Laws 60, 61 ch. 3 ("[No one may] go nor ride armed by night nor by day, in fairs, markets . . . nor in no part elsewhere."); 1795 Mass. Laws 436, ch. 2 (stating that no person "shall ride or go armed offensively, to the fear or terror of the good citizens of this Commonwealth"); 1801 Tenn. Laws 710, § 6; 1821 Me. Laws 285, ch. 76, § 1; 1852 Del. Laws 330, 333, ch. 97, § 13.

Public carry regulations proliferated leading up to and immediately following the Civil War. *See* 1838 Wisc. Laws 381, § 16; 1841 Me. Laws 709; 1846 Mich. Laws 690, 692, ch. 162, § 16; 1847 Va. Laws 127, 129, ch. 14, § 15; 1851 Minn. Laws 526, 528, ch. 112, § 18; 1852 N.M. Laws 67, § 1; 1853 Or. Laws 218, 220, ch. 16, § 17; 1857 D.C. Laws Code § 16; 1859 N.M. Laws 94, § 2; 1860 Pa. Laws 248, 250, § 6; 1870 W.Va. Acts 703, ch. CLIII § 8; Ch. 34, §1, 1871 Tex. Gen. Laws (1st Sess.) 25, 25; 1876 Wyo. Sess. Laws 352, § 1; 1881 Laws of N.Y., ch. 676, 412; § 1, 1888 Idaho Sess. Laws 23. Laws similar to New York's,

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Frederic William Maitland, *The History of English Law Before the Time of Edward I* 583 (1895) (reviewing ordinances during the time of Henry III (1207–1272) which "commanded the arrest of suspicious persons who went about armed without lawful cause").

requiring "good" or "proper" cause to carry firearms in public, were in force when the Fourteenth Amendment was drafted and continued to be passed after it was adopted. *See McDonald*, 561 U.S. at 791 (holding that the Second Amendment was made applicable to the states via Fourteenth Amendment incorporation); *see also* 1836 Mass. Acts 750, ch. 134, § 16 (requiring "reasonable cause to fear an assault or other injury, or violence to his person, or to his family or property" in order to publicly carry). States have consistently retained and exercised the power to protect the safety of their communities by requiring proper cause to bring lethal firearms into public spaces.

Centuries of Anglo-American legal history confirm that legislatures have always possessed broad and longstanding authority to regulate public carry. *See Young v. Hawaii*, 992 F.3d 765, 813 (9th Cir. 2021) ("700 years of English and American legal history reveals a strong theme: government has the power to regulate arms in the public square."); *Peruta v. Cnty. of San Diego*, 824 F.3d 919, 941 (9th Cir. 2016) ("[H]istorical evidence show[s] that the carrying of concealed weapons was consistently forbidden in England beginning in 1541; was consistently forbidden in the American colonies; and was consistently forbidden by the states . . . both before and after the Civil War."). This ample evidence suggests two possible conclusions: either the New York law at issue does not implicate Second Amendment-protected conduct, or any right to bear arms in public is historically limited, capable of being circumscribed by robust legislative power and balanced with broader public safety needs. Throughout American history, legislatures have always had the power to protect public safety by restricting firearms in public spaces.

B. Public Carry Regulations Comport with a Tradition of Regulating Emerging Public Safety Threats

Concealed carry licensing laws like New York's are part of another longstanding tradition: legislatures historically adopt new gun regulations in response to harmful societal shifts in how firearms are used. Concealed carry laws became widespread in the nineteenth century after states identified new harms to public safety from concealable firearms. Cornell, *supra*, at 1713–14 ("In response to a growing perception that these easily-concealable weapons posed a serious threat to public safety, a number of states passed the first modern-style weapons control laws."). While "the enshrinement of constitutional rights necessarily takes certain policy choices off the table," *Heller*, 554 U.S. at 636, many choices remain available to meet the changing demands of public safety. History provides no reason to believe that the Second Amendment bars such legislative responsiveness. Indeed, there is a long history of gun legislation being adopted, with broad public support, to respond to urgent public safety threats. Concealed carry regulations fit squarely within this tradition.

One example of this tradition is legislation restricting machine guns. These "fully automatic weapons, most famously the Tommy gun, became available for civilian purchase after World War I." Robert Spitzer, *Gun Law History in the United States and Second Amendment Rights*, 80 L. and Contemp. Probs., 68 (2017). When the Tommy gun began proliferating among civilians and threatening public safety in the 1920s, machine gun bans followed in state legislatures, *see id.*, and in 1934 Congress

adopted the National Firearms Act, requiring registration and levying a hefty tax on weapons determined to have no legitimate civilian purpose. *See, e.g.*, S. Rep. No. 73–1444, at 1–2 (1934).

Similarly, policymakers addressed the public safety danger that semiautomatic assault rifles posed after these weapons began to play an outsize role in violent crime and mass shootings. *See Staples v. United States*, 511 U.S. 600, 603 (1994) ("Many M-16 parts are interchangeable with those in the AR-15 and can be used to convert the AR-15 into an automatic weapon."). With bipartisan support, Congress adopted a temporary ban on the manufacture, transfer, and possession of assault weapons in 1994. *See* 18 U.S.C. § 922(v)(1).[3]

In addition to regulating weapons after they prove especially harmful, legislatures routinely address forms of gun violence that pose unique or growing societal dangers. This includes today's evolving public safety needs surrounding intimate partner violence and mass shootings. For example, a pair of landmark federal laws in the 1990s addressed the growing understanding that existing firearm laws did not adequately protect women from gun violence by abusive partners convicted of misdemeanors or subject to restraining orders.[4]

3. While the ban expired ten years later, research shows that restricting these weapons helped reduce gun violence and crime. *See generally* Christopher S. Koper, *Criminal Use of Assault Weapons and High-Capacity Semiautomatic Firearms: An Updated Examination of Local and National Sources*, 95 J. Urb. Health 313, 313-14 (2018).

4. These were the Violent Crime Control and Law Enforcement Act (Pub. L. 103–322) (1994) and the Lautenberg

Nearly every state now more comprehensively restricts gun access by domestic abusers by closing gaps and bolstering the effectiveness of federal law in this area. *See* Giffords Law Center to Prevent Gun Violence, *Domestic Violence and Firearms*, https://giffords.org/lawcenter/gun-laws/policy-areas/who-can-have-a-gun/domestic-violence-firearms/. These critical public safety measures required modern legislative intervention because earlier in American history, domestic violence was not classified either as criminal or as warranting disarmament. *See, e.g.*, *Stimmel v. Sessions*, 879 F.3d 198, 205 (6th Cir. 2018); *see also* Brief for Appellant at 8, *Stimmel*, 879 F.3d 198 (No. 15-4196), 2016 WL 7474670 (arguing "domestic violence was not illegal at the time the Bill of Rights or Fourteenth Amendment were enacted").

A similar legislative reckoning occurred following the 2018 school shooting in Parkland, Florida. Though there were numerous warning signs, the shooter was still able to acquire the weapon he used to kill 17 students and educators. Joel Rose, *Parkland Shooting Suspect: A Story of Red Flags, Ignored*, NPR (Mar. 1, 2018, 7:03 AM ET), https://www.npr.org/2018/02/28/589502906/a-clearer-picture-of-parkland-shooting-suspect-comes-into-focus. Legislatures across the country responded by passing a series of popular and bipartisan state laws creating a proactive process to temporarily remove guns from people threatening violence. Joseph Blocher and Jacob D. Charles, *Firearms, Extreme Risk, and Legal Design: 'Red Flag' Laws and Due Process*, 106 Va. L. Rev. 1285, 1295–97 (2020). Known as extreme risk or "red flag"

Amendment (Pub. L. 104–208) (1996). *See generally United States v. Castleman*, 572 U.S. 157, 159–60 (2014).

laws, these policies provide due process protections while balancing the need for public safety, and are modeled after domestic violence restraining order laws that exist in all fifty states. *Id.* at 1294.

Concealed carry regulations fit within this same longstanding legislative tradition. While the Founding Era did not experience today's epidemic levels of interpersonal gun violence, "cheaper and more reliable handguns proliferated in large numbers and society underwent a host of profound social and economic changes [by the nineteenth century]." Cornell, *supra*, at 1714. Legislatures have long recognized the "serious threat to public safety" posed by concealable firearms and explicitly acknowledged the distinction between "the use of arms within the home and the use of them in public"—where the "former [has] enjoyed far greater protection than the latter." *Id.* at 1714, 1722. By the mid-nineteenth century, "states broadly agreed that small, concealable weapons, including firearms, could be banned from the public square" and that this was not inconsistent with the right to keep and bear arms. *Young*, 992 F.3d at 801–02. While nineteen states no longer require a permit to carry loaded concealed guns in public (Giffords Law Center, *Guns in Public: Concealed Carry*, https://giffords.org/lawcenter/gun-laws/policy-areas/guns-in-public/concealed-carry/), this decision by some states does not undermine the historical and constitutional authority for continued concealed carry licensing laws in others.

II. PUBLIC CARRY REGULATIONS ARE CONSISTENT WITH THE TRADITIONAL LEGISLATIVE ROLE TO REGULATE LETHAL FORCE IN PUBLIC

A. In Accord with the Self-Defense Doctrine, the "Core" of the Second Amendment Protects Defense of One's Home and Property

In addition to their roots in American history, public carry regulations find support in this Court's Second Amendment jurisprudence and the traditional legislative role of regulating the use of lethal force in public. There are fundamental differences between "bearing Arms" on one's own property and "bearing Arms" in public, where doing so may threaten bystanders and create a risk that firearms will be used impulsively or unnecessarily against a perceived threat that does not warrant lethal force. With respect to the Second Amendment, this Court has clarified that the home is unique. *Heller*, 554 U.S. at 628–29 ("[T]he need for defense of self, family, and property is most acute [in the home]") (Scalia, J.). This is why the "core protection" of the Second Amendment is the "right of law-abiding, responsible citizens to use arms in defense of hearth and home." *Id.* at 634–35.

That the Second Amendment's protections may apply differently within and outside the home is consistent with the scope of other constitutional rights, even when such distinctions are not drawn explicitly in the text of the Constitution. Thus, *Heller*'s description of Second Amendment rights being at their apex in the home—and its implication that they may be more extensively circumscribed outside the home—is in line with the

Court's other fundamental rights jurisprudence. *See, e.g.*, *Kyllo v. United States*, 533 U.S. 27, 40 (2001) ("We have said that the Fourth Amendment draws a firm line at the entrance to the house") (Scalia, J.) (internal quotations omitted); *Caniglia v. Strom*, 141 S. Ct. 1596, 1599 (2021) ("The 'very core' of the [Fourth Amendment's] guarantee is 'the right of a man to retreat into his own home and there be free from unreasonable governmental intrusion.'") (quoting *Florida v. Jardines*, 569 U. S. 1, 6 (2013)); *Stanley v. Georgia*, 394 U.S. 557, 565, 568 (1969) ("[T]he States retain broad power to regulate obscenity" in accordance with the First Amendment, but this power does not "reach into the privacy of one's own home.").

Traditional self-defense doctrines also explain why this distinction between public and private spaces exists under the Second Amendment. The Second Amendment's "core lawful purpose of self-defense," *Heller*, 554 U.S. at 630, operates differently on private property and on public streets, such as with the "castle" doctrine, a common-law rule that serves as a homebound exception to the general "duty to retreat" before using lethal force in self-defense. *See Alberty v. United States*, 162 U.S. 499, 508 (1896) (holding that, when in the home, a person "is not bound to retreat"). Though firearms may be used more freely in self-defense on one's private property, in shared public spaces common-law traditions privilege the protection of human life and avoiding the defensive use of lethal force. Eric Ruben, *An Unstable Core: Self-Defense and the Second Amendment*, 108 Cal. L. Rev. 63, 86–87 & n.260 (2020).

Heller's cautionary language that "the right secured by the Second Amendment is not unlimited" (554 U.S.

at 626), applies with greater force outside the home. In public, there are more occasions when "public safety interests often outweigh individual interests in self-defense," *United States v. Masciandaro*, 638 F.3d 458, 470 (4th Cir. 2011). Self-defense law traditionally protects human life by limiting the situations in which lethal force, including firearms, can be used against perceived threats, particularly in public. "Proper cause" concealed carry laws like New York's are consistent with state self-defense laws and the core principles animating the Second Amendment because they require that anyone publicly carrying a concealed gun identify a specific threat that necessitates that concealed carry.

B. Legislatures are Best Equipped to Weigh Empirical Evidence about the Risks of Carrying Firearms in Public

While there are many Americans who fiercely believe in the merits of different gun policy choices, the heated debate highlights why these policy questions are appropriate for legislatures to resolve, not courts. As this Court has recognized, "[s]ound policymaking often requires legislators to forecast future events and to anticipate the likely impact of these events based on deductions and inferences for which complete empirical support may be unavailable." *Turner Broad. Sys., Inc. v. F.C.C.*, 512 U.S. 622, 665 (1994); *see also Nixon v. Shrink Mo. Gov't PAC*, 528 U.S. 377, 402 (2000) (noting that, as here, "[w]here a legislature has significantly greater institutional expertise . . . the Court in practice defers to empirical legislative judgments") (Breyer, J., concurring); *Marshall v. United States*, 414 U.S. 417, 427 (1974) ("in areas fraught with medical and scientific uncertainties,

legislative options must be especially broad and courts should be cautious not to rewrite legislation").

Judicial respect for legislative judgment acknowledges the complexity of setting gun policy. *See McDonald*, 561 U.S. at 784–88 (assuring states they retain the ability to adopt gun laws serving local needs); *Heller*, 554 U.S. at 636 (assuring legislatures that they retain "a variety of tools for combating" gun violence). Respect for legislative judgments protects the right of the people to engage in the "communal process of democracy," especially when it implicates their safety. *Kolbe v. Hogan*, 849 F.3d 114, 150 (4th Cir. 2017) (Wilkinson, J., concurring) ("Disenfranchising the American people on this life and death subject would be the gravest and most serious of steps.").

This deferential approach is not a special rubber stamp for gun policy legislation, but rather one that recognizes that legislatures are generally given discretion for policy judgments, including for decisions that may affect fundamental constitutional rights. In *Columbia Broadcasting System, Inc. v. Democratic National Committee*, for instance, 412 U.S. 94, 102 (1973), this Court "afford[ed] great weight to the decisions of Congress" because "[b]alancing the various First Amendment interests involved in the broadcast media and determining what best serves the public's right to be informed is a task of a great delicacy and difficulty." The weight afforded to legislative decisions applies not just to Congress, but also to state legislatures, especially in the exercise of police powers. *Medtronic, Inc. v. Lohr*, 518 U.S. 470, 475 (1996) (states have "great latitude under their police powers to legislate as to the protection of the lives, limbs, health,

comfort, and quiet of all persons"); *Hawaii Hous. Auth. v. Midkiff*, 467 U.S. 229, 244 (1984) ("the fact that a state legislature, and not the Congress, made the public use determination does not mean that judicial deference is less appropriate").

When New York passed its "proper cause" standard over one-hundred years ago, the state legislature responded to empirical evidence of increased homicides and suicides resulting from concealable firearms. *See People ex rel. Darling v. Warden of City Prison*, 139 N.Y.S. 277, 285–86 (N.Y. App. Div. 1913); *Revolver Killings Fast Increasing*, N.Y. Times, Jan. 30, 1911, at 4 (citing New York Coroner's Office Report). The legislature balanced its goal to "prevent crimes of violence before they can happen" against the need to "preserve legitimate interests." Report of the N.Y. State Joint Legislative Comm. On Firearms & Ammunition, Doc. No. 6, at 12 (1965).

Since New York passed its law, a century of research has been conducted. Empirical evidence confirms the importance of setting reasonable limits on the carrying and use of guns in public. Specifically, as set forth below, research tells us that: (1) the defensive use of firearms in public risks contributing to, rather than preventing, violence; and (2) concealed guns increase aggressive behavior and the risk of bystander injuries. This evidence bolsters the logic behind the Second Amendment's distinction between the "core" right to keep and bear arms on one's own property and the exercise of gun rights outside the home. And, it confirms that the question of how best to regulate guns in public is a fact-bound question of legislative policy, not a constitutional matter for the courts to decide.

First, public health evidence suggests that the public carrying of firearms introduces a heightened risk of harm to the gun carrier and others. The presence of more firearms in public means more people are exposed to firearms in their daily routines, increasing the risk that a benign action will be misinterpreted as threatening and end in the unjustified use of lethal force. Misapprehending threats can lead to the wrongful use of lethal force in circumstances where no force or only non-lethal force is justified. *See* Charles C. Branas et al., *Investigating the Link Between Gun Possession and Gun Assault*, 99 Am. J. Pub. Health 2034, 2037 (2009) (finding individuals who were carrying a gun were two to four times more likely to be shot in an assault than non-carriers). Further, despite the contention of *amici* for Petitioners, collapsing the distinction between self-defense rights in the home and in public creates a serious danger that gun carriers will misjudge threats in a racially biased manner. *See* John Paul Wilson et al., *Racial Bias in Judgments of Physical Size and Formidability: From Size to Threat*, 113 J. Personality Soc. Psych. 59, 74 (2017) ("Americans demonstrate[] a systemic bias in their perceptions of the physical formidability imposed by Black men [and] overestimate[] young Black men as . . . more capable of causing physical harm[,] predict[ing] the extent to which perceivers s[ee] force as justified . . .").

It is well-documented that the fewer meaningful restrictions that a jurisdiction places on the issuance of a concealed carry license, the more violent assaults, violent crimes, and firearm- or handgun-related homicides occur in that jurisdiction. John J. Donohue et al., *Right-to-Carry Laws and Violent Crime*, 16 J. Empirical Legal Stud. 198, 198–201 (2019) (weaker concealed carry laws led to 13 to

15 percent higher violent crime rates compared to what rates would be without those laws); Mark Gius, *Using the Synthetic Control Method to Determine the Effects of Concealed Carry Laws on State-Level Murder Rates*, 57 Int'l Rev. L. & Econ. 1, 6 (2019) (states that weakened their concealed carry laws experienced a 12.3 percent increase in gun-related murder rates and a 4.9 percent increase in overall murder rates); Michael Siegel et al., *Easiness of Legal Access to Concealed Firearm Permits and Homicide Rates in the United States*, 107 Am. J. Pub. Health 1923, 1927–28 (2017) (weaker concealed carry laws are associated with 6.5 percent higher total homicides, 8.6 percent higher firearm homicides, and 10.6 percent higher handgun homicides).

Second, the mere presence of concealed guns can increase public safety risks such as with "weapons priming," a phenomenon where the presence of firearms inspires aggressive behavior even among otherwise law-abiding citizens. *See* Arlin Benjamin Jr. et al., *Effects of Weapons on Aggressive Thoughts, Angry Feelings, Hostile Appraisals, and Aggressive Behavior: A Meta-Analytic Review of the Weapons Effect Literature*, 22 Personality and Soc. Psychol. Rev. 347, 347–77 (2017); Craig A. Anderson et al., *Does the Gun Pull the Trigger? Automatic Priming Effects of Weapon Pictures and Weapon Names*, 9 Psych. Sci. 308–14 (1998) (finding "the presence of a weapon—or even a picture of a weapon—can make people behave more aggressively"). The ability of firearms to inspire aggression and the increased number of firearms being carried in people's vehicles are believed to contribute to the recent nationwide rise in road rage shootings, particularly in states that lack strong laws regulating the carry or transportation of firearms. *See,*

e.g., Meredith Deliso, *'Disconcerting' Rise in Road Rage Shootings Resulting in Death or Injury, Data Shows*, ABC News (June 12, 2021, 9:52 AM), https://abcnews.go.com/US/disconcerting-rise-road-rage-shootings-resulting-death-injury/story?id=78181165; David Hemenway et al., *Is an Armed Society a Polite Society? Guns and Road Rage*, 38 Accident Analysis & Prevention 687, 687–95 (2006). Further, when concealed weapons are used in public, either in self-defense or in criminal aggression, it undoubtedly increases the risk that bystanders will be harmed by ricochets and stray bullets.[5]

III. UNRESTRICTED FIREARMS IN PUBLIC CAN HARM THE EXERCISE OF OTHER CONSTITUTIONAL RIGHTS ESSENTIAL TO OUR DEMOCRACY

A. Unrestricted Concealed Carry Can Harm First Amendment Rights

Civilians carrying guns into communal spaces can chill or shut down the rightful expressions of free speech and political protest that the First Amendment is intended to protect. Requiring licenses to carry concealed guns in public, and imposing reasonable conditions on licensure, is an important and effective tool for preventing these civic harms. The inability to regulate concealed firearms

5. *See, e.g.*, Amanda Cochran, *Mother Accused in Ricochet Shooting of her 5-Year-Old Son, Police Say*, Click2Houston.com (June 1, 2021, 6:23 PM), https://www.click2houston.com/news/local/2021/06/01/mother-accused-in-ricochet-shooting-of-her-5-year-old-son-police-say/ (reporting that when a woman fired her gun at a dog running loose in the street, the bullet ricocheted and hit her 5-year-old son).

in public would put legislatures at a severe disadvantage in their mandate to "protect[] the public sphere on which a constitutional democracy depends." Joseph Blocher and Reva B. Siegel, *When Guns Threaten the Public Sphere: A New Account of Public Safety Regulation Under Heller*, 116 Nw. L. Rev. 1, 60 (2021); *see also Kovacs v. Cooper*, 336 U.S. 77, 83 (1949) (Finding that noise ordinance did not violate First Amendment and noting that "[a] state or city may prohibit acts or things reasonably thought to bring evil or harm to its people."); *Alfred L. Snapp & Son, Inc. v. Puerto Rico ex rel. Barez*, 458 U.S. 592, 609 (1982) ("[the court has] long recognized that a State's interests in the health and well-being of its residents extend beyond mere physical interests . . . ."). For example, in the summer of 2020, racial justice protests spread across the country. As part of this modern civil rights movement, four hundred of the 5,000 residents of Omak, Washington planned a peaceful march. Isaac Stanley-Becker, *As Protests Spread to Small-Town America, Militia Groups Respond with Armed Intimidation and Online Threats*, Wash. Post (June 18, 2020), https://www.washingtonpost.com/national/as-protests-spread-to-small-town-america-militia-groups-respond-with-online-threats-and-armed-intimidation/2020/06/18/75c4655e-b0a1-11ea-8f56-63f-38c990077_story.html. The group encountered an armed, unauthorized militia group facing them, with others on nearby rooftops "ready to act as snipers." *Id.* The peaceful protesters said that it felt like a "preparation to kill." *Id.* This reaction to protest—organized, armed, and meant to show force—creates a chilling effect, inhibiting the exercise of fundamental First Amendment rights.

Firearms have deterred protests and civic participation in other places around the country as well. In Enterprise,

Oregon, a teenager planned a protest only to have 70 armed men show up, causing protestors to leave and avoid future demonstrations. *Id.* In Sandpoint, Idaho, high school students marched to support racial justice; as the students marched across the town's bridge, they were "flanked by a large group of heavily armed civilians" brandishing firearms and dressed in camo gear. Julie Frankel et al., '*No Body of Men:' A Militia Movement, Recast, Takes to the Streets of North Idaho*, Idaho Statesman (Aug. 24, 2020, 6:38 PM), https://www.eastidahonews.com/2020/08/no-body-of-men-a-militia-movement-recast-takes-to-the-streets-of-north-idaho. The participating students were intimidated and felt that their safety was in jeopardy. *Id.*

B. Unregulated Guns in Public Can Interfere with Elections and the Democratic Process

The presence of unlicensed firearms in public can also threaten free and fair elections culminating in smooth transitions of power. Last year, a number of states saw their efforts to count ballots and certify the election delayed and inhibited by firearms in the public sphere.

Leading up to and following the 2020 election, state election officials reported the presence of protestors carrying guns as a major concern for the functioning of their offices and preserving the security of elections. *See generally* Brennan Center for Justice and Bipartisan Policy Center, *Election Officials Under Attack: How to Protect Administrators and Safeguard Democracy*, at 8 (June 16, 2021), https://www.brennancenter.org/sites/default/files/2021-06/BCJ-129%20ElectionOfficials_v7.pdf (report based on interviews with election officials). In Arizona, an election official "described a mob of people

carrying assault rifles and screaming outside the warehouse where staff were tabulating ballots." *Id.* In Nevada, the Clark County Registrar "recounted that 25–50 protestors appeared outside his office every day, some openly carrying weapons . . . [w]hen [staff] did leave [the building], protestors harassed them in the parking lot." *Id.*

In October 2020, Al Schmidt, the Republican city commissioner of Philadelphia, received a threatening phone message stating that members of the board of elections "were the reason why we have the Second Amendment." *Id.* at 3. Soon after, police arrested individuals making threats against the Pennsylvania Convention Center, where ballots were being counted, who were armed with semi-automatic weapons. *Id.*; Miguel Martinez-Valle, *Two Arrested With Guns After Police Get Tip Of Convention Center Threat*, NBCPhiladelphia.com (Nov. 6, 2020, 6:07 PM), https://www.nbcphiladelphia.com/news/local/two-arrested-after-police-get-tip-of-convention-center-threat/2587411/ (noting that the men were arrested for lacking licenses to carry a firearm in Pennsylvania). The presence of armed civilians outside their facilities created a charged and threatening atmosphere for election officials, endangering their ability to oversee basic democratic processes.

This disturbing trend metastasized on January 6, when the United States Capitol was breached by violent individuals who, but for District of Columbia restrictions on out-of-state residents possessing and publicly carrying firearms, might well have been even more heavily armed. As members of Congress worked to facilitate the peaceful transfer of power—the touchstone of American

democracy—a mob seeking to overturn President-elect Biden's victory in the 2020 election forced its way into the United States Capitol. The mob successfully interrupted certification of the election results: as insurrectionists stormed the halls of Congress, audibly chanting for the Vice President of the United States to be killed, *amici,* our colleagues, and our staff were barricaded in the chambers of the House and Senate. *Amici* were forced to hide and delay our constitutional duties while fearing for our lives. Insurrectionists, many donning military-style gear, breached the Senate chamber shortly after it was evacuated. *See* Shelly Tan, Youjin Shin and Danielle Rindler, *How One of American's Ugliest Days Unraveled Inside and Outside the Capitol,* Wash. Post (Jan. 9, 2021), https://www.washingtonpost.com/nation/interactive/2021/capitol-insurrection-visual-timeline/. Five police officers died and more than 140 were injured as a result of their heroic efforts to protect lawmakers, staffers, and American democracy itself.

While most participants in the January 6 insurrection came to Washington, D.C. from other states and appeared to comply with the District's laws prohibiting gun possession and public carry by out-of-state visitors, some insurrectionists illegally brought firearms to the District and inside the Capitol in an attempt to thwart the democratic process. *See* Marshall Cohen, *January 6 Rioter Charged with Bringing Gun to Capitol Grounds, Undercutting GOP Claims that the Pro-Trump Mob Was Unarmed*, CNN.com (June 17, 2021, 3:34 PM ET), https://www.cnn.com/2021/06/17/politics/capitol-riot-guns-armed-insurrection/index.html; Madison Hall et al., *642 People Have Been Charged in the Capitol Insurrection So Far*, Insider.com (Sept. 14, 2021, 4:42 PM), https://www.

insider.com/all-the-us-capitol-pro-trump-riot-arrests-charges-names-2021-1 (Of the 642 people arrested in connection with the Capitol insurrection, only 11 were from Washington, D.C.). If Washington D.C. had looser restrictions on gun carry by out-of-state residents, the horrifying events of January 6 could have been far worse. Jake Charles, *Strict Gun Laws Likely Saved Lives During the Capitol Insurrection*, Duke Center for Firearms Law (Jan. 27, 2021), https://firearmslaw.duke.edu/2021/01/strict-gun-laws-likely-saved-lives-during-the-capitol-insurrection/; Spencer S. Hsu, *In First, U.S. Charges Jan. 6 Defendant with Bringing Firearms to Capitol Under Controversial Federal Rioting Law*, Wash. Post (June 17, 2021, 7:25 PM ET), https://www.washingtonpost.com/local/legal-issues/rare-weapons-charge-capitol-riot/2021/06/17/9abef4ec-cf94-11eb-8cd2-4e95230cfac2_story.html (noting that many charged defendants "discussed bringing firearms and planned for the District's strict gun laws"); Jordan Fisher et al., *Oath Keepers planned backup staged with weapons outside D.C. during Capitol riot, DOJ says*, WUSA9.com (Feb. 11, 2021, 12:49 PM EST), https://www.wusa9.com/article/news/national/capitol-riots/jessica-watkins-oath-keepers-weapons-backup-quick-reaction-force-law-enforcement-capitol-riot/65-a135a308-3731-401b-8fd9-d046084aa6ee (explaining plot by Oath Keepers militia to carry mace, tasers, or night sticks while in D.C. and to have a "quick reaction force" of militia members with weapons staged outside of the city).

State capitol buildings have also been the site of efforts by armed protesters, some of whom are freely able to cross state lines with weapons, to influence legislative debates. In spring 2020, armed protesters openly carrying semi-

automatic rifles attended rallies in and around state capitol buildings in Michigan, Kentucky, Ohio, Pennsylvania, Wisconsin and elsewhere. *See, e.g.*, Abigail Censky, *Heavily Armed Protesters Gather Again at Michigan Capitol to Decry Stay-At-Home Order*, NPR (May 14, 2020, 12:09 PM ET), https://www.npr.org/2020/05/14/855918852/heavily-armed-protesters-gather-again-at-michigans-capitol-denouncing-home-order; FOX8, *Armed Protesters Gathered Outside Statehouse Demanding DeWine Reopen Ohio* (May 1, 2020, 7:16 PM ET), https://fox8.com/news/coronavirus/armed-protesters-gathered-outside-statehouse-demanding-dewine-reopen-ohio/; Wisconsin Watch, WPR and the Cap Times, *Flouting Stay-at-home Order and Social Distancing, Anti-Lockdown Protestors Descend on Wisconsin Capitol*, (April 24, 2020), https://wisconsinwatch.org/2020/04/coronavirus-lockdown-protesters-wisconsin-capitol/. In the aftermath of these events, whether to expand or limit public carry in state capitols is a live issue for legislators. *See* Scott Calvert, *States Split on Letting Guns in Capitols,* Wall St. J. (Jan. 19, 2020, 11 AM ET), https://www.wsj.com/articles/states-split-on-letting-guns-in-capitols-11579449601 (reviewing enacted and proposed legislation); *see also* Allison Anderman, *Giffords Law Center Gun Law Trendwatch: June 2, 2021*, Giffords Law Center to Prevent Gun Violence (June 2, 2021), https://giffords.org/lawcenter/trendwatch/giffords-law-center-gun-law-trendwatch-june-2-2021/ (noting recent state laws limiting firearms at state capitols, at public demonstrations, and at polling places).

These disturbing events have viscerally shown Americans and elected officials that the unrestricted public carry of firearms poses a threat to First Amendment expression, political protest, voting, and the

electoral process—including by directly disrupting the workings of government. Our democracy cannot tolerate these harms and the Second Amendment does not compel us to.

IV. NEW YORK'S "PROPER CAUSE" STANDARD FOR GRANTING CONCEALED CARRY PERMITS SHOULD BE UPHELD

For the above reasons, and those advanced by Respondents, this Court should uphold New York's "proper cause" concealed carry law. The law is constitutional because it does not burden conduct that falls within the scope of the Second Amendment's guarantee and does not violate constitutional rights under intermediate scrutiny—the appropriate level of review in this case under the consensus framework used by the courts of appeals. Even if this Court were to apply the unprecedented and unbounded "text, history, and tradition standard" suggested by *amici* supporting Petitioners[6]—and it should not—New York's law would pass that test.

A. This Court Should Adopt the Courts of Appeals' Consensus Framework and Apply at Most Intermediate Scrutiny

In *Heller*, this Court held that a ban on keeping operable handguns in the home for immediate self-defense violated the Second Amendment, and would be

6. *See* Brief of Amici Curiae Representative Claudia Tenney and 175 Additional Members of the U.S. House of Representatives in Support of Petitioners (the "House Republican Brief"), at p. 12–13.

unconstitutional "[u]nder any of the standards of scrutiny that we have applied to enumerated constitutional rights." 554 U.S. at 628. Circuit courts have overwhelmingly read *Heller* to support an analytical approach that treats the Second Amendment like other enumerated constitutional rights. The framework used by nearly every federal circuit asks, at the threshold, whether a challenged regulation implicates Second Amendment rights as historically understood. Then, if the Second Amendment is implicated, "[b]orrowing from the Court's First Amendment doctrine" and the principle that "the rigor of [] judicial review will depend on how close the law comes to the core of the Second Amendment right and the severity of the law's burden on the right," *Ezell v. City of Chicago*, 651 F.3d 684, 703 (7th Cir. 2011), courts select and apply a standard of heightened constitutional scrutiny.

Courts agree that the threshold question of whether to conduct a full-blown constitutional analysis is a "backward-looking inquiry" that "seeks to determine whether the regulated conduct 'was understood to be within the scope of the right at the time of ratification.'" *Gould v. Morgan*, 907 F.3d 659, 669 (1st Cir. 2018) (quoting *United States v. Chester*, 628 F.3d 673, 680 (4th Cir. 2010)). To determine whether a state law implicates Second Amendment-protected activity, courts consider the scope of the asserted right in 1868, when the Fourteenth Amendment was ratified. *Id.* The New York law in question accordingly does not burden conduct falling within the scope of the Second Amendment's guarantee because, as established in Section I, *supra*, the Second Amendment did not guarantee an unfettered right to public carry of concealed weapons in 1868 (or 1791). Instead, regulations restricting the public carry of firearms predate ratification of both the Second and Fourteenth Amendments.

Even if this Court finds that the challenged law burdens conduct that falls within the scope of the Second Amendment guarantee—and it should not—the Court should apply *at most* intermediate scrutiny to the New York law in question. When laws implicate constitutional provisions but do not substantially burden core guarantees, this Court generally applies intermediate scrutiny. *See, e.g.*, *Turner*, 512 U.S. at 662 (restrictions that incidentally burden speech); *Clark v. Jeter*, 486 U.S. 456, 461 (1988) (classifications of sex and illegitimacy).

Heller established that the "core protection" of the Second Amendment is the "right of law-abiding, responsible citizens to use arms in defense of hearth and home." 554 U.S. at 634–35. Since concealed carry regulations burden only non-core Second Amendment rights, courts have uniformly found intermediate scrutiny to be an appropriately stringent standard. "[A]s we move outside the home, firearm rights have always been more limited because public safety interests often outweigh individual interests in self-defense." *Masciandaro*, 638 F.3d at 470; *see also Gould*, 907 F.3d at 673 (concluding that intermediate scrutiny is proper for reviewing a law restricting public carry).

B. New York's Law Survives Intermediate Scrutiny

Should the Court proceed to apply intermediate scrutiny here, New York's law easily survives this standard of review. Challenged laws pass muster under intermediate scrutiny when they are "substantially related to an important governmental objective." *Clark*, 486 U.S. at 461. Conversely, when the government cannot establish

a "substantial relation" between a particular regulation and important governmental interests, courts do not hesitate to find the regulation at issue unconstitutional under intermediate scrutiny. *See, e.g.*, *Binderup v. Att'y Gen.*, 836 F.3d 336, 353 (3d Cir. 2016) (en banc); *N.Y. State Rifle & Pistol Ass'n v. Cuomo*, 804 F.3d 242, 264 (2d Cir. 2015). Intermediate scrutiny therefore protects constitutional liberties while recognizing legislatures' right and obligation to protect public safety and pursue other legitimate governmental objectives.

The legislative history and empirical evidence catalogued in Sections I and II.B, *supra*, and the recent disruptions to First Amendment-protected protests and the electoral process described in Section III, *supra*, confirm that New York's "proper cause" requirement substantially furthers important governmental interests in public safety and order, and crime prevention. The record shows that the legislature contemplated the public safety impact of firearm regulation in enacting the laws in question, stating that "adequate statutes governing firearms and weapons would make lawful intervention by police and prevention of these fatal consequences, before any could occur." Report of the N.Y. State Joint Legislative Comm. on Firearms & Ammunition, Doc. No. 6, at 12 (1965). The same report explained that "[s]tatutes governing firearms and weapons are not desirable as ends in themselves." *Id.* Such legislation "is valuable only as a means to the worthwhile end of preventing crimes of violence before they occur." *Id.*

As researchers conduct additional thorough studies on causes of gun violence and effects of gun safety laws, there is compelling evidence that New York's "proper

cause" law prevents crimes of violence from occurring. Strong concealed carry regulations have proven likely to reduce the risks of violent crime, aggressive behaviors, bystander injuries, and armed intimidation of protestors, legislators, and election officials. *See supra* Sections II.B & III. In the Second Circuit, the "proper cause" requirement has survived intermediate scrutiny after the court acknowledged a body of then-current social science research submitted to support the law. *See Kachalsky v. Cnty. of Westchester*, 701 F.3d 81, 99 (2d Cir. 2012). The new evidence shows that New York's regulations are not only appropriate and constitutional, but also the best-informed policy choice the state could make to protect its residents.

C. There Is No Support for the "Text, History and Tradition" Standard, but New York Law Would Prevail Even If This Standard Were Applied

As established in Section IV.A, *supra*, public carry laws like New York's are subject to intermediate scrutiny. However, Petitioners' *amici* attempt to set forth a new standard—the "text, history and tradition" standard. *See* House Republican Brief at 12.

Even if this proposed standard was the law—and it is not—New York's law would satisfy it. As this Court recognized in *Heller*, "longstanding" laws should be treated as tradition-based "exceptions" to gun rights by virtue of their "historical justifications." *See Heller*, 554 U.S. at 626, 635. As detailed in Section I, *supra*, states have long held and exercised the authority to regulate the public carrying of firearms. New York enacted laws regulating firearm use as early as 1785. *See, e.g.* Act of Apr. 22, 1785, Ch. 81, 1785 Laws of N.Y. 152; Act of Apr.

13, 1784, ch. 28, 1784 Laws of N.Y. 627. New York's current "proper cause" requirement is thus a direct descendant of historical public carry regulations, predating even the Constitution. Petitioners' *amici* are ignoring history and tradition and trying to disturb the laws enacted by the people of New York through their duly-elected representatives. State laws like the one at issue here carry forward a long-established tradition of public carry regulations and legislation responsive to contemporary public safety needs; these laws are constitutional under any test that examines history and tradition.

CONCLUSION

For the foregoing reasons, the Second Circuit's decision should be affirmed.

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Respectfully submitted,

PHARA A. GUBERMAN
ZACHARY S. ZWILLINGER
ANNA S. FABER
PAUL HASTINGS LLP
200 Park Avenue
New York, NY 10166
(212) 318-6000

STEPHEN B. KINNAIRD
Counsel of Record
PAUL HASTINGS LLP
2050 M Street NW
Washington, DC 20036
(202) 551-1700
stephenkinnaird@paulhastings.com

Attorneys for Amici Curiae

APPENDIX – LIST OF MEMBERS OF THE UNITED STATES SENATE AND HOUSE OF REPRESENTATIVES

The following members of the United States Senate and House of Representatives join in this brief:

U.S. Senate

Majority Leader Chuck Schumer (New York, D)
Senator Tammy Baldwin (Wisconsin, D)
Senator Richard Blumenthal (Connecticut, D)
Senator Cory Booker (New Jersey, D)
Senator Tom Carper (Delaware, D)
Senator Robert Casey (Pennsylvania, D)
Senator Chris Coons (Delaware, D)
Senator Tammy Duckworth (Illinois, D)
Senator Richard Durbin (Illinois, D)
Senator Dianne Feinstein (California, D)
Senator Kirsten Gillibrand (New York, D)
Senator Mazie Hirono (Hawaii, D)
Senator Patrick Leahy (Vermont, D)
Senator Ed Markey (Massachusetts, D)
Senator Robert Menendez (New Jersey, D)
Senator Chris Murphy (Connecticut, D)
Senator Alex Padilla (California, D)
Senator Jack Reed (Rhode Island, D)
Senator Chris Van Hollen (Maryland, D)
Senator Elizabeth Warren (Massachusetts, D)
Senator Sheldon Whitehouse (Rhode Island, D)

Appendix

U.S. House of Representatives

Speaker Nancy Pelosi (CA-12, D)
Representative Alma S. Adams (NC-12, D)
Representative Pete Aguilar (CA-31, D)
Representative Colin Z. Allred (TX-32, D)
Representative Jake Auchincloss (MA-04, D)
Representative Nanette Diaz Barragán (CA-44, D)
Representative Karen Bass (CA-37, D)
Representative Joyce Beatty (OH-03, D)
Representative Ami Bera (CA-07, D)
Representative Donald S. Beyer, Jr. (VA-08, D)
Representative Earl Blumenauer (OR-03, D)
Representative Lisa Blunt Rochester (DE-AL, D)
Representative Suzanne Bonamici (OR-01, D)
Representative Jamaal Bowman (NY-16, D)
Representative Brendan F. Boyle (PA-02, D)
Representative Anthony G. Brown (MD-04, D)
Representative Julia Brownley (CA-26, D)
Representative Salud O. Carbajal (CA-21, D)
Representative Tony Cardenas (CA-29, D)
Representative André Carson (IN-07, D)
Representative Ed Case (HI-01, D)
Representative Sean Casten (IL-06, D)
Representative Kathy Castor (FL-14, D)
Representative Judy Chu (CA-27, D)
Representative David N. Cicilline (RI-01, D)
Representative Katherine Clark (MA-05, D)
Representative Yvette D. Clarke (NY-09, D)
Representative James E. Clyburn (SC-06, D)
Representative Gerald E. Connolly (VA-11, D)

Representative Jim Cooper (TN-05, D)
Representative J. Luis Correa (CA-46, D)
Representative Jim Costa (CA-16, D)
Representative Charlie Crist (FL-13, D)
Representative Jason Crow (CO-06, D)
Representative Danny K. Davis (IL-07, D)
Representative Madeleine Dean (PA-04, D)
Representative Diana DeGette (CO-01, D)
Representative Rosa DeLauro (CT-03, D)
Representative Suzan K. DelBene (WA-01, D)
Representative Val Butler Demings (FL-10, D)
Representative Mark DeSaulnier (CA-11, D)
Representative Theodore E. Deutch (FL-22, D)
Representative Debbie Dingell (MI-12, D)
Representative Michael F. Doyle (PA-18, D)
Representative Veronica Escobar (TX-16, D)
Representative Anna G. Eshoo (CA-18, D)
Representative Adriano Espaillat (NY-13, D)
Representative Dwight Evans (PA-03, D)
Representative Bill Foster (IL-11, D)
Representative Ruben Gallego (AZ-07, D)
Representative Al Green (TX-09, D)
Representative Jahana Hayes (CT-05, D)
Representative Brian Higgins (NY-26, D)
Representative Steven Horsford (NV-04, D)
Representative Jared Huffman (CA-02, D)
Representative Sheila Jackson Lee (TX-18, D)
Representative Pramila Jayapal (WA-07)
Representative Hakeem S. Jeffries (NY-08, D)
Representative Henry C. "Hank" Johnson Jr. (GA-04, D)
Representative Mondaire Jones (NY-17, D)

Representative Kai Kahele (HI-02, D)
Representative Robin Kelly (IL-02, D)
Representative Daniel T. Kildee (MI-05, D)
Representative Derek Kilmer (WA-06, D)
Representative Andy Kim (NJ-03, D)
Representative Ann Kirkpatrick (AZ-02, D)
Representative Raja Krishnamoorthi (IL-08, D)
Representative John B. Larson (CT-01, D)
Representative Brenda Lawrence (MI-14, D)
Representative Andy Levin (MI-09, D)
Representative Mike Levin (CA-49, D)
Representative Zoe Lofgren (CA-19, D)
Representative Alan Lowenthal (CA-47, D)
Representative Carolyn B. Maloney (NY-12, D)
Representative Sean Patrick Maloney (NY-18, D)
Representative Doris Matsui (CA-06, D)
Representative Lucy McBath (GA-06, D)
Representative Betty McCollum (MN-04, D)
Representative Donald A. McEachin (VA-04, D)
Representative James McGovern (MA-02, D)
Representative Jerry McNerney (CA-09, D)
Representative Grace Meng (NY-06, D)
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Representative Dean Phillips (MN-03, D)
Representative Mark Pocan (WI-02, D)
Representative Ayanna Pressley (MA-07, D)
Representative David E. Price (NC-04, D)
Representative Mike Quigley (IL-05, D)
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Representative Janice D. Schakowsky (IL-09, D)
Representative Bradley Schneider (IL-10, D)
Representative Robert C. "Bobby" Scott (VA-03, D)
Representative Terri A. Sewell (AL-07, D)
Representative Adam Smith (WA-09, D)
Representative Darren Soto (FL-09, D)
Representative Jackie Speier (CA-14, D)
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Representative Marc Veasey (TX-33, D)
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Representative Debbie Wasserman Schultz (FL-23, D)
Representative Bonnie Watson Coleman (NJ-12, D)
Representative Peter Welch (VT-AL, D)
Representative Jennifer Wexton (VA-10, D)
Representative Nikema Williams (GA-05, D)
Representative Frederica S. Wilson (FL-24, D)
Representative John A. Yarmuth (KY-03, D)