

In the Supreme Court of the United States



CITY OF NORTH LAS VEGAS, NEVADA, ET AL.,
Petitioners,

v.

GENOA JONES, ET AL.,
Respondents.

**On Petition for a Writ of Certiorari to the
United States Court of Appeals for the Ninth Circuit**

**BRIEF OF AMICI CURIAE
CITY OF HENDERSON,
LAS VEGAS METROPOLITAN POLICE DEPARTMENT,
CLARK COUNTY SCHOOL DISTRICT,
NEVADA SHERIFFS' AND CHIEFS' ASSOCIATION,
CITY OF SPARKS, CITY OF LAS VEGAS,
WASHOE COUNTY SHERIFF'S OFFICE, AND
INTERNATIONAL MUNICIPAL LAWYERS ASSOCIATION
IN SUPPORT OF PETITIONERS**

Lyssa S. Anderson
Counsel of Record
Travis C. Studdard
KAEMPFER CROWELL
1980 Festival Plaza Drive, Suite 650
Las Vegas, NV 89135
(702) 792-7000
landerson@kcnvlaw.com

TABLE OF CONTENTS

	Page
TABLE OF AUTHORITIES	ii
INTEREST OF THE AMICI CURIAE.....	1
SUMMARY OF THE ARGUMENT	2
ARGUMENT.....	5
I. The Absence of Clearly Established Law Governing When a Pursuit Ceases to Be “Immediate and Continuous” Entitles Lieutenant Salkoff to Qualified Immunity	5
II. The Misdemeanor Classification of Domestic Battery Does Not Diminish the Exigency Justifying a Warrantless Pursuit.....	14
III. When Courts Do Not Adhere to the Qualified Immunity Standard, Police Officers, the Community, and Taxpayers Suffer	19
CONCLUSION.....	24

TABLE OF AUTHORITIES

	Page
CASES	
<i>Andersen v. Eighth Judicial Dist. Court</i> , 135 Nev. 321, 448 P.3d 1120 (2019)	17
<i>Ashcroft v. al-Kidd</i> , 563 U.S. 731 (2011)	7
<i>Caniglia v. Strom</i> , 593 U.S. 194 (2021)	8
<i>Collins v. Virginia</i> , 584 U.S. 586 (2018)	8
<i>Columbia v. Wesby</i> , 583 U.S. 48 (2018)	10
<i>Crawford-El v. Britton</i> , 523 U.S. 574 (1998)	21
<i>Doe v. City of Worcester</i> , Civil Action No. 09-40191-FDS, 2012 U.S. Dist. LEXIS 202100 (D. Mass. Feb. 24, 2012).....	10
<i>Dorkoski v. Pensyl</i> , No. 4:05-0705, 2007 U.S. Dist. LEXIS 17114 (M.D. Pa. Mar. 9, 2007)	13
<i>Dupree v. Vill. of Bellwood</i> , No. 18-CV-08304, 2022 U.S. Dist. LEXIS 123738 (N.D. Ill. July 13, 2022).....	10
<i>Garcia v. City of Imperial</i> , No. 08cv2357 BTM(PCL), 2010 U.S. Dist. LEXIS 102306 (S.D. Cal. Sep. 14, 2010).....	11
<i>Graham v. Connor</i> , 490 U.S. 386 (1989)	20

TABLE OF AUTHORITIES (Cont.)

	Page
<i>Griffin v. City of Clanton</i> , 932 F. Supp. 1359 (M.D. Ala. 1996).....	12
<i>Harlow v. Fitzgerald</i> , 457 U.S. 800 (1982)	21
<i>Lange v. California</i> , 594 U.S. 295 (2021)	15
<i>Marks v. Bauer</i> , 107 F.4th 840 (8th Cir. 2024).....	20
<i>Mitchell v. Forsyth</i> , 472 U.S. 511 (1985)	20
<i>Newman v. Underhill</i> , No. 5:23-cv-00033-SP, 2024 U.S. Dist. LEXIS 36659 (C.D. Cal. Feb. 29, 2024)	12
<i>Orozco v. McDonald</i> , No. 10-4675-MMM (OP), 2012 U.S. Dist. LEXIS 137727 (C.D. Cal. Mar. 15, 2012)	10
<i>Owen v. Independence</i> , 445 U.S. 622 (1980)	23
<i>Pearson v. Callahan</i> , 555 U.S. 223 (2009)	7
<i>Plumhoff v. Rickard</i> , 572 U.S. 765 (2014)	7
<i>Rivas-Villegas v. Cortesluna</i> , 595 U.S. 1 (2021)	3
<i>Saucier v. Katz</i> , 533 U.S. 194 (2001)	20
<i>Sharp v. City of Orange</i> , 871 F.3d 901 (9th Cir. 2017)	10

TABLE OF AUTHORITIES (Cont.)

	Page
<i>Smith v. Agdeppa</i> , 81 F.4th 994 (9th Cir. 2023).....	7
<i>Stanton v. Sims</i> , 571 U.S. 3 (2013)	4, 14, 21
<i>United States v. Anderson</i> , 688 F.3d 339 (8th Cir. 2012)	6, 8
<i>United States v. Fuller</i> , 572 F.App’x 819 (11th Cir. 2024).....	12
<i>United States v. Johnson</i> , 256 F.3d 895 (9th Cir. 2001)	6, 8, 9
<i>United States v. Martinez</i> , 169 F.4th 1147 (9th Cir. 2026).....	17, 18, 19
<i>United States v. Rahimi</i> , 602 U.S. 680 (2024)	18
<i>United States v. Santana</i> , 427 U.S. 38 (1976)	5, 13
<i>United States v. Thomas</i> , 726 F.3d 1086 (9th Cir. 2013)	9
<i>Welsh v. Wisconsin</i> , 466 U.S. 740 (1984)	6, 14
<i>Zika v. Calvert</i> , 763 F. Supp. 3d 849 (D. Neb. 2025).....	6, 13

CONSTITUTIONAL PROVISIONS

U.S. Const. amend. II	17
U.S. Const. amend. IV	2, 5, 7

TABLE OF AUTHORITIES (Cont.)

	Page
STATUTES	
18 U.S.C. § 922(g)	18
18 U.S.C. § 922(g)(9)	17
JUDICIAL RULES	
Fed. R. Civ. P. 37.2	1
Fed. R. Civ. P. 37.6	1
OTHER AUTHORITIES	
Cassandra Kercher et al., <i>Homicides of Law Enforcement Officers Responding to Domestic Disturbance Calls</i> , 19 INJURY PREV. 331 (2013)	19
Daniel L. Schofield, <i>Personal Liability: The Qualified Immunity Defense</i> , 59 FBI L. ENF. BULL. 26 (1990)	20
Gregory DeAngelo et al., <i>Police Response Time and Injury Outcomes</i> , 133 ECON. J. 2147 (2023)	22
Katie Zezima et al., <i>Domestic Slayings: Brutal and Foreseeable</i> , WASH. POST, Dec. 9, 2018, https://www.washingtonpost.com/ graphics/2018/investigations/domestic- violence-murders/	15
Larry K. Gainé & Victor E. Kappeler, <i>Policing in America</i> (9th ed. 2021)	22

TABLE OF AUTHORITIES (Cont.)

	Page
Michelle Webster & Kristin Bechtel, Crime and Justice Inst. at Cmty. Res. for Justice, <i>Evidence-Based Practices for Assessing, Supervising and Treating Domestic Violence Offenders</i> (2012).....	16
Nick Bruel & Desiree Luongo, U.S. Dep’t of Just., <i>Making It Safer: A Study of Law Enforcement Fatalities Between 2010–16</i> (Dec. 2017).....	18
Thomas P. George, <i>Domestic Violence Sentencing Conditions and Recidivism</i> , Wash. State Center for Court Research (2012).....	16
U.S. Dep’t of Justice, <i>Domestic Relationships and Violent Crimes, 2020–2024</i> (Feb. 2026).....	16
U.S. Gov’t Accountability Off., <i>Law Enforcement Officers: Observations on Recruitment and Retention at the Federal, Tribal, State, and Local Levels</i> , GAO-26- 108495 (Feb. 2026)	21
Zusha Elinson & Dan Frosch, <i>Cost of Police-Misconduct Cases Soars in Big U.S. Cities</i> , WALL STREET J. (July 15, 2015), https://www.wsj.com/articles/cost-of- police-misconduct-cases-soars-in-big-u-s- cities-1437013834	22



INTEREST OF THE AMICI CURIAE¹

Amici are the City of Henderson, the Las Vegas Metropolitan Police Department, Clark County School District, the Nevada Sheriffs' and Chiefs' Association ("NVSCA"), the City of Sparks, the City of Las Vegas, the Washoe County Sheriff's Office, and the International Municipal Lawyers Association ("IMLA").

NVSCA is a professional, nonprofit organization dedicated to fostering cooperation and understanding among law-enforcement agencies throughout Nevada. NVSCA works to promote effective and professional law-enforcement services and has a substantial interest in ensuring that officers receive clear constitutional guidance when responding to rapidly evolving public-safety situations.

IMLA is the nation's largest organization devoted solely to local government law. Founded in 1935, IMLA is a nonpartisan, nonprofit, professional association of counsel encompassing more than 2,500 local government entities (including cities, counties, and subdivisions thereof), represented through their chief legal officers, state municipal leagues, and individual attorneys. IMLA advocates for the responsible development of municipal law and presents the collective viewpoint of local governments around the country in lawsuits before

¹ Pursuant to Rule 37.2, amici curiae notified counsel of record for all parties of their intent to file at least ten days before the due date. Pursuant to Rule 37.6, amici affirms that no counsel for a party authored this brief in whole or in part, and no person other than amici and their counsel made a monetary contribution to its preparation or submission.

the United States Supreme Court, federal Courts of Appeal, and state supreme and appellate courts in cases that raise issues of concern to its members.

Amici are responsible for protecting public safety, advising governmental entities, and ensuring the effective administration of local government and law-enforcement services.

They have a substantial interest in the proper application of the Fourth Amendment’s hot pursuit doctrine and this Court’s qualified-immunity jurisprudence. The decision below illustrates the uncertainty surrounding when a pursuit remains “immediate and continuous” and the extent to which officers may employ reasonable tactical measures while attempting to apprehend a fleeing suspect. Because law-enforcement agencies regularly confront such situations while municipalities and their taxpayers bear the financial burden of litigation, Amici have a strong interest in clear constitutional standards that provide meaningful guidance to officers in the field and to courts evaluating their conduct.



SUMMARY OF THE ARGUMENT

The Ninth Circuit’s decision below unrecognizably narrows the meaning of “immediate and continuous” pursuit and consequently renders the doctrine of qualified immunity meaningless. Its conclusion that the “chase here was broken” effectively makes the existence of hot pursuit dependent upon officers’ split-second tactical choices about how to initiate a pursuit the moment a suspect flees. Here, because Officer Rose

attempted to cut off a fleeing domestic battery suspect by patrol car, rather than giving chase over backyard walls, while concurrently establishing a line of sight perimeter and calling for a K9 unit, the Ninth Circuit held that the hot pursuit exception no longer applied when Lieutenant Salkoff and K9 Storm entered Respondents' backyard after K9 Storm alerted to a human odor.

Neither the Ninth Circuit, this Court, nor a consensus of courts has settled what renders a pursuit "immediate and continuous" in these circumstances. Lower courts have identified a range of variables that may bear on whether a chase remains "hot." But there is no clearly established law that puts the question of whether Lieutenant Salkoff lawfully entered the backyard "beyond debate." *Rivas-Villegas v. Cortesluna*, 595 U.S. 1, 5 (2021).

The pursuit here began immediately when Officer Rose saw the domestic battery suspect leap over a backyard wall. Rather than giving direct chase, he attempted to intercept the suspect by driving around the block and cutting off his route. When the suspect was not immediately located, officers established a line-of-sight perimeter and made the tactical decision to deploy K9 Storm, whose ability to track human odors allowed officers to search areas beyond their line of sight. The Ninth Circuit concluded, however, that the continuity of the chase was broken because, despite the establishment of a perimeter, Officer Rose did not pursue on foot and officers lost visual contact for 18 minutes before Lieutenant Salkoff and K9 Storm's arrival. (Pet.App. 10a–11a).

By denying qualified immunity, the Ninth Circuit's decision indicates that Lieutenant Salkoff was "plainly

incompetent” for entering Respondents’ backyard, which was within the established perimeter, without a warrant, even after K9 Storm alerted him to the presence of a human odor in the backyard following the suspect’s flight from a nearby home. That decision cannot be squared with this Court’s qualified immunity or hot pursuit jurisprudence. The decision likewise reflects the considerable uncertainty that continues to surround the application of qualified immunity in the lower courts.

At the same time, the Ninth Circuit’s belated suggestion that the misdemeanor classification of domestic battery diminishes the exigency that the officers faced that day is both legally unsound and divorced from the realities of domestic violence. This Court has already rejected any categorical rule barring warrantless entry in misdemeanor cases. *See Stanton v. Sims*, 571 U.S. 3, 9 (2013).

Equally troubling are the broader consequences of the Ninth Circuit’s departure from settled qualified immunity principles. When courts dilute the “clearly established law” standard and second-guess officers’ split-second decisions with the benefit of hindsight, they risk injecting hesitation into future officers’ decisions in similar circumstances. That hesitation results in diminished public safety and increased risk to victims and officers.

By denying qualified immunity in such a close case using analysis repeatedly criticized by this Court, the Ninth Circuit has effectively exacerbated already serious recruitment and retention challenges, further shifting substantial financial costs onto municipalities and taxpayers. Qualified immunity exists to hold officers accountable when they violate clearly established

law, while also allowing reasonable judgment in uncertain situations. The Ninth Circuit’s decision upsets that balance, with consequences extending beyond this case.

Accordingly, this Court should grant review and reverse on the merits.



ARGUMENT

I. The Absence of Clearly Established Law Governing When a Pursuit Ceases to Be “Immediate and Continuous” Entitles Lieutenant Salkoff to Qualified Immunity

Few Fourth Amendment doctrines scrutinize police officers’ tactical judgments more closely than the “hot pursuit” exception to the warrant requirement. Although this Court has recognized that officers may enter a private place, such as a home or backyard, without a warrant when engaged in the immediate and continuous pursuit of a fleeing suspect, *see United States v. Santana*, 427 U.S. 38, 42–43 (1976), neither this Court nor a consensus of lower courts has ever delineated the precise point at which a pursuit ceases to be “immediate and continuous” such that the exception no longer applies. This imprecision has produced a patchwork of lower court decisions drawing the line between “hot” and “cold” pursuit in inconsistent and often irreconcilable ways. This case presents a ripe opportunity for this Court to clarify the contours of “hot pursuit,” particularly when officers must make rapid tactical decisions during the critical moments immediately following a suspect’s flight.

The variation across jurisdictions is striking, particularly as to which factor courts identify as transforming a pursuit from hot to cold. In *Zika v. Calvert*, the District Court concluded that the officer’s pursuit was not “immediate and continuous” when he did not initially follow the suspect into his home, but instead first investigated a broken mailbox and talked to neighbors about the property damage. 763 F. Supp. 3d 849, 858 (D. Neb. 2025). A pursuit can go from “lukewarm to ice cold” when an officer, instead of chasing the suspect after losing sight, returns to retrieve a lost pepper spray cannister. *United States v. Johnson*, 256 F.3d 895, 907–08 (9th Cir. 2001). In *United States v. Anderson*, however, the Eighth Circuit concluded a chase stays “hot” when police immediately pursue a suspect into an apartment after witnessing a drug transaction on a public street. 688 F.3d 339, 344–45 (8th Cir. 2012). But a chase cools when officers stop to talk to a witness and investigate a call for erratic driving before proceeding to the driver’s home without a warrant. *Welsh v. Wisconsin*, 466 U.S. 740 (1984).

These cases demonstrate that the point at which a pursuit turns from “hot” to “cold” falls along a continuum. That is unsurprising given the wide range of tactical decisions officers must make in the moment when a suspect flees. And depending upon the unique facts and circumstances of each pursuit, courts have found some decisions are better characterized as investigation than as pursuit.

Courts have held that a pursuit remains “hot” not because of any single tactic, but because officers continuously seek to locate and apprehend a fleeing suspect without pausing. Yet lower courts remain divided as to whether an immediate cordon-and-search tactic,

rather than a direct foot chase in a residential setting, extinguishes that continuity. The absence of clearly established law therefore warrants this Court’s guidance on the contours of a continuous or “hot” pursuit. Indeed, legal uncertainty of this kind is precisely what the doctrine of qualified immunity is designed to address.

Qualified immunity “balances two important interests—the need to hold public officials accountable when they exercise power irresponsibly and the need to shield officials from harassment, distraction, and liability when they perform their duties reasonably.” *Pearson v. Callahan*, 555 U.S. 223, 231 (2009). It protects police officers from civil damages unless a plaintiff pleads facts showing both that an official violated a constitutional right and that the right at issue was “clearly established” at the time. *Ashcroft v. al-Kidd*, 563 U.S. 731, 735 (2011). Properly applied, qualified immunity “protects all but the plainly incompetent or those who knowingly violate the law.” *Id.* at 743.

Because the law interpreting “immediate and continuous” pursuit remains unsettled, no reasonable officer would have known that entering Respondents’ backyard within the established perimeter after K9 Storm indicated the trail of the suspect without a warrant or consent was unlawful. *See Smith v. Agdeppa*, 81 F.4th 994, 1001 (9th Cir. 2023). Even today—neither a controlling case nor a “robust consensus of cases” clearly establishes otherwise. *See Plumhoff v. Rickard*, 572 U.S. 765, 780 (2014). Accordingly, this case presents a ripe opportunity for this Court to clarify the contours of hot pursuit.

There is no dispute that Lieutenant Salkoff’s warrantless entry into the backyard constituted a Fourth Amendment search and was therefore presumpt-

ively unreasonable absent exigent circumstances. *See Collins v. Virginia*, 584 U.S. 586, 593 (2018). One well-recognized exigent circumstance is the “hot pursuit” exception, which permits warrantless entry into a home when the officer has probable cause to believe that the suspect fled inside. *See Caniglia v. Strom*, 593 U.S. 194, 204–05 (2021). The critical inquiry does not turn on whether probable cause and exigent circumstances actually existed; rather, the test is whether “a reasonable officer could have believed [the] warrantless search to be lawful, in light of clearly established law and the information the searching officers possessed.” *See Anderson*, 483 U.S. at 641.

Here, the Ninth Circuit concluded that the “continuity of the chase [] was broken” because Officer Rose, who saw the suspect flee over the backyard wall, gave pursuit in an “unsuccessful[] attempt[] to cut the suspect off by patrol car” rather than chasing directly after the suspect or peering over the wall to monitor the suspect’s movements. (Pet.App.10a–11a).

To support its conclusion that continuity was broken, the Ninth Circuit relied on a twenty-five-year-old case whose facts bear little, if any, resemblance to the facts and circumstances of the instant case. In *United States v. Johnson*, a deputy chased a suspect who fled into the woods, and the pursuing officer “quickly lost sight of him in the thick brush.” 256 F.3d at 899. In *Johnson*, the Court held that the pursuit turned cold after a half-hour lapse during which the officer lost sight of the suspect, awaited backup, retrieved a pepper spray cannister he had dropped, and received “no new information about where [the suspect] had gone.” *Id.* at 907–08.

The facts and circumstances in *Johnson* stand in stark contrast to the facts of the instant case. Here, not only did Officer Rose attempt to immediately locate the suspect who he had just seen leaping over the backyard wall by using his patrol car, but he also requested additional units to respond. And because officers reasonably believed that the suspect was still in the finite area enclosed by their line-of-sight perimeter, officers made announcements using their public address system and knocked on doors to alert the public and continue their search. Moreover, unlike the officers in *Johnson* who had a mere “gut feeling” that the suspect was on a particular property, (*Id.* at 906), K9 Storm’s alert signaling the detection of human odor in a particular yard established probable cause for Lieutenant Salkoff to search the Respondents’ yard. *See United States v. Thomas*, 726 F.3d 1086, 1098 (9th Cir. 2013). Put simply, pursuit through an unbounded wooded area is not at all like a chase in a suburban neighborhood with backyards separated by block walls. The Ninth Circuit’s heavy reliance on *Johnson*, when examined closely, does not support the conclusion that the officers’ search was anything other than continuous.

Regardless, it cannot be said that any controlling precedent from the Ninth Circuit, the Supreme Court, or any “consensus” of courts, clearly establishes that a pursuit is no longer “immediate and continuous” when officers, rather than engaging in a direct chase in a suburban neighborhood, make the strategic decision to deploy a cordon-and-search tactic, including the use of a trained canine, to cut off the suspect’s escape. “Plaintiffs must point to prior case law that articulates a constitutional rule specific enough to alert *these* deputies *in this case* that *their particular conduct* was unlawful.”

Sharp v. City of Orange, 871 F.3d 901, 911 (9th Cir. 2017) (emphasis in original). “It is not enough that the rule is suggested by then-existing precedent.” *Columbia v. Wesby*, 583 U.S. 48, 63 (2018).

At the same time, the Ninth Circuit’s conclusion that Lieutenant Salkoff is not entitled to qualified immunity under these particular circumstances cannot be reconciled with the widely divergent conclusions that district courts have reached when applying the hot pursuit exception, thereby demonstrating the absence of clearly established law necessary to put a reasonable officer on notice that such conduct was unlawful. *See Orozco v. McDonald*, No. 10-4675-MMM (OP), 2012 U.S. Dist. LEXIS 137727, at *52 (C.D. Cal. Mar. 15, 2012) (officers who witnessed a carjacking immediately pursued the suspect to a nearby home after losing sight for approximately two minutes, established a “perimeter around the area” to canvas nearby homes, and were informed by a resident that the suspect was inside, constituting a “textbook example” of hot pursuit); *Dupree v. Vill. of Bellwood*, No. 18-CV-08304, 2022 U.S. Dist. LEXIS 123738, at *16–18 (N.D. Ill. July 13, 2022) (finding exigent circumstances where police lost sight of a fleeing suspect and discussing that an “emergency justifying a warrantless entry can arise where law enforcement lost sight of the suspect for some time, *or after even after never having eyes on the suspect at all*”) (emphasis added); *Doe v. City of Worcester*, Civil Action No. 09-40191-FDS, 2012 U.S. Dist. LEXIS 202100, at *15–16 (D. Mass. Feb. 24, 2012) (hot pursuit not applied where officers, after losing sight of the suspect, conducted a perimeter search, and entered the building the suspect was thought to have fled into); *Garcia v. City of Imperial*,

No. 08cv2357 BTM(PCL), 2010 U.S. Dist. LEXIS 102306, at *27 (S.D. Cal. Sep. 14, 2010).

These decisions demonstrate that courts applying the hot pursuit exception have not only weighed different aspects of a chase—such as the danger posed to others, whether the suspect remained in officers’ sight, and whether the suspect’s whereabouts were confined—but have also reached widely diverging conclusions, underscoring the absence of clearly established law. The lack of consensus precludes any finding that the law was clearly established and compels the conclusion that Lieutenant Salkoff is entitled to qualified immunity, as no reasonable officer in his position could have been on notice that the search was unlawful.

Here, officers responded to a domestic battery call involving a suspect with active warrants and a history of violent crime. Reports of prior abuse, a visibly injured victim, and the suspect’s flight over a backyard wall heightened concerns for public and victim safety. In these circumstances, Officer Rose had to make a rapid tactical judgment about how to apprehend a fleeing and potentially dangerous suspect. Rather than vaulting over walls into unknown backyards—where additional risks including aggressive dogs or a combative suspect, could endanger officers and residents—officers first attempted to contain the suspect by using a patrol vehicle to cut off his escape path and by immediately establishing a perimeter around the neighborhood to prevent his escape.

Although officers lost visual contact, they neither ceased nor paused the search. They did not believe the suspect had left the bounded area. The officers did what their knowledge, training, and experience had taught them to do in a residential environment where

backyards are enclosed and escape routes are finite: establish a perimeter, position themselves to locate the suspect, warn residents, and engage a canine to locate the human scent of the suspect. Within that contained area, K9 Storm alerted to this specific backyard, providing Lieutenant Salkoff probable cause to believe the suspect may be hiding within it.

In these circumstances, a reasonable officer in Lieutenant Salkoff's position would have understood the pursuit to be immediate and continuous, bringing the search squarely within the hot pursuit exception.

Although the contours of "immediate and continuous" remain unsettled, Lieutenant Salkoff's conclusion that the pursuit remained immediate and continuous is consistent with how courts have analyzed comparable facts. In *Newman v. Underhill*, officers lost sight of a suspect who ran into a backyard, yet the pursuit remained "immediate and continuous" into a home because an officer heard a sound consistent with a door opening. No. 5:23-cv-00033-SP, 2024 U.S. Dist. LEXIS 36659, at *8 (C.D. Cal. Feb. 29, 2024). Likewise, K9 Storm's alert to a human odor in a particular yard reinforced that the pursuit remained active and continuous much like the officer's auditory cue in *Newman*.

Other courts have held that a pursuit remains immediate and continuous so long as they continue to actively search for the suspect. See *United States v. Fuller*, 572 F.App'x 819, 821 (11th Cir. 2024) (officers' warrantless entry into backyard 12 minutes after the search for a suspect began was reasonable as the uninterrupted pursuit was "aided by an ongoing dispatch transmission"); *Griffin v. City of Clanton*, 932 F. Supp. 1359, 1367 (M.D. Ala. 1996) (trail was never

cold even though officer called for backup and remained by his vehicle one block away before entering residence with reinforcements); *Dorkoski v. Pensyl*, No. 4:05-0705, 2007 U.S. Dist. LEXIS 17114, at *25–26 (M.D. Pa. Mar. 9, 2007) (although officer lost sight of the suspect momentarily, the pursuit remained immediate and continuous and there was sufficient evidence that suspect’s erratic behavior may have put himself or others at risk of harm).

By contrast, a pursuit is deemed “cold” when officers effectively abandon it altogether, as in *Zika v. Calvert* where the officer made no effort to stop or follow the suspect into his home and instead turned to investigation—as opposed to apprehension—by taking photographs and talking to a witness. 763 F. Supp. 3d at 858.

Across these cases, the relevant inquiry is not *the method* officers use to apprehend a fleeing suspect, whether by direct pursuit or by attempting “to cut off the suspect off,” (Pet.App.10a), nor sustained visual contact, but whether officers *continue their immediate chase, uninterrupted, until they apprehended the suspect*. Here, officers attempted to intercept the suspect, established a line-of-sight perimeter when they lost sight of him, and deployed K9 Storm. Any reasonable officer would have believed the pursuit remained active and continuous from Officer Rose’s initial efforts through K9 Storm’s alert just four houses away from where the suspect fled.

The Ninth Circuit’s decision illustrates the uncertainty surrounding what constitutes an “immediate and continuous” pursuit. Although this Court has described hot pursuit as “some sort of a chase,” *Santana*, 427 U.S. at 43, lower courts continue to disagree about

whether officers may briefly lose sight of a suspect, reposition, establish a perimeter, or employ other tactics without ending the pursuit. This case presents an ideal opportunity for this Court to clarify the doctrine's contours.

II. The Misdemeanor Classification of Domestic Battery Does Not Diminish the Exigency Justifying a Warrantless Pursuit

The Ninth Circuit advanced a proposition by way of footnote that, if left unaddressed, will distort the exigent circumstances analysis in future domestic battery hot pursuit cases. The Ninth Circuit placed undue weight on domestic battery's misdemeanor classification and suggested that a fleeing domestic abuser presents little risk of imminent harm to others because the threat is directed at a cohabitant rather than the public at large. (Pet.App.11a). That reasoning cannot be squared with the realities of intimate partner violence, the practical judgments officers must make in the field, or with this Court's own jurisprudence.

First, in *Stanton*, this Court made clear that *Welsh v. Wisconsin* did not categorically bar warrantless entry to arrest a misdemeanant; it held only that such entries "should be rare." 571 U.S. at 9. Indeed, *Stanton* reversed the Ninth Circuit's holding that a pursuing officer was plainly incompetent and not protected by qualified immunity even though courts around the nation were (and still are) sharply divided on the issue on when a warrantless entry may be made when pursuing a fleeing misdemeanant. *Id.* at 11. But the Ninth Circuit's footnote reprises the error this Court identified in *Stanton* by treating *Welsh* as if it imposed

heightened emphasis on the seriousness of the offense in hot pursuit cases.

Nor does this Court's jurisprudence support the Ninth Circuit's sweeping implication that domestic battery's misdemeanor status lessens exigency because "the danger involved is generally to cohabitants." (Pet.App.11a). To the contrary, this Court recognized in *Lange v. California*, that "many perpetrators of domestic violence are charged with misdemeanors, despite the harmfulness of their conduct," thus "a felon is not always more dangerous than a misdemeanant." 594 U.S. 295, 305 (2021) (internal quotations and citation omitted). This Court's observation in *Lange* supports what multiple empirical studies have concluded, which is that misdemeanor domestic battery is not a low-grade offense, and the danger posed by domestic abusers is neither speculative nor contained to single incidents.

Empirical data demonstrates that, far from a private squabble between cohabitants, domestic violence is one of the deadliest and most prevalent forms of violence in the United States. A 2018 Washington Post investigation analyzed the killings of 4,484 women over 47 major U.S. cities and "found that nearly half of the women who were killed—46 percent—died at the hands of an intimate partner." Katie Zezima et al., *Domestic Slayings: Brutal and Foreseeable*, WASH. POST, Dec. 9, 2018, <https://www.washingtonpost.com/graphics/2018/investigations/domestic-violence-murders/>. The same investigation also examined nearly 300 intimate-partner homicides in five cities, including Las Vegas, and found that more than one-third involved signs of prior violence by the accused killers, including restraining orders and violent-crime convictions. Those data eliminate any suggestion that a domestic violence

incident presents only a flash-in-the-pan threat. Rather, they demonstrate that domestic violence is inherently dangerous, frequently recurring, and often escalating.

The prevalence and dangerousness of domestic violence cannot be understated. According to the 2026 FBI Uniform Crime Report, from 2020 through 2024, aggravated assault had the highest share of domestic victim-offender relationships among violent crimes, with an average of 31% of aggravated assaults being domestic in nature. Fed. Bureau of Investigation, U.S. Dep’t of Justice, *Domestic Relationships and Violent Crimes, 2020–2024*, at 2 (Feb. 2026). And over that same period, the percentage of violent crimes involving domestic relationships “increased every year from 25.6% in 2020 to 27.5% in 2024.” *Id.* at 3.

Additional studies, which support these known, preventable, and recurring episodes of violence, have estimated domestic offenders repeat violence in 40 to 80 percent of cases. Michelle Webster & Kristin Bechtel, Crime and Justice Inst. at Cmty. Res. for Justice, *Evidence-Based Practices for Assessing, Supervising and Treating Domestic Violence Offenders* 10 (2012). *See also* Thomas P. George, *Domestic Violence Sentencing Conditions and Recidivism*, Wash. State Center for Court Research, 1, 17 (2012) (finding that, within five years, 55% of individuals jailed in Washington for a domestic-violence offense committed a subsequent domestic-violence offense). “Specifically, examining the history of violence is a more important predictor of reabuse than the nature of the offense that resulted in the police being called.” Webster & Bechtel, *Evidence-Based Practices*, at 11. Police and court intervention do not always ensure safety; many victims are killed even after seeking help, reflecting

both the gaps in protection and the persistence of abusive partners. Put simply, when a domestic abuser remains at large—particularly one with a known history of abuse—the risk of renewed violence is substantial.

Nevada’s legislative and judicial responses to domestic violence underscore the gravity of the offense. Nevada treats even first-offense misdemeanor domestic battery as serious, as shown by NRS 202.360’s prohibition on firearm possession or control by individuals convicted of that offense. *See Andersen v. Eighth Judicial Dist. Court*, 135 Nev. 321, 324, 448 P.3d 1120, 1124 (2019) (noting that the 2015 amendments to NRS 202.360 “automatically and directly” prohibit individuals convicted of misdemeanor domestic battery from possessing firearms). Moreover, the serious consequences that a misdemeanor domestic battery conviction carries for an individual’s Second Amendment rights supported the Nevada Supreme Court’s recognition of the right to a jury trial. *Id.* Nevada’s treatment of misdemeanor domestic battery thus refutes the suggestion its misdemeanor classification diminishes the gravity of the offense or the danger posed by the offender.

Likewise, federal law prohibits any person previously convicted of misdemeanor domestic violence from possessing firearms or ammunition. *See* 18 U.S.C. § 922 (g)(9). In *United States v. Martinez*, a Ninth Circuit panel recognized that “Section 922(g)(9) filled a dangerous gap in gun control laws” because “[d]omestic violence rarely results in a felony conviction.” 169 F.4th 1147, 1156 (9th Cir. 2026). In upholding Section 922(g)(9) as facially constitutional, the Panel acknowledged the “highly predictive” link between domestic violence and future violence, citing cases and studies demonstrating its “uniquely high recidivism rate.” *Id.* at 1156–57.

The reasoning in *Martinez* cannot be squared with the language of Fn. 2. (Pet.App.11a). In *Martinez*, the Ninth Circuit recognized that misdemeanor domestic violence is so dangerous, and so predictive of future violence that Congress permissibly stripped convicted offenders of a constitutional right to prevent future harm. *See Martinez*, 169 F.4th at 1156. Yet the Ninth Circuit discounted both the seriousness and dangerousness of domestic violence, treating misdemeanor domestic battery as a minor offense that weighed heavily against exigency while giving only cursory consideration to the threat a fleeing suspect may pose to victims, officers, and the surrounding community.²

Domestic abusers also represent a danger to law enforcement officers called to the scene of a domestic disturbance. An analysis of law-enforcement fatalities from 2010 to 2016, funded by the United States Department of Justice, concluded: “[C]alls related to domestic disputes and domestic-related incidents represented the highest number of fatal types of calls for service . . .” Nick Bruel & Desiree Luongo, U.S. Dep’t of Just., *Making It Safer: A Study of Law Enforcement Fatalities Between 2010–16*, at 7 (Dec. 2017).

Another review of law-enforcement fatalities from 1996 to 2010 found 116 officers were killed while responding to domestic disturbance calls, 95% of the officers were killed with a firearm, domestic violence victims were also killed in 21% of these cases, and 85%

² *Martinez* merely reflected the Ninth Circuit’s application of this Court’s decision in *United States v. Rahimi*, 602 U.S. 680 (2024), which upheld the constitutionality of Section 922(g)’s prohibition on firearm possession by individuals subject to domestic violence restraining orders and recognized the heightened risk of future violence in domestic battery scenarios.

of the domestic-violence victims were also killed with a firearm. Cassandra Kercher et al., *Homicides of Law Enforcement Officers Responding to Domestic Disturbance Calls*, 19 INJURY PREV. 331, 333–34 (2013).

Where a conviction for misdemeanor domestic battery justifies a firearm prohibition because the next act of violence is statistically likely and potentially lethal, then an active, ongoing misdemeanor domestic incident, with a known abuser fleeing the scene, presents a paradigmatic example of a situation that the hot pursuit doctrine exists to address. The Ninth Circuit’s footnote in the instant case does not reflect the dangerousness recognized in *Martinez*, and it should not govern the hot pursuit analysis.

III. When Courts Do Not Adhere to the Qualified Immunity Standard, Police Officers, the Community, and Taxpayers Suffer

The consequences of departing from this Court’s qualified immunity jurisprudence are far-reaching. When district courts dilute the “clearly established law” requirement or when circuit courts second-guess police officers’ split-second decisions in hindsight, the consequences are alterations of officer behavior in the field, degradations of public safety, and significant financial burdens on municipalities and taxpayers alike.

First, the erosion of qualified immunity fundamentally changes how officers respond in dangerous situations. As one Eighth Circuit dissent aptly warned, the message to officers becomes unmistakable: “even in the absence of a clearly controlling legal rule, think twice before acting . . . because a court may step in later and second guess your decision.” *Marks v. Bauer*,

107 F.4th 840, 854 (8th Cir. 2024) (Stras. J., dissenting) (internal citation and quotation omitted). It injects dangerous hesitation into decisions officers must make in circumstances that are often “tense, uncertain, and rapidly evolving.” *Graham v. Connor*, 490 U.S. 386, 397 (1989). Delay or quick decision-making can sometimes mean the difference between safety and apprehension of a suspect or catastrophe.

When courts deviate from the proper application of qualified immunity standard, officers may, consciously or not, hesitate, failing to act with the speed and decisiveness necessary to protect the public. See Daniel L. Schofield, *Personal Liability: The Qualified Immunity Defense*, 59 FBI L. ENF. BULL. 26, 26 (1990). Such hesitation translates directly to diminished public protection.

Second, the denial of qualified immunity imposes substantial personal and professional costs on officers themselves. Qualified immunity exists, in part, as an “entitlement not to stand trial or face the other burdens of litigation.” *Saucier v. Katz*, 533 U.S. 194, 200 (2001) (citing *Mitchell v. Forsyth*, 472 U.S. 511, 526 (1985)). When that protection is withheld, officers must endure the prospect of protracted litigation and personal financial liability, which makes the commitment to serve in law enforcement and perform an important public service far more difficult. Officers must divert time and attention away from their core mission of protecting and serving the public as their attention is distracted by the litigation process.

Decisions like the Ninth Circuit’s here compound these issues across the profession. Under the current scope of the qualified immunity doctrine, officers are supposed to have “breathing room to make reasonable

but mistaken judgments.” *Stanton*, 571 U.S. at 6. Only those who “knowingly violate the law” or are “plainly incompetent” are supposed to face the enormous burden of litigation. *Id.* But by allowing the Ninth Circuit’s decision to stand, a career in law enforcement will increasingly be defined by danger not only in the field, but also by the looming threat of prolonged litigation in the courtroom based upon tactical decisions made in areas where the governing law is unclear.

Third, the failure to properly apply qualified immunity exacerbates the recruitment and retention crisis in law enforcement. From 2019 to 2024, officer resignations increased by 18 percent. U.S. Gov’t Accountability Off., *Law Enforcement Officers: Observations on Recruitment and Retention at the Federal, Tribal, State, and Local Levels*, GAO-26-108495 (Feb. 2026). Over that same period, retirements increased by two percent, contributing to large decreases in department staffing overall. *Id.*

The time and expense of litigation deter capable candidates from public service, divert “official energy from pressing public issues,” and discourage “able citizens from acceptance of public office,” all of which further contributes to staffing shortages. *Harlow v. Fitzgerald*, 457 U.S. 800, 814 (1982). As the burdens of litigation increase, fewer qualified individuals are willing to serve, leaving department understaffed and overextended. It is no exaggeration that, absent qualified immunity, only the “most resolute or the most irresponsible” will serve as police officers. *Crawford-El v. Britton*, 523 U.S. 574, 590 n.12 (1998). Continued erosion of qualified immunity does more than strain already thin ranks; it predictably diminishes both the quality and availability of law enforcement to the detri-

ment of the communities those departments are sworn to protect. Reduced staffing and hesitant decision-making lead to slower responses times, increasing the likelihood that victims will be harmed. See Gregory DeAngelo et al., *Police Response Time and Injury Outcomes*, 133 ECON. J. 2147 (2023). And when courts impose liability in close cases, they create perverse incentives for officers to avoid decisive action in the very circumstances where decisive action is needed most, thereby further undermining public safety and distorting the balance qualified immunity is intended to preserve. By making every call a close call, the Ninth Circuit leaves officers with few options but to make no call at all, displacing workable standards with paralyzing uncertainty.

Finally, these doctrinal departures impose significant costs on municipalities and taxpayers. When qualified immunity is weakened, the resulting litigation imposes a financial burden that diverts public resources away from essential services and deters municipalities from asserting otherwise meritorious defenses. Although “more than half” of all cases alleging police misconduct are settled out of court, Larry K. Gaine & Victor E. Kappeler, *Policing in America* 346–47 (9th ed. 2021), settlement amounts are ballooning dramatically with billions of dollars being paid to settle police misconduct cases each year. See Zusha Elinson & Dan Frosch, *Cost of Police-Misconduct Cases Soars in Big U.S. Cities*, WALL STREET J. (July 15, 2015), <https://www.wsj.com/articles/cost-of-police-misconduct-cases-soars-in-big-u-s-cities-1437013834>. With public dollars pouring into defense costs, local governments must make difficult tradeoffs such as cutting services and reducing staff. The “resulting financial loss” from the

costs of litigation, therefore is “borne by all the taxpayers” of the municipality. *Owen v. Independence*, 445 U.S. 622, 655 (1980). Put simply, qualified immunity’s erosion through decisions like the one at issue here, reduces the financial and manpower resources available for public safety while simultaneously increasing the risks that communities face. This case underscores the need for this Court to ensure that clearly established law is anchored in its own precedents, not in lower courts’ increasingly divergent applications of qualified immunity. *See* Pet. at 29–30.

In sum, when courts fail to adhere to the qualified immunity standard, the consequences extend directly into the communities that officers are sworn to protect. Officers hesitate or avoid decisive action. Recruitment declines and staffing shortages worsen, accelerating the deterioration of public safety. Municipalities—and their taxpayers—are left to bear the costs of protracted litigation. Qualified immunity exists, in part, to prevent these outcomes and preserve the balance between accountability and effective law enforcement. When courts depart from that framework, the result is a predictable hesitation by officers in the field and diminished community safety.



CONCLUSION

Amici curiae respectfully request that this Court grant the petition for certiorari. Alternatively, that this Court grant review and reverse.

Respectfully submitted,

Lyssa S. Anderson
Counsel of Record
Travis C. Studdard
KAEMPFER CROWELL
1980 Festival Plaza Drive, Suite 650
Las Vegas, NV 89135
(702) 792-7000
landerson@kcnvlaw.com

Counsel for Amici Curiae

July 6, 2026