No. 24-624

In the Supreme Court of the United States

WILLIAM TREVOR CASE, PETITIONER

v.

MONTANA

ON WRIT OF CERTIORARI
TO THE SUPREME COURT OF MONTANA

BRIEF OF AMICI CURIAE STATE OF MICHIGAN AND 34 OTHER STATES IN SUPPORT OF RESPONDENT

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QUESTION PRESENTED

Where a warrantless entry of a home is not directed at the discovery and seizure of criminal evidence, but rather at providing necessary, immediate aid or preventing or avoiding injury to persons, is reasonable suspicion of a need to render emergency aid—not probable cause—sufficient to justify the entry under the Fourth Amendment?

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INTEREST OF AMICI CURIAE

State and local law enforcement play a central role in responding to emergency situations, and they often have to make an emergency entry into a person's home to ensure that person's safety. Amici States have a substantial interest in ensuring that the police are able effectively to provide such emergency aid to their citizens, consistent with the Fourth Amendment.

Amici believe that requiring probable cause to make a warrantless entry into a dwelling where police believe a person is in need of immediate aid would not serve the public and is not required by the Fourth Amendment. The police here were not engaged in the "often competitive enterprise of ferreting out crime." *Schmerber* v. *California*, 384 U.S. 757, 770 (1966). Instead, they were responding to information about a potential suicide, supported by objective facts.

The Fourth Amendment should not prevent officers from taking reasonable action to protect persons from such harm or render aid. They should be able to enter a home based on a reasonable suspicion of the need to render emergency help without being subject to a probable cause standard that ultimately risks public safety.

INTRODUCTION AND SUMMARY OF ARGUMENT

Police are expected not just to protect the community from crime, but also to prevent injury and render aid. Whether it be an elderly or disabled person languishing at home but unable to call for aid, a person suffering from suicidal ideation with means to carry it out, or a person with mental health challenges endangering himself or others, police are often tasked with intervening to provide immediate help.

Rendering emergency aid is qualitatively different from the function that undergirds both the Warrant Clause and the concept of probable cause—detecting crime or other wrongdoing. Rendering emergency aid is a kind of exigent circumstance that places the police in a role different from their investigative duties. Because the emergency-aid role does not implicate an investigative function, it should be guided by the Fourth Amendment's central value—reasonableness. The reasonableness inquiry is flexible and consistent with the Constitution's text and history and the public's expectation that police "move quickly" where "delay would gravely endanger their lives or the lives of others." *City & Cnty. of San Francisco* v. *Sheehan*, 575 U.S. 600, 612 (2015) (cleaned up). For these reasons, the proper standard is not probable cause, but the less stringent reasonable suspicion inquiry. This conclusion is supported by the Fourth Amendment's text and history.

To foster quick responses and minimize second-guessing in this important role, this Court should recognize reasonable suspicion as the standard guiding a warrantless entry to render emergency aid.

ARGUMENT

I. Entry into premises to render emergency aid is governed by the Fourth Amendment's reasonableness standard, not the Warrant Clause, and requires only that the police have a reasonable suspicion of the need to provide assistance.

Reasonableness is the touchstone of the Fourth Amendment and governs when police seek not to seize evidence but rather to provide emergency aid. The presumption that arises under the Warrant Clause—and its standard of probable cause—is tethered to investigations of wrongdoing. Outside that context, such as where the emergency aid exception applies, no warrant is required, and entry into the home need not be supported by probable cause. It need only be supported by a reasonable suspicion that a person requires emergency aid. Such a holding both comports with the reasonableness focus of the Fourth Amendment and protects the community.

A. When police render emergency aid to the community, their actions fall outside the Warrant Clause and its corresponding probable cause requirement.

The Fourth Amendment contains an overarching reasonableness requirement and a clause limiting when warrants may issue:

> 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.

This Court has therefore reiterated that the Fourth Amendment's paramount value is reasonableness. *Riley* v. *California*, 573 U.S. 373, 381–82 (2014); *Maryland* v. *Wilson*, 519 U.S. 408, 411 (1997). All searches, including searches undertaken under a proper warrant, must be reasonable, but not all reasonable searches require a warrant. As Justice Scalia put it, "the supposed 'general rule' that a warrant is always required does not appear to have any basis in the common law . . . and confuses rather than facilitates any attempt to develop rules of reasonableness in light of changed legal circumstances." *California* v. *Acevedo*, 500 U.S. 565, 583–84 (1991) (Scalia, J., concurring). "The relevant test is not the reasonableness of the opportunity to procure a warrant, but the reasonableness of the seizure under all the circumstances." *Coolidge* v. *New Hampshire*, 403 U.S. 443, 509 (1971) (Justice Black, concurring in part and dissenting in part).

The text of the Warrant Clause itself—which includes the requirement of probable cause—provides much of the answer to when a warrant is required. Close inspection of the Clause reveals that it does not apply when necessity—exigent circumstances—justifies entry and search without warrant. Nor does it apply when police are not engaged in an investigation into wrongdoing. Emergency aid entries into the home satisfy both criteria. And once the Warrant Clause drops out, we are left with a standard of reasonableness.

Exigent Circumstances. The Warrant Clause provides that a warrant may be obtained only on a demonstration of "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. The Clause applies when officers *anticipate* the presence of the sought-after items in the location to be searched; officers must provide evidence giving rise to probable cause that the evidence will be found there. In short, a warrant is required for searches intended to discover and seize physical items or persons that probable cause demonstrates—*ahead of time*—are present.

Warrants are thus not required when exigent circumstances justify entry and search. As this Court recently said, a warrant is excused when "the exigencies of the situation make the needs of law enforcement so compelling that [a] warrantless search is objectively reasonable," such as to "prevent the imminent destruction of evidence or to prevent a suspect's escape." *Lange* v. *California*, 594 U.S. 295, 301 (2021) (cleaned up). This means that not "all unwelcome intrusions on private property" are prohibited, just "unreasonable ones." *Caniglia* v. *Strom*, 593 U.S. 194, 198 (2021) (cleaned up).

The need to provide emergency aid is a well-recognized exigent circumstance that falls outside the Warrant Clause. In *Brigham City* v. *Stuart*, 547 U.S. 398 (2006), this Court explained that such searches are consistent with the Fourth Amendment, stating that the "police may 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." *Id*. at 403; see also *id*. ("One exigency obviating the requirement of a warrant is the need to assist persons who are seriously injured"); *Michigan* v. *Fisher*, 558 U.S. 45, 49 (2009) (per curiam) (warrantless entry may be justified where "there was an objectively reasonable basis for believing that medical assistance was needed, or persons were in danger") (cleaned up).

Nothing in *Caniglia* is to the contrary. Indeed, the Court there—as well as several justices writing in concurrence—recognized the emergency aid exception's ongoing vitality. The Court expressly stated that law enforcement "may enter private property without a warrant when certain exigent circumstances exist, including the need to render emergency assistance to an injured occupant or to protect an occupant from imminent injury." *Caniglia*, 593 U.S. at 198 (cleaned up). See also *id*. at 199 (Roberts, C.J., concurring) ("the role of a peace officer includes preventing violence and restoring order"); *id*. at 204 (Kavanagh, J., concurring) ("[T]he Court's decision does not prevent police officers from taking reasonable steps to assist those who are inside a home and in need of aid."); *id*. at 200–01 (Alito, J., concurring) (*Caniglia* did not resolve the circumstance in which the police were "conducting a search or seizure for the purpose of preventing a person from committing suicide").

Non-Law-Enforcement Purpose. The Warrant Clause—and the textually included probable cause requirement—is aimed at searches that have as their purpose the *discovery* and *seizure* of fruits, instrumentalities, contraband, evidence, property, or people in furtherance of a criminal investigation. See *G. M.*

Leasing Corp. v. *United States*, 429 U.S. 338, 358 (1977). Thus, in *Riley* the Court stated that "[o]ur cases have determined that '[w]here a search is undertaken by law enforcement officials to discover evidence of criminal wrongdoing, . . . reasonableness generally requires the obtaining of a judicial warrant.' " 573 U.S. at 382 (quoting *Vernonia Sch. Dist. 47J* v. *Acton*, 515 U.S. 646, 653 (1995)). Continuing, the Court explained that "such a warrant ensures that the inferences to support a search are 'drawn by a neutral and detached magistrate instead of being judged by the officer engaged in the often competitive enterprise of ferreting out crime.' " *Id.* at 382 (quoting *Johnson* v. *United States*, 333 U.S. 10, 14 (1948)).

Searches that are not designed to investigate crime or other wrongdoing are textually disconnected from the Warrant Clause. This Court has therefore recognized that in the "noncriminal context," the requirement of probable cause is "inapplicabl[e]" because "search warrants are not required, linked as the warrant requirement textually is to the probable-cause concept." *South Dakota* v. *Opperman*, 428 U.S. 364, 370 n.5 (1976).

Emergency-aid searches—particularly those intended to prevent injury of individuals within the premises—are one prominent example of searches not designed to investigate crime. They are thus textually disconnected from the probable cause requirement. As Justice Alito's concurrence noted in *Caniglia*, "warrants are not typically granted for the purpose of checking on a person's medical condition." 593 U.S. at 203. Rather, they remain governed by the Reasonableness Clause.

The emergency aid exception reflects a core fact of modern-day policing: The police play a critical role in safeguarding the community from harms that are independent of making arrests and detecting crime. Debra A. Livingston, *Police, Community Caretaking, and the Fourth Amendment*, 1998 U. Chi. Leg. Forum 261, 263 (1998) ("Communities have always looked to local police to perform social services unrelated or at best partially related to enforcing criminal law."). Justice Alito's concurrence in *Caniglia* listed different kinds of emergency-aid actions involving entry into a private home without a warrant, including "conducting a search or seizure for the purpose of preventing a person from committing suicide," 593 U.S. at 201, and "warrantless, nonconsensual searches of a home for the purpose of ascertaining whether a resident is in urgent need of medical attention and cannot summon help," *id*. at 202.

These actions are distinct from ferreting out crime. As a starting point for determining the level of certainty police must have to conduct an emergency-aid home entry, one thing is therefore clear: the Warrant Clause does not apply.

B. The history of the Fourth Amendment also supports the principle that the Warrant Clause's probable cause requirement is directed to searches in furtherance of an investigation of wrongdoing.

This distinction between a search conducted as part of an investigation and an emergency entry to render aid is also reflected by history. The Framers were concerned with searches that had " 'allowed

British officers to rummage through homes in an unrestrained search for evidence of criminal activity.' " *Carpenter* v. *United States*, 585 U.S. 296, 303 (2018) (quoting *Riley*, 573 U.S. at 403). This Court has emphasized the "widespread hostility among the former colonists to the issuance of writs of assistance empowering revenue officers to search suspected places for smuggled goods, and general search warrants permitting the search of private houses, often to uncover papers that might be used to convict persons of libel." *United States* v. *Verdugo-Urquidez*, 494 U.S. 259, 266 (1990) (citation omitted). Thus, the genesis of the Fourth Amendment is the desire to make the government show its work to a degree sufficient to prohibit wide-ranging exploratory searches intended to ferret out criminal activity or other wrongdoing. Cf. *id.* (describing the "driving force" of the Fourth Amendment as for investigative purposes).

While the Fourth Amendment's warrant requirement hems in the investigatory function of police, the role of police (as noted) extends beyond that, and has since the Founding. Although the modern conception of a police department was not established at the time of the Framing and ratification, the constables of that era performed a range of functions that have been categorized as part of a community caretaking function. Michael Gentithes, *Exigencies, Not Exceptions: How to Return Warrant Exceptions to Their Roots*, 25 U. Pa. J. Const. L. 60, 80–81 (2023) ("[L]aw enforcement was largely conducted by a system of constables and night watchmen," and these "constables primarily aimed to keep the peace by responding to disturbances that might be dangerous to the public at large, such as 'affrays' in taverns or potentially dangerous

'vagrants.' "). And at the Framing, the Founders were shielding themselves from the investigative actions of the Crown, not efforts to render emergency aid. See Livingston, *Police, Community Caretaking, and the Fourth Amendment*, at 263, 274 n.64 ("Community caretaking' denotes a wide range of everyday police activities undertaken to aid those in danger of physical harm, to preserve property, or to create and maintain a feeling of security in the community."; "the central preoccupation of the Framers was not the excessive zeal of Crown officers seeking evidence to prosecute crime, but the writ of assistance—that blanket warrant authorizing royal customs officials to undertake searches that were not in aid of criminal prosecution or "law enforcement" in the traditional sense, but that generally had as their objective the seizure and forfeiture of untaxed goods.") (cleaned up).

Like these historical caretaking functions, emergency entry into the premises here was for purposes other than for the detection of crime or other wrongdoing. Such a non-investigative action, taken for the purpose of rendering aid to a person threatening suicide, is governed by the requirement of reasonableness under the first clause of the Fourth Amendment, not by the Warrant Clause and its corresponding probable cause requirement.

A historical inquiry supports what the textual analysis of the Fourth Amendment showed—that the action here would not require a showing of probable cause under the Warrant Clause. Again, emergency-aid entries are not searches for evidence. They are emergency entries for another purpose entirely. Thus, this type of action by law enforcement is governed by

the Reasonableness Clause, not the Warrant Clause with its probable cause requirement.

C. This Court's precedents, and the need for quick action to provide aid, support applying a reasonableness standard—not the probable cause standard—for entry into a home based on emergency circumstances.

This Court's precedents support a reasonable suspicion standard for when police may enter a home to provide emergency aid. As noted, the police may enter a home without a warrant to render emergency assistance where there is "an objectively reasonable basis" for doing so. *Brigham City*, 547 U.S. at 403–04; *Fisher*, 558 U.S. at 49. This Court could easily have said that the police must have "probable cause to believe" rather than an "objectively reasonable basis." But it did not do so. This omission is not surprising because, as described above, probable cause is part and parcel of the warrant requirement, which exists to limit police when they are trying to discover evidence of criminal wrongdoing. See *Riley*, 373 U.S. at 382.

Petitioner argues (at 23) that other exigent circumstances, such as the hot pursuit exception, require probable cause for a home entry. Even assuming that is correct, the hot pursuit exigent circumstance is rooted in combatting crime. Not so for the emergency aid exception.

The emergency aid exception is like the special needs doctrine, which applies "beyond the normal need for law enforcement." *City of Indianapolis* v. *Edmond*, 531 U.S. 32, 37 (2000). While narcotic checkpoints did

not fall into this category in *Edmond*, this Court explained that the "usual rule" of "individualize suspicion of wrongdoing" is not necessary under the Fourth Amendment for other actions by the police, including administrative ones. See *id.* at 37 (citing *New York* v. *Burger*, 482 U.S. 691, 702–04 (1987) (warrantless administrative inspection of premises of "closely regulated" business); *Michigan* v. *Tyler*, 436 U.S. 499, 507–09, 511–12 (1978) (administrative inspection of fire-damaged premises to determine cause of blaze); *Camara* v. *Mun. Ct. of City & Cnty. of San Francisco*, 387 U.S. 523, 534–39 (1967) (administrative inspection to ensure compliance with city housing code)). The reasoning is that the requirements of a warrant and probable cause are "impracticable" when, as is similar here, the "primary purpose" of the searches is "[d]istinguishable from the general interest in crime control." *City of Los Angeles* v. *Patel*, 576 U.S. 409, 420 (2015) (administrative search for compliance with hotel recordkeeping requirement). "Search regimes where no warrant is ever required may be reasonable." *Id.* (quoting *Skinner* v. *Ry. Lab. Execs. Ass'n*, 489 U.S. 602, 619, n.10 (1989)).

The inquiry thus returns to reasonableness, which is the overarching metric for the Fourth Amendment. And the most reasonable standard for home entries to provide emergency aid is a reasonable belief (suspicion) that emergency aid is needed.

This Court has explained that "[a]rticulating precisely what 'reasonable suspicion' and 'probable cause' mean is not possible. . . . [T]he standards are 'not readily, or even usefully, reduced to a neat set of legal rules.' " *Ornelas* v. *United States*, 517 U.S. 690, 695–

96 (1996) (citations omitted). Instead, probable cause and reasonable suspicion are "fluid concepts that take their substantive content from the particular contexts in which the standards are being assessed." *Id*. at 696.

That said, "[t]he level of suspicion" required under a reasonable suspicion standard is less than that necessary for probable cause and "depends on the factual and practical considerations of everyday life on which reasonable and prudent men, not legal technicians, act." *Kansas* v. *Glover*, 589 U.S. 376, 380 (2020) (cleaned up). The distinction appears to be not so much a difference in probability as a difference in the foundational facts needed to justify the entry: fewer are needed under a reasonable suspicion standard. As stated in *Alabama* v. *White*, "[r]easonable suspicion is a less demanding standard than probable cause not only in the sense that reasonable suspicion can be established with information that is different in quantity or content than that required to establish probable cause, but also in the sense that reasonable suspicion can arise from information that is less reliable than that required to show probable cause." 496 U.S. 325, 330 (1990).

Where the police are not engaged in the "often competitive enterprise of ferreting out crime," *Schmerber*, 384 U.S. at 770, it is reasonable to require fewer foundational facts to justify an entry to render aid. Police officers who encounter non-criminal emergencies typically must take quick action to prevent injury to a sick, injured, or suicidal person. The reasonableness inquiry is flexible and consistent with the public's expectation that police "move quickly" where "delay would gravely endanger their lives or the lives

of others." *Sheehan*, 575 U.S. at 612. Demanding the level of foundational facts necessary for probable cause will result in injuries and deaths, while not serving the values underlying the Fourth Amendment.

The traditional application of both the probable cause standard and the reasonable suspicion standard are predicated on criminal investigatory police actions. *Missouri* v. *McNeely*, 569 U.S. 141, 154–56 (2013) (probable cause); *Terry* v. *Ohio*, 392 U.S. 1, 21–22 (1968) (reasonable suspicion). The reasonable suspicion standard in its ordinary application, however, also encompasses the basis for what motivates the police for an emergency-aid entry: protecting safety. *Bailey* v. *United States*, 568 U.S. 186, 193 (2013) (reasonable suspicion is based "in crime prevention and detection and in the police officer's safety"). Just as the police may conduct a pat-down for officer safety, the police may enter a premises for the occupant's safety. See *Fisher*, 558 U.S. at 49 ("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" i.e., where there may have been a situation in which "medical assistance was needed, or persons were in danger"). In both situations, a reasonable suspicion standard comports with the Fourth Amendment's reasonableness touchstone. That is all the more so true in the emergency aid setting because the person who is injured or ill will typically welcome the police's entry into the home.

At bottom, police entry under the emergency aid exception is based on safety, not crime detection or investigation of other wrongdoing. If police fail to act because they fear they may not have a sufficient ground,

the danger is not loss of evidence of a crime, but possible injury or even loss of life. A standard of reasonable suspicion of the need to render emergency aid is thus appropriate. Of course, the ensuing entry must be conducted reasonably, as searches inside the premises cannot extend beyond the circumstances that justified the entry in the first instance. But the reasonableness touchstone demands only reasonable suspicion in cases like this one, not probable cause.

This reasonable suspicion test is consistent with the one applied by the Montana Supreme Court, which (1) required "objective, specific and articulable facts from which an experienced officer would suspect that a citizen is in need of help or is in peril"; (2) allowed the officer to "take appropriate action to render assistance or mitigate the peril"; and (3) required that the officer not act beyond what is necessary to render assistance. *Montana* v. *Case*, 553 P.3d 985, 991–92 (Mont. 2025). "The requisite inquiry" was whether "there were exigent circumstances rendering the entry 'reasonable.' " *Id*. at 991. As argued here, "[w]hen a warrantless entry is wholly divorced from a criminal investigation and is otherwise reasonable, . . . the probable cause element is 'superfluous' and should not impede an officer's duty to ensure the wellbeing of a citizen in imminent peril." *Id*. at 992.

And under the totality of circumstances here—where the police were responding to a call that Petitioner was suicidal, they received a report at the scene that his girlfriend had heard a gunshot, and they observed beer cans, a note pad, and an empty holster from outside the premises—the entry was eminently reasonable.

CONCLUSION

The judgment of the Supreme Court of Montana should be affirmed.

Respectfully submitted,

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