

No. 24-624

In the
Supreme Court of the United States

WILLIAM TREVOR CASE,
Petitioner,

v.

MONTANA,
Respondent.

On Writ of Certiorari to the
Supreme Court of Montana

**BRIEF FOR *AMICI CURIAE* LOCAL
GOVERNMENT LEGAL CENTER, NATIONAL
ASSOCIATION OF COUNTIES, NATIONAL
LEAGUE OF CITIES, INTERNATIONAL
CITY/COUNTY MANAGEMENT
ASSOCIATION, AND INTERNATIONAL
MUNICIPAL LAWYERS ASSOCIATION IN
SUPPORT OF RESPONDENT**

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TABLE OF CONTENTS

	<u>Page</u>
TABLE OF AUTHORITIES.....	ii
INTEREST OF <i>AMICI CURIAE</i>	1
SUMMARY OF ARGUMENT.....	2
ARGUMENT.....	4
I. The Fourth Amendment Requires Reasonableness, Not Uniformity.....	4
A. The Emergency-Aid Exception Requires A Bespoke Threshold, Not Probable Cause	5
B. This Court Has Already Articulated The Appropriate Standard	7
C. This Court Has Never Required Probable Cause For Emergency-Aid Entries	8
II. Probable Cause Is Ill-Suited To The Realities Of Modern Policing.....	11
A. Police Respond Primarily To Nonviolent And Noncriminal Matters	11
B. The Elderly Are Particularly At Risk And In Need Of Police Intervention	17
C. Officers Will Not Have Probable Cause For Most Emergency-Aid Situations	19
III. Requiring Probable Cause In Emergency-Aid Situations Would Create Perverse Incentives And Undermine Public Safety.....	22
CONCLUSION	27

TABLE OF AUTHORITIES

Federal Cases

<i>Bd. of Educ. of Indep. Sch. Dist. No. 92 of Pottawatomie Cnty. v. Earls</i> , 536 U.S. 822 (2002).....	6
<i>Brigham City, Utah v. Stuart</i> , 547 U.S. 398 (2006).....	3, 7, 8, 9, 11, 25
<i>Cady v. Dombrowski</i> , 413 U.S. 433 (1973).....	4, 10, 11
<i>Camara v. Municipal Court</i> , 387 U.S. 523 (1967).....	6
<i>Caniglia v. Strom</i> , 593 U.S. 194 (2021).....	7, 9, 10, 11
<i>Colorado v. Bertine</i> , 479 U.S. 367 (1987).....	10, 11
<i>Delaware v. Prouse</i> , 440 U.S. 648 (1979).....	5
<i>Michigan v. Fisher</i> , 558 U.S. 45 (2009).....	3, 8, 9, 22, 25
<i>Mincey v. Arizona</i> , 437 U.S. 385 (1978).....	10
<i>Minnesota v. Olson</i> , 495 U.S. 91 (1990).....	10

<i>New York v. Burger</i> , 482 U.S. 691 (1987).....	6
<i>Riley v. California</i> , 573 U.S. 373 (2014).....	4
<i>Skinner v. Ry. Labor Execs.’ Ass’n</i> , 489 U.S. 602 (1989).....	6
<i>South Dakota v. Opperman</i> , 428 U.S. 364 (1976).....	10, 11
<i>Terry v. Ohio</i> , 392 U.S. 1 (1968).....	4, 5, 8
<i>United States v. Najjar</i> , 451 F.3d 710 (10th Cir. 2006)	7
<i>Vernonia Sch. Dist. 47J v. Acton</i> , 515 U.S. 646 (1995).....	6

Federal Rules & Constitution

Sup. Ct. R. 37.6.....	1
U.S. Const. amend. IV	2, 3, 4, 5, 7, 8, 11, 22, 23

Other Authorities

Amos Irwin & Betsy Pearl, <i>The Community Responder Model</i> , Center for American Progress (Oct. 28, 2020), https://tinyurl.com/2wnjc65d	12
---	----

- Andrew V. Papachristos et al., *Community Violence Outreach Workers Are More Likely to Experience Gun Violence Than Police Are*, Scientific American (June 9, 2023), <https://tinyurl.com/8d96a5zx> 21
- Angie Koehle & Emily Van de Riet, *Newborn found alive, spent several days alone next to mom's body after she died in apartment*, KTTV 11 (June 27, 2025, 11:03 AM PDT), <https://tinyurl.com/4t7auaus> 13-14
- Ashton Edwards, *Domino's Pizza workers help save loyal customer's life*, FOX13 (May 10, 2016, 2:30 PM), <https://tinyurl.com/4wz56696> 14
- Centers for Disease Control & Prevention, *Older Adult Fall Prevention* (Sept. 2024), <https://tinyurl.com/yc7rpmeh> 17
- Esteban L. Hernandez, *What's next for the police response alternative STAR as it turns 5*, AXIOS Denver (June 9, 2025), <https://tinyurl.com/3w57tkab> 24, 25
- Frédéric Bloch, *Critical Falls: Why Remaining on the Ground After a Fall can be Dangerous, Whatever the Fall*, American Geriatrics Soc'y (July 12, 2012), <https://tinyurl.com/wzypuhn4> 18
- Houston Police Dep't Mental Health Div., *Crisis Intervention Response Team (CIRT)*, <https://tinyurl.com/mrevcruc> 25

- Hugo Valdez, *Several Victorville deputies honored during the Sheriff's Life Saving Awards Ceremony*, VICTOR VALLEY NEWS (Jan. 19, 2020, 9:50 PM), <https://tinyurl.com/ywmhdmzu> 15
- Jeff Frankel, *TX Firefighter Shot Responding to Welfare Check Call*, Journal of Emergency Med. Servs. (Mar. 22, 2024), <https://tinyurl.com/mspcfxaz> 21
- Jennifer L. S. Teller et al., *Crisis Intervention Team Training for Police Officers Responding to Mental Disturbance Calls*, Psychiatric Services Vol. 57, No. 2 (Feb. 2006), <https://tinyurl.com/yyb8yj6t> 15
- Jerry H. Ratcliffe, *Policing and public health calls for service in Philadelphia*, Crime Sci 10, 5 (2021), <https://tinyurl.com/3m8ehw56> 13
- Kelly Rule, *Free phone call service from police leads to life-saving welfare check in Delaware*, FOX 29 Philadelphia (Apr. 16, 2025, 5:54 PM EDT), <https://tinyurl.com/mvx9fpm6> 18
- L.A. Cnty. Dep't of Mental Health, *Law Enforcement Teams (LET)*, <https://tinyurl.com/mscwfyxp> 25
- Laura A. Talbot et al., *Falls in young, middle-aged and older community dwelling adults: perceived cause, environmental factors and injury*, Nat'l Library of Medicine (BMC Public Health Aug. 18, 2005), <https://tinyurl.com/wzypuhn4> 17

Mental Illness Policy Org., <i>Survey: Police needlessly overburdened by mentally ill abandoned by mental health system</i> , https://tinyurl.com/5yaxr58a	16
Molly M. Simmons et al., <i>SAFE Charlotte: Alternative Response Models and Disparities in Policing</i> (Sept. 28,. 2021), https://tinyurl.com/mr2u56n3	16
Nat'l Alliance On Mental Illness, <i>Crisis Intervention Team (CIT) Programs</i> , https://tinyurl.com/5djs4rca	24
Paul Hemez, <i>How Many Young and Older Adults Lived Alone?</i> , U.S. Census Bureau (May 30, 2024), https://tinyurl.com/4cwpf72m	17
Paula Span, <i>Why Are More Older People Dying After Falls?</i> , N.Y. TIMES, (Sep. 7, 2025), https://tinyurl.com/3dvkvt7j	17-18
Philadelphia Police Dep't, <i>Behavioral Health Unit (BHI)</i> , https://tinyurl.com/bdz4z6s4	25
Prince George's County, <i>Mobile Integrated Health</i> , https://tinyurl.com/2xautzrj	25
Rebecca T. Brown et al., <i>Good Cop, Better Cop: Evaluation of a Geriatrics Training Program for Police</i> , Nat'l Library of Medicine, https://tinyurl.com/mr2xx8uw	18

- Rebecca T. Brown et al., *Police on the Front Line of Community Geriatric Health Care: Challenges and Opportunities*, Journal of the American Geriatrics Soc’y, Vol. 62, No. 11 (Nov. 2014), <https://tinyurl.com/42223ahc>..... 19
- Reimagining Public Safety in the COVID-19 Era: Hearing Before Subcommittee on Crime, Terrorism and Homeland Security, U.S. House of Representatives, 117th Cong., 2d Sess. (Mar. 8, 2022)*, <https://tinyurl.com/y3m78x28> 21, 22
- Ronnie Roberts, *Hugging the Cactus: Police Supporting Civilian 911 Responders*, POLICE CHIEF ONLINE (Apr. 7, 2021), <https://tinyurl.com/56t9hcbw> 12
- Sarah Gillespie et al., *Understanding Denver’s STAR Program*, Urban Institute (Aug. 2023), <https://tinyurl.com/4bsa2bzz> 24, 26
- Sarah Motter & Zoë Shriner, *Patient who fatally stabbed KCFD paramedic charged with murder*, KCTV 5 (Apr. 28, 2025, 6:31 AM PDT), <https://tinyurl.com/4c7uj7tt>..... 20, 21
- Shannon Hicks, *Resident Displaced Following Fire During Health & Welfare Check*, THE NEWTOWN BEE (Jan. 23, 2025, 7:00 AM), <https://tinyurl.com/mwkmhcek>..... 14
- Thomas J. Wiczorek et al., *Police Data Analysis Report: Oakland, CA*, Center for Public Safety Mgmt., LLC, <https://tinyurl.com/txu6mb45> ... 13, 16

- Thomas Breen, *95.6% Of Cops' Calls Don't Involve Violence*, NEW HAVEN INDEPENDENT (June 19, 2020, 3:56 PM), <https://tinyurl.com/5n6tz7zy>..... 12
- Transform911, *Transforming 911 Report: Chapter Two*, <https://tinyurl.com/5e2fdbx9> 15
- Vera Institute of Justice, *911 Analysis: Call Data Shows We Can Rely Less on Police* (Apr. 2022), <https://tinyurl.com/36uec794>..... 12, 13
- Vera Institute of Justice, *Understanding Police Enforcement: A Multicity 911 Analysis Summary Brief* (Sept. 2020), <https://tinyurl.com/4ark4h8p>..... 13

INTEREST OF *AMICI CURIAE*¹

The Local Government Legal Center (“LGLC”) is a coalition of government organizations formed in 2023 to provide education to local governments regarding the Supreme Court and its impact on local governments and officials and to advocate for local government positions at the Supreme Court in appropriate cases. The National Association of Counties, the National League of Cities, and the International Municipal Lawyers Association are the founding members of the LGLC. The International City/County Management Association is an associate member of the LGLC.

The National Association of Counties (“NACo”) is the only national organization that represents county governments in the United States. Founded in 1935, NACo provides essential services to the nation’s 3,069 counties through advocacy, education, and research.

The National League of Cities (“NLC”), founded in 1924, is the oldest and largest organization representing U.S. municipal governments. NLC works to strengthen local leadership, influence federal policy, and drive innovative solutions. In partnership with 49 state municipal leagues, NLC advocates for over 19,000 cities, towns, and villages where more than 218 million Americans live.

¹ Per this Court’s Rule 37.6, this brief was not authored in whole or in part by any party, and no one other than *amici* or their counsel made a monetary contribution to its preparation or submission.

The International City/County Management Association (“ICMA”) is a nonprofit professional and educational organization of more than 9,000 appointed chief executives and assistants serving cities, counties, towns, and regional entities. ICMA's mission is to create excellence in local governance by advocating and developing the professional management of local governments throughout the world.

The International Municipal Lawyers Association (“IMLA”) has been an advocate and resource for local government attorneys since 1935. Owned solely by its more than 2,500 members, IMLA serves as an international clearinghouse for legal information and cooperation on municipal legal matters. IMLA’s mission is to advance the responsible development of municipal law through education and advocacy by providing the collective viewpoint of local governments around the country on legal issues before the Supreme Court of the United States, the United States Courts of Appeals, and state supreme and appellate courts.

Amici offer their perspective on why the rule sought by Petitioner would harm local governments and their residents by undermining modern policing efforts.

SUMMARY OF ARGUMENT

The Fourth Amendment requires reasonableness, not rigidity. This Court has long recognized that officers may enter a home without a warrant when they have an “objectively reasonable basis” to believe that someone inside is seriously

injured or imminently threatened. *Brigham City, Utah v. Stuart*, 547 U.S. 398, 403–06 (2006); *Michigan v. Fisher*, 558 U.S. 45, 49 (2009) (per curiam). Critically, the Court has never required probable cause that an emergency is taking place to permit warrantless entry in such circumstances—despite numerous opportunities to do so.

Instead, the Court’s Fourth Amendment standards are customized. The Court has already endorsed a bespoke standard to fit the unique needs of the emergency-aid exception, one that has a lower and context-sensitive reasonableness basis. See *Michigan*, 558 U.S. at 47 (stating that the “‘emergency aid exception’ . . . requires only an ‘objectively reasonable basis’” (citing *Brigham City*, 547 U.S. at 404–06)). That consistent doctrinal line reflects a constitutional truth: emergencies demand flexibility, not the heavy machinery of probable cause.

Imposing a probable cause requirement would impede public safety and endanger lives. Welfare checks and crisis calls are a central function of modern policing. They begin with ordinary human concerns—such as an unanswered phone, a suicide hotline report, or a neighbor’s alarm about an unseen elderly resident. These facts may give officers and co-responders strong cause for concern. But they cannot satisfy the probable-cause threshold. A rigid rule—like the one proposed by Petitioner—will thwart responders from providing vital services to their communities.

Many police departments have embraced co-responder and crisis-response models. These programs succeed precisely because they empower

responders to act when there is an objectively reasonable basis to believe someone needs help. If welfare checks were conditioned on probable cause, such programs would become unworkable. Departments would face liability for acting in good faith and would be perversely incentivized to either avoid proactive crisis intervention or reframe health emergencies as criminal investigations. Either path undermines public safety and erodes community trust.

The Fourth Amendment does not compel such a result. The Court’s precedents—spanning more than four decades—have deliberately avoided probable cause in the emergency-aid context, recognizing that the protection of life requires a different balance. A probable cause standard here would break from this Court’s precedent. It will stifle innovation and the departments most committed to safeguarding health. And it will regress policing toward outdated punitive models, as well as open them to new forms of liability. Reasonableness, not probable cause, is the constitutional touchstone in emergency-aid.

ARGUMENT

I. The Fourth Amendment Requires Reasonableness, Not Uniformity

The Fourth Amendment’s protections are grounded in reasonableness. *Riley v. California*, 573 U.S. 373, 381 (2014) (the “ultimate touchstone of the Fourth Amendment is reasonableness”); *Cady v. Dombrowski*, 413 U.S. 433, 439 (1973) (same). The Constitution only forbids “unreasonable searches and seizures.” *Terry v. Ohio*, 392 U.S. 1, 9 (1968). Thus,

the question in any Fourth Amendment case is whether the government's conduct was reasonable under the totality of the circumstances. *See id.* (a Fourth Amendment right “must be shaped by the context in which it is asserted”). That principle applies regardless of whether the search serves a criminal or civil interest. By virtue of that principle, different standards logically and necessarily apply when dealing with each.

Here, the work is to determine whether probable cause is an appropriate standard for emergency-aid situations. For the following reasons, it is not.

**A. The Emergency-Aid Exception
Requires A Bespoke Threshold, Not
Probable Cause**

This Court has never imposed a universal quantum of suspicion across all categories of governmental intrusion under the Fourth Amendment. In *Delaware v. Prouse*, for instance, the Court held that the permissibility of a particular law enforcement practice is judged “by balancing its intrusion on the individual’s Fourth Amendment interests against its promotion of legitimate governmental interests.” 440 U.S. 648, 654 (1979). Similarly, in *Terry v. Ohio*, the Court adopted a “reasonable suspicion” standard—less than probable cause—to allow officers to detain and pat down individuals because there was a specific need to prevent imminent criminal activity in a manner proportionate to the limited intrusion. 392 U.S. 1, 27 (1968).

Likewise, administrative searches, including in highly regulated industries like railroads and mines, and school safety inspections operate under tailored standards. *See, e.g., Camara v. Municipal Court*, 387 U.S. 523, 539 (1967) (different standard for administrative inspections); *New York v. Burger*, 482 U.S. 691, 712 (1987) (custom standard for a junkyard as a closely regulated industry); *Bd. of Educ. of Indep. Sch. Dist. No. 92 of Pottawatomie Cnty. v. Earls*, 536 U.S. 822, 838 (2002) (warrantless drug testing permitted for participants in school extracurricular activities); *Skinner v. Ry. Labor Execs.’ Ass’n*, 489 U.S. 602, 619 (1989) (upheld drug and alcohol testing for railroad employees following accidents).

Even in one of the most protected circumstances—the search of children—courts must still balance the government interest. In *Earls*, this Court found that random and suspicionless drug testing of middle and high school students participating in extracurricular activities was constitutional because of the school’s “important interest in preventing and deterring drug use.” 536 U.S. at 838; *accord Vernonia Sch. Dist. 47J v. Acton*, 515 U.S. 646, 664 (1995) (drug screening of children participating in sports was constitutional because of, *inter alia*, the “severity of the need met by the search”).

As in those cases, the job of the Court here is to find a balance by adopting a standard that balances the government’s responsibility to render emergency-aid in diverse scenarios with the need to preserve the sanctity of the home. The emergency-aid exception applies where officials confront a severe need—“to

assist persons who are seriously injured or threatened with such injury.” *Brigham City*, 547 U.S. at 403; *see also* Pet. Br. at 24. The governmental interest is saving lives. In this scenario, officers are not pursuing evidence or enforcing criminal law but responding to a civil emergency—acting as a first responder, not an investigator. The governmental interest is not prosecution, but protection. And the risk is not flight or destruction of evidence, but the loss of life.

This distinction matters because, as one court described, these cases are “unattended by the typical concern of buffering investigatory zeal with judicial oversight.” *United States v. Najjar*, 451 F.3d 710, 714 (10th Cir. 2006). And this Court’s precedents, as detailed above, allow the standard to vary according to the nature of the intrusion and the urgency of the governmental objective. As Justice Alito explained in *Caniglia v. Strom*, while there is “no overarching ‘community caretaking’ doctrine,” that does not mean “all searches and seizures conducted for non-law-enforcement purposes must be analyzed under precisely the same Fourth Amendment rules developed in criminal cases.” 593 U.S. 194, 201 (2021) (Alito, J., concurring).

Requiring probable cause—a standard designed for criminal investigations—misaligns the legal test with the civil, life-saving purpose undergirding the emergency-aid exception.

B. This Court Has Already Articulated The Appropriate Standard

This Court has already articulated that the proper inquiry for the emergency-aid exception is

whether an officer had an objectively reasonable basis to believe immediate entry was necessary to render aid. *Michigan*, 558 U.S. at 49 (warrantless entry is permitted under the Fourth Amendment so long as “there [is] ‘an objectively reasonable basis for believing’ that medical assistance [is] needed, or persons [are] in danger” (citation omitted)); *Brigham City*, 547 U.S. at 400 (same).

The key question under the Fourth Amendment is whether the facts and circumstances confronting an officer create an objectively reasonable basis to believe that someone is in danger or needs aid. *See id.* at 402. This position is entirely consistent with the Court’s earlier insistence that the Fourth Amendment right “must be shaped by the context in which it is asserted.” *Terry*, 392 U.S. at 9. In *this context*, probable cause is not a useful standard.²

C. This Court Has Never Required Probable Cause For Emergency-Aid Entries

It is equally clear that the reasonableness standard for emergency-aid entries is not and should not be the same as probable cause. This Court has never equated the two, despite *many* opportunities to do so. In *Brigham City*, the Court held that “police

² Also notable, in *Terry*, a Fourth Amendment intrusion for purposes of investigating a crime applied a less-than-probable-cause standard. Logically in a circumstance where criminal investigation is not the aim, there must be daylight between the standards. The condition at question here is at least of equal importance—rendering emergency-aid—and the risks are much greater.

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.” 547 U.S. at 400. The Court did not require probable cause—nor did it equate “objectively reasonable basis” with that more exacting standard.

In *Michigan*, the Court reaffirmed that warrantless entry is permitted so long as “there [is] ‘an objectively reasonable basis for believing’ that medical assistance [is] needed, or persons [are] in danger.” 558 U.S. at 49 (citation omitted). The Court described *Brigham City* as controlling and made no suggestion that probable cause was constitutionally required.

Nothing in *Caniglia* disturbs this framework. In *Caniglia*, police conducted a welfare check on the petitioner, whose wife claimed he was suicidal and had brandished a firearm the night before. 593 U.S. at 196. But when police entered his home, the petitioner was already in custody. *Id.* at 198. There was no ongoing emergency—a meaningful distinction which led the Court to reject the use of “community caretaking” as a stand-alone doctrine for warrantless home entry. But that case turned on the absence of exigency, not the quantum of suspicion. As Chief Justice Roberts and Justice Breyer emphasized, *Caniglia* and *Brigham City/Michigan* are not in conflict. *Id.* at 200-01 (“[n]othing in today’s opinion is . . . contrary” to the Court’s holding in *Brigham City*, 547 U.S. at 406; also citing *Michigan*, 558 U.S. at 49).

Caniglia likewise does not change that the police’s community caretaking function provides a

relevant contextual framework that informs the entry standard applied. See, e.g., *South Dakota v. Opperman*, 428 U.S. 364, 369 (1976) (describing inventory procedures as “caretaking procedures” to protect property); *Colorado v. Bertine*, 479 U.S. 367, 372–73 (1987) (same); *Caniglia*, 593 U.S. at 198–99 (analyzing the context of police caretaking functions regarding vehicles on public highways in *Cady*, 413 U.S. at 441). And none of these cases limit the application of that framework to circumstances only outside the home, to wit, vehicle searches.

Petitioner asserts that the emergency-aid exception is simply an exigency “that sounds in probable cause.” Pet. Br. 15. For several reasons, that is incorrect. This Court has never framed the emergency-aid doctrine in terms of probable cause; the question is whether officers had an objectively reasonable basis to believe someone needed immediate assistance—a standard Petitioner does not address. Petitioner’s brief cites only criminal-investigation cases, such as *Minnesota v. Olson*, 495 U.S. 91 (1990)—which involved a first-degree murder—rather than an emergency-aid scenario. Petitioner’s argument is also irreconcilable with the Court’s consistent instruction that police may enter without a warrant because “[t]he need to protect or preserve life or avoid serious injury” itself justifies entry. *Mincey v. Arizona*, 437 U.S. 385, 392 (1978) (citation omitted).

II. Probable Cause Is Ill-Suited To The Realities Of Modern Policing

There is no getting around the vital role of police departments in community caretaking. This Court has repeatedly recognized this essential function. *Cady*, 413 U.S. at 441 (recognizing caretaking functions, including responding to disabled vehicles and investigating accidents); *Brigham City*, 547 U.S. at 406 (“The role of a peace officer includes preventing violence and restoring order, not simply rendering first aid to casualties . . .”); *Caniglia*, 593 U.S. at 199–201 (“Police officers perform many civic tasks in modern society . . . While there is no overarching ‘community caretaking’ doctrine, it does not follow that all searches and seizures conducted for non-law-enforcement purposes must be analyzed under precisely the same Fourth Amendment rules developed in criminal cases.” (Alito, J., concurring)); *South Dakota*, 428 U.S. at 369–71, 370 n.5 (upholding inventory procedures as “caretaking procedures” designed to protect property, guard against danger and shield police from false claims, functions unrelated “to criminal investigations”); *Colorado*, 479 U.S. at 372–73 (same).

In a modern context, these community caretaking functions often predominate.

A. Police Respond Primarily To Nonviolent And Noncriminal Matters

The majority of 911 calls do *not* involve serious or violent crimes. A 2022 study from the Vera Institute of Justice analyzed 15.6 million 911 calls

from across nine major U.S. cities. In six of those cities—including major metro areas like New York, Baltimore, and New Orleans—no more than 3% of all 911 calls involved violent crime.³ Other studies are in accord. For instance, one study showed violent-crime calls make up only about 1–2% of all incidents in a survey of several major U.S. cities,⁴ and police data from eight cities confirm that low-priority or non-urgent calls comprise roughly one-third to nearly one-half of all calls for service.⁵

City-specific data confirms these trends. For example, from 2018-2020 in New Haven, Connecticut, only 4.4% of police dispatches were for violent crimes, while nearly twice that number were related to physical and mental health (8.02%).⁶ Similarly, in Camden, New Jersey, in 2017, less than 30% of calls were related to *any* type of crime, and only 1.4% were related to violent crime.⁷ These studies evidence that

³ Vera Institute of Justice, *911 Analysis: Call Data Shows We Can Rely Less on Police* (Apr. 2022) [hereinafter, *Call Data*], <https://tinyurl.com/36uec794>. This study utilized the FBI definition of violent crimes, which includes homicide, rape, robbery, and aggravated assault. *See id.* at 1 n.4.

⁴ Ronnie Roberts, *Hugging the Cactus: Police Supporting Civilian 911 Responders*, POLICE CHIEF ONLINE (Apr. 7, 2021), <https://tinyurl.com/56t9hcbw>.

⁵ *Id.*

⁶ Thomas Breen, *95.6% Of Cops' Calls Don't Involve Violence*, NEW HAVEN INDEPENDENT (June 19, 2020, 3:56 PM), <https://tinyurl.com/5n6tz7zy>.

⁷ Amos Irwin & Betsy Pearl, *The Community Responder Model*, Center for American Progress (Oct. 28, 2020), <https://tinyurl.com/2wnjc65d>.

violent crime occupies only a small percentage of police time.

By contrast, welfare checks and aid to those in medical, mental health, and substance abuse crises occupy a significant portion of police departments' remaining service hours and are a central, essential police work.

Welfare Checks. Welfare checks comprise a significant portion of police responses in all surveys.

One 2020 study found that in four of five cities studied, welfare checks were the most frequent incident type.⁸ In Tucson, Arizona, for instance, “check welfare” calls comprised roughly 8% of all 911 calls.⁹ Oakland, California¹⁰ and Philadelphia, Pennsylvania¹¹ showed similar numbers.

These welfare checks serve a life-saving function. By way of example, in May 2025, police in Phoenix, Arizona performing a welfare check rescued a 6-day-old newborn baby who had been alone for *several days* next to her deceased mother.¹² Police

⁸ Vera Institute of Justice, *Understanding Police Enforcement: A Multicity 911 Analysis Summary Brief* (Sept. 2020), <https://tinyurl.com/4ark4h8p>.

⁹ *Call Data*, *supra* note 3.

¹⁰ Thomas J. Wiczorek et al., *Police Data Analysis Report: Oakland, CA*, Center for Public Safety Mgmt., LLC, <https://tinyurl.com/txu6mb45>.

¹¹ Jerry H. Ratcliffe, *Policing and public health calls for service in Philadelphia*, *Crime Sci* 10, 5 (2021), <https://tinyurl.com/3m8ehw56>.

¹² Angie Koehle & Emily Van de Riet, *Newborn found alive, spent several days alone next to mom's body after she died in apartment*,

were called when neighbors noticed packages piled up by the door. The Phoenix Police attributed the baby's rescue to the "smart, immediate actions of the officers as well as the neighbors seeing something unusual and calling in for help."¹³

In Salem, Oregon in May 2016, police performed a welfare check on and saved a 48-year-old man in the midst of a health emergency after a Domino's Pizza employee grew concerned that the man—a daily customer for years—had not ordered a pizza in several days.¹⁴

In Newton, Connecticut, in January 2025, police conducted a welfare check on an elderly man with a hoarding problem.¹⁵ As he spoke to officers, police noticed flames and smoke erupting behind the kitchen stove. Police evacuated the man and controlled the flames until the fire department arrived, saving the man and the home.

In Victorville, California, in December 2018, San Bernadino County Sherriff's Deputies conducted a welfare check on a U.S. Army veteran when her boyfriend reported that she did not show up for

KTTV 11 (June 27, 2025, 11:03 AM PDT), <https://tinyurl.com/4t7auaus>.

¹³ *Id.*

¹⁴ Ashton Edwards, *Domino's Pizza workers help save loyal customer's life*, FOX13 (May 10, 2016, 2:30 PM), <https://tinyurl.com/4wz56696>.

¹⁵ Shannon Hicks, *Resident Displaced Following Fire During Health & Welfare Check*, THE NEWTOWN BEE (Jan. 23, 2025, 7:00 AM), <https://tinyurl.com/mwkmhcek>.

school.¹⁶ Deputies found her door open and a suicide note inside. Acting quickly, deputies located her vehicle where they found her amidst a suicide attempt. Thanks to the deputies' efforts, she survived and received treatment.

Medical, Mental Health, And Substance Abuse Crises. Police also spend a significant portion of their time serving as first responders for individuals who are experiencing a mental health crisis.¹⁷ Peer-reviewed studies and local government data consistently show responding to mental health and substance abuse crises forms a meaningful share of police work.

Some analyses have found that north of 6.5% of dispatched calls involve mental health issues.¹⁸ And it is sometimes even higher. In Charlotte, North Carolina, for instance, 7% of all calls to Charlotte-Mecklenburg police over a five-year period were related to mental health, substance abuse, or

¹⁶ Hugo Valdez, *Several Victorville deputies honored during the Sheriff's Life Saving Awards Ceremony*, VICTOR VALLEY NEWS (Jan. 19, 2020, 9:50 PM), <https://tinyurl.com/ywmhdmzu>.

¹⁷ Jennifer L. S. Teller et al., *Crisis Intervention Team Training for Police Officers Responding to Mental Disturbance Calls*, *Psychiatric Services* Vol. 57, No. 2 (Feb. 2006), <https://tinyurl.com/yvb8yj6t> (collecting sources).

¹⁸ Transform911, *Transforming 911 Report: Chapter Two*, <https://tinyurl.com/5e2fdbx9>.

homelessness.¹⁹ Of these, nearly 74% were welfare checks on individuals in crisis.²⁰

Responding to mental health crises not only represents a significant proportion of all calls for service, but also a disproportionate amount of officer time. For instance, officers in Oakland, California spent an average of 50.2 minutes on community-generated mental health-related calls and 66 minutes on police-initiated calls of the same type.²¹ These cases are also more likely to require backup.²²

Police responsibility in this arena is also expanding, not contracting. In one nationwide survey of more than 2,400 senior law enforcement officials, more than 84% stated that there was an increase in the mentally ill population over the course of their career.²³ And more than 70% of respondents indicated that their departments had increased or substantially increased the time spent on service involving individuals with mental illness over the same period.²⁴

¹⁹ Molly M. Simmons et al., *SAFE Charlotte: Alternative Response Models and Disparities in Policing* (Sept. 28, 2021), <https://tinyurl.com/mr2u56n3>.

²⁰ *Id.*

²¹ Thomas J. Wicczorek et al., *supra* note 10, at 13.

²² *Id.* at 15 (an average of 2.3 units were deployed for community-initiated and police-initiated mental health calls, compared with averages of 1.9 and 1.5 respectively).

²³ Mental Illness Policy Org., *Survey: Police needlessly overburdened by mentally ill abandoned by mental health system*, <https://tinyurl.com/5yaxr58a>.

²⁴ *Id.*

B. The Elderly Are Particularly At Risk And In Need Of Police Intervention

Elderly Americans rely heavily on the ability of police to ensure their safety and welfare. The elderly live alone in disproportionate numbers and are at a significantly higher risk of at-home injury. Nearly 30% of adults ages 65 and above live alone, and that proportion grows the older the individual.²⁵ Among senior women in particular, rates of solo living are very high. About 43% of women aged 75 or older live alone.²⁶

Falls among this population are incredibly common. More than 36 million falls are reported among older adults annually.²⁷ This leads to approximately 41,000 deaths each year, making falls the leading cause of injury-related death for seniors.²⁸ The fall rate in adults over 65 is twice that of those aged 20-45.²⁹ And the death rates from such falls has more than tripled in the last 30 years.³⁰

²⁵ Paul Hemez, *How Many Young and Older Adults Lived Alone?*, U.S. Census Bureau (May 30, 2024), <https://tinyurl.com/4cwpf72m>.

²⁶ *Id.*

²⁷ Centers for Disease Control & Prevention, *Older Adult Fall Prevention* (Sept. 2024), <https://tinyurl.com/yc7rpmeh>.

²⁸ *Id.*

²⁹ Laura A. Talbot et al., *Falls in young, middle-aged and older community dwelling adults: perceived cause, environmental factors and injury*, Nat'l Library of Medicine (BMC Public Health Aug. 18, 2005), <https://tinyurl.com/wzypuhn4>.

³⁰ Paula Span, *Why Are More Older People Dying After Falls?*,

These enhanced risks are not limited to falls; any acute emergency presents far more risk for the elderly. Prolonged lie time after falls—when an elderly person remains on the floor for hours or days—dramatically increases the risks of “pressure ulcers, dehydration, hypothermia, rhabdomyolysis, or renal failure” which, in the aggregate, “doubles the risk of death.”³¹

Police welfare checks on the elderly are often the last chance for these vulnerable individuals. For instance, in April 2025, an 87-year-old woman in New Castle County, Delaware was rescued by police who conducted a welfare check after repeated calls to her home went unanswered. Police found the woman on her back porch where she had fallen, stuck overnight in the cold without access to food or water.³²

Such stories are common enough that many police departments have implemented trainings on aiding seniors and even instituted formal “senior watch” or check-in programs.³³

Although precise statistics on the number of fallen or medically incapacitated seniors found by

N.Y. TIMES, (Sep. 7, 2025), <https://tinyurl.com/3dvkvt7j>.

³¹ Frédéric Bloch, *Critical Falls: Why Remaining on the Ground After a Fall can be Dangerous, Whatever the Fall*, American Geriatrics Soc’y (July 12, 2012), <https://tinyurl.com/wzypuhn4>.

³² Kelly Rule, *Free phone call service from police leads to life-saving welfare check in Delaware*, FOX 29 Philadelphia (Apr. 16, 2025, 5:54 PM EDT), <https://tinyurl.com/mvx9fpm6>.

³³ Rebecca T. Brown et al., *Good Cop, Better Cop: Evaluation of a Geriatrics Training Program for Police*, Nat’l Library of Medicine, <https://tinyurl.com/mr2xx8uw>.

police are not available, it is clear that “police increasingly serve as first responders to incidents involving older adults in which aging-related health plays a critical role.”³⁴

The evidence from peer-reviewed geriatrics research and government data alike confirms that as America’s population ages, the role of law enforcement in safeguarding isolated seniors’ health and safety has grown indispensable.³⁵

C. Officers Will Not Have Probable Cause For Most Emergency-Aid Situations

Applying a probable cause threshold for emergency-aid would make it much harder to provide this aid and open new forms of municipal liability that will powerfully disincentivize police departments from intervening. Petitioner’s suggestion that a probable cause standard will not serve as a barrier to police intervention and rescue presumes too much. Pet. Br. at 46. Probable cause is not likely to exist in most emergency-aid situations, including those “heartland” cases. *Id.*

To the contrary, for many welfare checks, officers arrive with only the knowledge that a neighbor has not been seen, packages have piled up, a phone has gone unanswered, or a pizza has not been ordered. By

³⁴ Rebecca T. Brown et al., *Police on the Front Line of Community Geriatric Health Care: Challenges and Opportunities*, Journal of the American Geriatrics Soc’y, Vol. 62, No. 11 (Nov. 2014), <https://tinyurl.com/42223ahc>.

³⁵ *Id.*

definition, these facts rarely—if ever—amount to probable cause of an imminent danger to permit warrantless entry into a home. Yet these are exactly the circumstances where timely intervention can mean the difference between life and death, especially for vulnerable populations.

Petitioner suggests that civilian crisis response teams or other alternatives are the answer for rendering aid where the probable cause standard would bar police entry. Pet. Br. at 49. The argument fails for two key reasons.

First, civilian crisis response teams are the exception rather than the rule. Most local governments do not have them. They only exist in a few cities and counties. So, Petitioner’s fig leaf is just that. It does not actually solve the constant need for police to perform vital caretaking functions.

Second, even if civilian response teams were available and theoretically *could* provide emergency-aid, Petitioner ignores that these interventions often *do* turn dangerous. Civilian response teams are ill-equipped to handle such volatile situations. And in some instances, tragedy has resulted. A sobering example occurred in Kansas City, Missouri in April 2025, when paramedics were transporting a woman who had been found walking on a highway in distress.³⁶ She was not under arrest—responders were trying to *help* her and get her safely to a

³⁶ Sarah Motter & Zoë Shriner, *Patient who fatally stabbed KCFD paramedic charged with murder*, KCTV 5 (Apr. 28, 2025, 6:31 AM PDT), <https://tinyurl.com/4c7uj7tt>.

hospital.³⁷ Without warning, the woman produced a knife and stabbed a firefighter-paramedic, Graham Hoffman, through the heart, killing him.³⁸ Similarly, in March 2024, an Arlington, Texas firefighter was helping police conduct a welfare check at an apartment where neighbors reported a child crying and an unresponsive mother inside.³⁹ As the firefighter pried the door open to ensure the mother and child were safe, the occupant shot him.⁴⁰ One study found that 20% of outreach workers reported being “shot at” while on duty, and 2% were actually shot.⁴¹ Welfare checks can rapidly escalate in unexpected ways, and police officers are generally best equipped and trained to respond under these circumstances.

As a former police chief testified to Congress, “[i]n a country of 400 million guns, predicting danger in advance is a real challenge.”⁴² Dispatch

³⁷ *Id.*

³⁸ *Id.*

³⁹ Jeff Frankel, *TX Firefighter Shot Responding to Welfare Check Call*, *Journal of Emergency Med. Servs.* (Mar. 22, 2024), <https://tinyurl.com/mspcfxaz>.

⁴⁰ *Id.*

⁴¹ Andrew V. Papachristos et al., *Community Violence Outreach Workers Are More Likely to Experience Gun Violence Than Police Are*, *Scientific American* (June 9, 2023), <https://tinyurl.com/8d96a5zx>.

⁴² *Reimagining Public Safety in the COVID-19 Era: Hearing Before Subcommittee on Crime, Terrorism and Homeland Security, U.S. House of Representatives, 117th Cong., 2d Sess.* (Mar. 8, 2022), <https://tinyurl.com/y3m78x28>.

information is not always reliable—a call labeled “mental health issue” could hide a lethal threat and vice versa.⁴³ Relying on civilian response, or as Petitioner suggests, “family or friends,” to fill the massive gaps left by a probable cause standard is simply untenable.

III. Requiring Probable Cause In Emergency-Aid Situations Would Create Perverse Incentives And Undermine Public Safety

A probable cause requirement will also inevitably lead to delays in providing emergency-aid, will discourage the kind of community policing and soft welfare checks that save lives, and will make departments that prioritize mental health response over arrest open to new avenues of local government liability.

Inevitable Delays. A probable cause standard will delay emergency-aid. Officers responding to welfare calls will face pressure to wait until they can develop facts meeting a criminal-investigatory standard, even where delay could cost lives.

In *Michigan*, the Court noted that “[i]t 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 violent home disturbance experienced there. 558 U.S. at 49. In other words, recognizing the duality of police responsibility for law enforcement and community caretaking, the Fourth Amendment should not be construed to undermine those responsibilities. A rule which would require

⁴³ *Id.*

officers to do so does not comport with the Fourth Amendment or this Court's precedents.

Discourages “soft entry” welfare checks. A probable cause threshold would all but eliminate soft entry welfare checks. Probable cause requires articulable facts suggesting a fair probability of criminal activity. By definition, however, welfare checks arise precisely when there is no evidence of crime—only silence, an unanswered phone, or a report of unusual absence. If probable cause were required, officers would face an untenable choice: either refrain from entry, leaving potentially incapacitated individuals unaided, or attempt to reframe benign circumstances as evidence of criminal activity, distorting the doctrine and inviting pretextual policing.

This would leave individuals like the newborn in Phoenix, Arizona or the pizza-lover in Salem, Oregon to risk death without aid. Imposing a probable cause requirement would discourage officers from performing these checks, undermining their preventive function. Faced with legal uncertainty, departments may direct officers not to enter absent a warrant, even when a neighbor credibly reports that an elderly resident has not been seen in days. Such hesitation increases the risk of “long lies” and preventable deaths. Moreover, officers who do enter may feel compelled to justify their actions under the rubric of criminal suspicion, creating a perverse incentive to treat health emergencies as potential crimes. Neither outcome serves the Fourth Amendment's ultimate aim of reasonableness.

Liability for departments with proactive mental health response protocols. As noted above, most localities do not have the resources to fund dedicated mental health response teams. But even for those that do, the issue of probable cause creates disincentives to act. Applying a probable cause standard would subject police departments that proactively seek to prioritize mental health treatment over arrest to liability for failing to act, including those departments that adopt co-responder models which incorporate clinicians in their response teams.

While most localities do not have the resources to create dedicated civilian response teams for mental health crises, many police departments have committed resources toward health-focused interventions.⁴⁴

Several localities even embed clinicians directly in the 911 response system. For instance, in Denver, Colorado, the Support Team Assisted Response or STAR program deploys a medic and mental health clinician, instead of police, to “low-risk” welfare and behavioral health calls.⁴⁵ STAR is dispatched primarily by Denver 911, whose operators have been trained to identify STAR-eligible incidents.⁴⁶ These professionals can then render aid and connect

⁴⁴ Nat’l Alliance On Mental Illness, *Crisis Intervention Team (CIT) Programs*, <https://tinyurl.com/5djs4rca>.

⁴⁵ Esteban L. Hernandez, *What’s next for the police response alternative STAR as it turns 5*, AXIOS Denver (June 9, 2025), <https://tinyurl.com/3w57tkab>.

⁴⁶ Sarah Gillespie et al., *Understanding Denver’s STAR Program*, Urban Institute (Aug. 2023), <https://tinyurl.com/4bsa2bzz>.

individuals with additional services, even transporting them to behavioral health centers.⁴⁷ Though the program is limited to 6am to 10pm, as of mid-2025, STAR has resolved more than 25,000 incidents, assisting thousands of residents.⁴⁸ There are similar programs in Philadelphia, Pennsylvania,⁴⁹ Los Angeles, California,⁵⁰ Houston, Texas,⁵¹ Prince George’s County, Maryland,⁵² and others.⁵³

The success of co-responder and crisis-response models depends on officers’ ability to enter promptly and intervene when there is an objectively reasonable basis to believe aid is needed. *See Brigham City*, 547 U.S. at 403–06 (2006); *Michigan*, 558 U.S. at 49 (stating police “do not need ironclad proof” of a life-threatening injury to act).

⁴⁷ Hernandez, *supra* note 45.

⁴⁸ *Id.*

⁴⁹ Philadelphia Police Dep’t, *Behavioral Health Unit (BHI)*, <https://tinyurl.com/bdz4z6s4>.

⁵⁰ L.A. Cnty. Dep’t of Mental Health, *Law Enforcement Teams (LET)*, <https://tinyurl.com/mscwfyxp>.

⁵¹ Houston Police Dep’t Mental Health Div., *Crisis Intervention Response Team (CIRT)*, <https://tinyurl.com/mrevercruc>.

⁵² Prince George’s County, *Mobile Integrated Health*, <https://tinyurl.com/2xautzrj>.

⁵³ Notably however, reliance on such programs is challenging as their funding is not secure in the same way as police funding. In Eugene, Oregon for instance, their 30-year long CAHOOTS (Crisis Assistance Helping Out On The Streets) program ended in April 2025 because of funding issues. Denver STAR’s service hours are restricted for the same reason.

Imposing a probable cause requirement in these settings would be fatal to such programs. By definition, welfare checks and crisis calls rarely involve evidence of criminality. *See* Section II.A, *supra*. A probable cause standard would force officers and clinicians to remain outside while individuals suffer overdoses and newborns or the elderly lay unattended—turning proactive crisis response into a legal liability rather than a public safety asset.

In addition, a probable cause standard would punish agencies at the vanguard of police modernization by ensuring that their interventions are second-guessed, evidence is excluded, and liability risks are heightened. For instance, the STAR program depends on the discretion of 911 dispatchers to determine if a case is STAR eligible, rather than needing a police response.⁵⁴ Rational agencies would respond by retreating from welfare checks and crisis interventions altogether, or by reframing them as criminal investigations to satisfy a probable cause threshold. Either outcome would distort policing priorities and erode public trust.

A probable cause standard in the emergency-aid context would undermine those protocols, penalize departments that innovate, and incentivize regression to outdated, punitive models of policing.

⁵⁴ Gillespie, *supra* note 46.

CONCLUSION

For the foregoing reasons, the decision of the Montana Supreme Court should be upheld.

Respectfully submitted,

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September 10, 2025