Nos. 09-1454 and 09-1478

In the Supreme Court of the United States

BOB CAMRETA, PETITIONER

v.

SARAH GREENE, PERSONALLY AND AS NEXT FRIEND FOR S.G., A MINOR, AND K.G., A MINOR

JAMES ALFORD, DEPUTY SHERIFF, DESCHUTES COUNTY, OREGON, PETITIONER

v.

SARAH GREENE, ET AL.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

BRIEF FOR THE UNITED STATES AS AMICUS CURIAE SUPPORTING PETITIONERS

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QUESTIONS PRESENTED

The court of appeals in this case held that petitioners' interview of a suspected victim of parental abuse at her school violated the Fourth Amendment. It further held that petitioners were entitled to qualified immunity from damages in respondent's suit under 42 U.S.C. 1983 because the law governing such interviews was not clearly established. The questions presented are:

1. Whether judgment in petitioners' favor on qualified-immunity grounds precludes them from seeking review of the court of appeals' constitutional ruling.

2. Whether the Fourth Amendment requires a warrant, a court order, parental consent, or exigent circumstances before officials may interview a suspected victim of parental abuse at a public school.

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INTEREST OF THE UNITED STATES

This case raises questions about the Fourth Amendment standard applicable to an in-school interview of a suspected victim of parental sexual abuse, as well as the reviewability of a court of appeals' constitutional ruling in an action brought pursuant to 42 U.S.C. 1983 when the court ultimately enters judgment in favor of the de-

fendants on the basis of qualified immunity. The United States has a substantial interest in this Court's resolution of both questions. The United States investigates and prosecutes crimes involving the abuse and exploitation of children, including child-abuse crimes that occur in the special maritime and territorial jurisdiction of the United States, 18 U.S.C. 2241(c), 2243, and in Indian country, 18 U.S.C. 1153. Federal law expressly authorizes warrantless interviews of children on Indian land without parental consent when there is "reason to believe the child has been subject to abuse." 25 U.S.C. 3206(a); see 25 U.S.C. 3206(b) and (d). The United States Department of Health and Human Services also funds and disseminates research related to child abuse and provides substantial funding to state child-abuse prevention and treatment programs, including funding for child-abuse investigations. See Child Abuse Prevention and Treatment Act, 42 U.S.C. 5101 *et seq.*; 45 C.F.R. 1340.1-1340.20. Finally, the principles governing the reviewability of constitutional rulings in Section 1983 actions against state and local officials will also apply in suits against federal officials pursuant to *Bivens* v. *Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971).

STATEMENT

1. a. On February 12, 2003, police arrested respondent's husband, Nimrod Greene (Greene), on suspicion of sexually abusing F.S., a seven-year-old boy unrelated to him. Pet. App. 57.[1] According to F.S., Greene had touched F.S's penis over his jeans while drunk in F.S.'s

[1] Citations in this brief to the petition appendix refer to the appendix to the petition for a writ of certiorari in *Camreta* v. *Greene*, No. 09-1454.

home. *Id.* at 4. F.S. reported that this had happened once before. *Ibid.*

In the course of investigating these charges, the police received information from F.S.'s parents suggesting that Greene may have been sexually abusing his daughters, nine-year-old S.G. and five-year-old K.G. Pet. App. 4-5, 57-58. F.S.'s mother told officers that respondent, who is the girls' mother, "had talked to her about how she doesn't like the way [Greene] makes [S.G. and K.G.] sleep in his bed when he is intoxicated and she doesn't like the way he acts when they are sitting on his lap." *Id.* at 4-5. F.S.'s father told officers that Greene himself "has made some type of prior comment about how [respondent] was accusing him of molesting his daughters and [respondent] reportedly doesn't like the girls laying in bed with [Greene] when he has been drinking." *Id.* at 5. F.S.'s father denied that he or his wife had any direct knowledge of sexual abuse in the Greene home, but said that comments to that effect had "come in several ways" from respondent and Greene. *Ibid.*

The Oregon Department of Human Services (DHS) received a report of Greene's possible sexual abuse of his daughters approximately a week after Greene's arrest. Pet. App. 5. The following day, petitioner Bob Camreta, the child protective services caseworker assigned to assess the safety of S.G. and K.G., learned that Greene had been released from jail and was having unsupervised contact with his daughters. *Id.* at 57-58. "Based on his training and experience as a DHS caseworker, Camreta was aware that child sex offenders often act on impulse and often direct those impulses against their own children, among others. For this reason, he was concerned about the safety and well-being of

Nimrod Greene's own small children." *Id.* at 5 (internal quotation marks and brackets omitted).

b. Three days later, Camreta visited S.G.'s elementary school to interview her about the possible sexual abuse. Pet. App. 58. "Camreta thought the school would be a good place for the interview because it is a place where children feel safe and would allow him 'to conduct the interview away from the potential influence of suspects, including parents.'" *Id.* at 5-6. In-school interviews of this sort, Camreta explained, "are a regular part of child protective services practice and are consistent with DHS rules and training." *Id.* at 6 (brackets omitted). Camreta was accompanied by a county deputy sheriff, petitioner James Alford, who wore a visible firearm. *Ibid.* Camreta did not obtain parental consent, a warrant, or other court order before the interview. *Ibid.*

A school counselor retrieved S.G. from her classroom, told her that someone was there to talk with her, and took her to a private office where petitioners were waiting. Pet. App. 6. According to respondent, S.G. stated afterwards that she was scared when the school counselor left the room, but she did not ask to have the school counselor or her parents present, did not cry, and did not ask to call home. *Id.* at 8, 62. Respondent maintains that Camreta questioned S.G. for approximately two hours, although petitioners maintain that the interview lasted only about an hour. *Id.* at 6 & n.1. Alford did not ask any questions. *Id.* at 6. "With respect to Alford's presence, S.G. stated that she is generally comfortable around police officers, that Alford was nice to her and did not do anything to scare her, and that she trusted him." *Id.* at 8.

According to Camreta, S.G. told him that Greene had been touching her private parts (specifically, her chest

and buttock areas on the outside of her clothing) since she was three; that the incidents would occur after Greene had been drinking; that the last incident took place "just last week," during which she tried to tell Greene to stop; that she would go to her room and lock her door when Greene tried to touch her; and that respondent knew about the touching, which was one of their secrets "with her little sister, K.G." Pet. App. 6-7. S.G. and respondent claim that any such statements were the result of confusion or involuntary acquiesence following repeated questioning. *Id.* at 7-8. Camreta maintains that he did not coerce or try to induce accusatory responses. *Id.* at 7.

c. Greene was indicted on six counts of felony sexual assault against F.S. and S.G. Pet. App. 9. S.G. and K.G. were removed from the Greene home for approximately three weeks. *Id.* at 12. They received a physical examination at a medical center specializing in child sexual abuse, but the examiners were unable to determine whether they had been sexually abused. *Id.* at 12-13. At the time of the examination, S.G. recanted the statements she had made during her initial in-school interview with Camreta. *Id.* at 12. DHS remained concerned about the children's welfare, but consented to their return to respondent's custody. *Id.* at 13.

Greene's trial on the sexual-assault charges ended in a hung jury. Pet. App. 13. Though he maintained his innocence, he ultimately entered an *Alford* plea to the alleged abuse of F.S. *Id.* at 13 & n.1; see *North Carolina* v. *Alford*, 400 U.S. 25 (1970). The charges involving S.G. were dismissed. Pet. App. 13.

2. Respondent filed suit under 42 U.S.C. 1983 on behalf of herself, S.G., and K.G., against petitioners and others. Pet. App. 13-14 & n.4. Respondent alleged,

among other things, that petitioners' in-school interview of S.G. had violated the Fourth Amendment. *Id.* at 13-14.

The district court granted summary judgment for petitioners. Pet. App. 57. On the Fourth Amendment claim, the district court concluded that the evidence supported a finding that S.G. was seized for Fourth Amendment purposes, but that no constitutional violation occurred because the seizure was "objectively reasonable." *Id.* at 62-64. Applying the framework set forth in *Terry* v. *Ohio*, 392 U.S. 1 (1968), the court concluded that the interview was "justified at its inception" because petitioners had reasonable suspicion that Greene had abused or was a threat to abuse his children, and that the interview was "reasonably related in scope" to its permissible purpose of investigating that suspicion. Pet. App. 63-64 (quoting *Terry*, 392 U.S. at 20). The district court alternatively held that even if a constitutional violation had occurred, petitioners were entitled to qualified immunity from damages because a reasonable official in their position could have believed the interview to be lawful. *Id.* at 64-65.

3. The court of appeals affirmed in part, reversed in part, and remanded. Pet. App. 1-54. As relevant here, it concluded that the interview of S.G. did violate the Fourth Amendment, but that petitioners were entitled to qualified immunity because the constitutional violation was not clearly established under existing law. *Id.* at 16-44. The court acknowledged that it did not need to address the primary constitutional question, and could instead address only qualified immunity, but believed that addressing both would provide useful guidance. *Id.* at 16-18 (citing, *inter alia*, *Pearson* v. *Callahan*, 129 S. Ct. 808, 818 (2009)).

As an initial matter, the court of appeals agreed with the district court that a seizure had taken place, noting that petitioners did not dispute the issue. Pet. App. 18-19. The court then relied on its prior decision in *Calabretta* v. *Floyd*, 189 F.3d 808 (9th Cir. 1999), which concerned the warrantless entry of a home to investigate suspected child abuse, to hold that "the general law of search warrants applie[s] to child abuse investigations" outside, as well as inside, the home. Pet. App. 36 (quoting *Calabretta*, 189 F.3d at 814). An interview like the one in this case, the court concluded, requires a warrant or an equivalent court order supported by probable cause, except in cases presenting exigent circumstances or where officials are able to obtain parental consent. *Id.* at 36-37 & nn.17-19.

The court of appeals declined to apply the *Terry* framework to the warrantless in-school interview of S.G. Pet. App. 21. The court concluded, in particular, that this Court's decision in *New Jersey* v. *T.L.O.*, 469 U.S. 325 (1985), applying *Terry*'s "reasonableness" standard to a school official's warrantless search of a student's purse, see *id.* at 328, 341-342, was inapposite because S.G. was not seized or interviewed by school officials for the purpose of maintaining discipline and preserving authority at the school. Pet. App. 20-23. The court reasoned that *T.L.O.* fell within "a line of cases in which the Supreme Court has lowered traditional Fourth Amendment protections 'when special needs, beyond the normal need for law enforcement, make the warrant and probable cause requirement impracticable,'" and concluded that law enforcement purposes and personnel were too deeply intertwined with S.G.'s seizure to justify applying the special-needs doctrine here. *Id.* at 26-34 (quoting *Griffin* v. *Wisconsin*, 483 U.S. 868, 873 (1987)).

Although the court of appeals determined that there was a constitutional violation, it held that petitioners were entitled to qualified immunity from damages because the constitutional right at issue was not clearly established. Pet. App. 38-44. The court observed that "other circuits have applied the 'special needs' reasonableness standard to investigations of child abuse," *id.* at 39, and determined that petitioners' actions were not clearly unconstitutional under that standard, *id.* at 44. The court stated, however, that "government officials investigating allegations of child abuse should cease operating on the assumption that a 'special need' automatically justifies dispensing with traditional Fourth Amendment protections in this context." *Id.* at 43.

SUMMARY OF ARGUMENT

The court of appeals erred in creating an inflexible prerequisite to the interview of a suspected victim of parental abuse at a public school. It required no less than a warrant (or similar court order), parental consent, or exigent circumstances. That requirement finds no support in this Court's cases, and threatens to eliminate an essential tool for the detection and prevention of child abuse and other child-exploitation crimes. This Court can and should vacate that portion of the court of appeals' opinion and remand for further proceedings.

A. The Court has jurisdiction to review the court of appeals' constitutional ruling even though petitioners successfully asserted a qualified-immunity defense in this suit. Constitutional rulings in qualified-immunity cases are a special class of determinations that by design have adverse prospective effects on prevailing defendants, the governmental agencies that employ them, and other governmental entities. Though petitioners

avoided liability in this case, the court of appeals' opinion places petitioners, along with other similarly situated officials, on injunction-like notice that they will be personally liable for damages unless they comply with the court of appeals' decision. To categorically foreclose further review in such circumstances would not only impose an unwarranted hardship on government officials and entities, but would also impede one of the primary purposes served by the court of appeals' initial consideration of the constitutional question, namely, the "development of constitutional precedent." *Pearson* v. *Callahan*, 129 S. Ct. 808, 818 (2009).

Although, as a matter of practice, this Court generally declines to entertain requests to review cases in which the petitioning party prevailed, there is no legal impediment to further review in this case. The Court has statutory authority to review a court of appeals' decision on the petition of "any party," and to grant broad relief, including vacating a lower-court decree and directing any necessary further proceedings. 28 U.S.C. 1254(1); see 28 U.S.C. 2106. There is no Article III bar to exercising that authority on behalf of a prevailing party where the prevailing party is aggrieved by the decision below. Petitioners in this case have standing to challenge the court of appeals' constitutional ruling because it effectively prohibits them from job-related activities in which they would otherwise engage. This Court's review of that ruling is warranted.

B. The court of appeals' constitutional ruling is incorrect. When investigative questioning involves a seizure, and thereby implicates the Fourth Amendment, the Court has consistently evaluated the constitutionality of the seizure under a context-specific reasonableness standard. Applying that standard, the interview of

a child in a public school based on reasonable suspicion of parental abuse complies with the Fourth Amendment, so long as the interview is otherwise conducted in a reasonable manner.

Neither a warrant nor probable cause is a necessary precondition to the reasonableness of an official interview. Instead, reasonableness is assessed by balancing the governmental interests served by the interview, and the degree to which the interview advances those interests, against the liberty intrusion it occasions. Child-abuse interviews in schools serve the significant interests of protecting children, assuring that they are in a condition to attend and benefit from school, and enforcing important criminal laws. The interviews advance those interests because they are often an indispensable component of child-abuse investigations: since child abuse happens behind closed doors with the child as the primary (or only) witness, investigators will often lack probable cause before interviewing the child; and when the suspected perpetrator is a parent, it often may be impractical or undesirable to seek or obtain parental consent to an interview. Finally, the interviews are at most a minor intrusion on the liberty of a child whose freedom of movement is already considerably restricted by virtue of her presence at school. Accordingly, so long as the interview itself is carried out in a reasonable manner—an issue that the court of appeals did not reach with respect to the interview at issue in this case—it is constitutional.

ARGUMENT

I. THE COURT OF APPEALS' CONSTITUTIONAL RULING IS REVIEWABLE NOTWITHSTANDING ITS RULING THAT PETITIONERS ARE ENTITLED TO QUALIFIED IMMUNITY

The court of appeals' entry of judgment in favor of petitioners on qualified-immunity grounds does not divest this Court of authority to review the court of appeals' constitutional determination. Though the qualified-immunity holding protected petitioners from damages liability in this particular instance, the constitutional ruling has both the purpose and the effect of prohibiting similar conduct by petitioners and others in the future. Review of such rulings is appropriate as both a jurisdictional and a practical matter.

A. Constitutional Determinations In Qualified-Immunity Cases Impose Prospective Limitations On The Actions Of Government Officials

"The doctrine of qualified immunity protects government officials 'from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.'" *Pearson* v. *Callahan*, 129 S. Ct. 808, 815 (2009) (quoting *Harlow* v. *Fitzgerald*, 457 U.S. 800, 818 (1982)). A state or federal official sued in his personal capacity under Section 1983 or *Bivens* v. *Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), for an alleged constitutional violation is accordingly entitled to the entry of judgment in his favor if either (1) his actions did not in fact violate the Constitution, or (2) the state of the law at the time would not have put him on notice that his actions vio-

lated the Constitution. *Wilson* v. *Layne*, 526 U.S. 603, 609 (1999).

Until recently, courts addressing motions for judgment on qualified immunity grounds were required to employ a two-step protocol under which they would decide whether a constitutional right was violated before deciding whether any such right was clearly established. *Saucier* v. *Katz*, 533 U.S. 194, 201 (2001). In *Pearson*, this Court relaxed that requirement, giving courts discretion to decide the latter issue without deciding the former. 129 S. Ct. at 818. The Court made clear, however, that it is "often beneficial" to decide the constitutional-violation question first. *Ibid.*; see *id.* at 821 (observing that this procedure is "often, but not always, advantageous").

As the Court explained in *Pearson*, a primary reason for a court to make such an announcement is to "promote[] the development of constitutional precedent." 129 S. Ct. at 818. At least in some cases, clarifying the constitutional rule will provide useful future guidance for government officials and the public at large. See *County of Sacramento* v. *Lewis*, 523 U.S. 833, 841 n.5 (1998) ("[I]f the policy of avoidance were always followed in favor of ruling on qualified immunity whenever there was no clearly settled constitutional rule of primary conduct, standards of official conduct would tend to remain uncertain, to the detriment both of officials and individuals.").

Underlying this "development of constitutional precedent" rationale is the premise that a plaintiff-favorable constitutional rule announced by a court of appeals in the course of entering judgment in favor of the official defendant will bind future courts. See *Bunting* v. *Mellen*, 541 U.S. 1019, 1024 (Scalia, J., dissenting

from denial of certiorari) ("The [two-step] procedure gives rise to—*and is designed to give rise to*—constitutional rulings * * * with precedential effect."). If that were not the case, then the announcement would be pointless, as the same official could engage in the same conduct again and credibly claim that the illegality of his actions *still* was not clearly established. See *id.* at 1023-1024. These announcements are therefore meant to put not only the particular defendant official, but also all other similarly situated officials within the court of appeals' jurisdiction, on notice that they will henceforth face individual damages liability for engaging in certain conduct. See *Wilson*, 526 U.S. at 609 ("Deciding the constitutional question before addressing the qualified immunity question * * * promotes clarity in the legal standards for official conduct."); *Lewis*, 523 U.S. at 841 n.5. A court of appeals' constitutional determination in a case like this thus has an effect similar to an injunction or a declaratory judgment against the government as a whole. Cf. *Pearson*, 129 S. Ct. at 820 (observing that "constitutional decisions" like this "may have a serious prospective effect" on the "operations" of "affected parties").

The court of appeals in this case chose to follow the two-step *Saucier* protocol in order "to provide guidance to those charged with the difficult task of protecting child welfare." Pet. App. 18. The result was a ruling that the questioning of a suspected child-abuse victim "in the absence of a warrant, a court order, exigent circumstances, or parental consent [is] unconstitutional," *id.* at 36-37 (footnotes omitted), and an instruction to "government officials investigating allegations of child abuse" that they "should cease operating on the assumption that a 'special need' automatically justifies dispens-

ing with traditional Fourth Amendment protections in this context," *id.* at 43. That holding affects not only petitioners, but other state, local, and federal officials engaged in similar practices. It also casts doubt on federal law that expressly permits interviews of suspected child-abuse victims based on less than probable cause, and in the absence of parental consent. See 25 U.S.C. 3206(a) ("[I]nterviews of an Indian child alleged to have been subject to abuse in Indian country shall be allowed without parental consent if local child protective services or local law enforcement officials have reason to believe the child has been subject to abuse."); see S. Rep. No. 203, 101st Cong., 1st Sess. 3 (1989). Barring further review by this Court, officials within the court of appeals' jurisdiction now have the "unenviable choice" to "comply with the lower court's" opinion, or else to "defy the views of the lower court, adhere to practices that have been declared illegal, and thus invite new suits and potential punitive damages." *Pearson*, 129 S. Ct. at 820 (internal quotation marks, citation, and brackets omitted).

B. This Court Has Jurisdiction To Review A Constitutional Determination That Has Continuing Adverse Consequences For A Government Official Who Prevailed On Qualified-Immunity Grounds

An appellate ruling declaring that government action violated the Constitution, and warning officials not to engage in such conduct in the future, would generally be subject to further review. There is neither a legal nor a practical reason why the court of appeals' constitutional ruling here should be immune from such review simply because petitioners ultimately avoided personal damages liability at the second step of the *Saucier* analysis.

1. By statute, Congress has given this Court authority to review decisions of the courts of appeals on the petition of a prevailing party. The relevant jurisdictional statute provides that "[c]ases in the courts of appeals may be reviewed by the Supreme Court * * * [b]y writ of certiorari granted upon the petition of *any* party to any civil or criminal case, before or after rendition of judgment or decree." 28 U.S.C. 1254(1) (emphasis added). "The literal language of the §1254(1) reference to 'any party' is broad enough to encompass the successful or prevailing party before the court of appeals." Robert L. Stern et al., *Supreme Court Practice* 79 (8th ed. 2002) (Stern & Gressman); see *Bunting*, 541 U.S. at 1023 (Scalia, J., dissenting from denial of certiorari). And the expansive appellate-remedy statute—which allows this Court, among other things, to "modify" or "vacate" a lower-court "decree," and to "require such further proceedings to be had as may be just under the circumstances," 28 U.S.C. 2106—gives the Court the power to grant the prevailing party whatever relief may be appropriate.

2. This Court has previously recognized that "[i]n an appropriate case, appeal may be permitted from an adverse ruling collateral to the judgment on the merits at the behest of the party who has prevailed on the merits," limited only by the constraints of Article III. *Deposit Guar. Nat'l Bank* v. *Roper*, 445 U.S. 326, 334 (1980); see *ibid.* (noting that the prevailing party must "retain[] a stake in the appeal satisfying the requirements of Art[icle] III"); *Arizonans for Official English* v. *Arizona*, 520 U.S. 43, 64 (1997) ("The standing Article III requires must be met by persons seeking appellate review, just as it must be met by persons appearing in courts of first instance.").

In *Electrical Fittings Corp.* v. *Thomas & Betts Co.*, 307 U.S. 241 (1939), this Court considered the reviewability of a district court judgment in favor of the defendants in a patent suit, where the district court had held that the plaintiffs' patent was valid, but that the defendants had not infringed it. *Id.* at 241-242. The defendants, though they had prevailed, "asserted a concern that their success in some unspecified future litigation would be impaired by stare decisis or collateral-estoppel application of the District Court's ruling on patent validity." *Deposit Guar. Nat'l Bank*, 445 U.S. at 337. The Court held that the defendants could ask the court of appeals to "entertain [an] appeal, not for the purpose of passing on the merits, but to direct the reformation of the decree" to eliminate the validity ruling. *Electrical Fittings*, 307 U.S. at 242. The Court "had the question of mootness before it, yet because policy considerations permitted an appeal from the District Court's final judgment and because petitioners alleged a stake in the outcome, the case was still live and dismissal was not required by Art[icle] III." *Deposit Guar. Nat'l Bank*, 445 U.S. at 335.

The constitutional ruling in this case is "collateral to the judgment" on qualified-immunity grounds in the same way that the patent-validity ruling in *Electrical Fittings* was "collateral to the judgment" on noninfringement grounds. *Deposit Guar. Nat'l Bank*, 445 U.S. at 334. And this case is similarly "still live" for purposes of Article III. *Id.* at 335. Indeed, the adverse consequences of the ruling here—which prevents petitioners from engaging in a "routine investigative technique," 09-1478 Pet. 14; 09-1454 Pet. 11—are substantially more certain and imminent than the concerns about "unspecified future litigation" asserted by the appellants in *Elec-*

trical Fittings. See *Deposit Guar. Nat'l Bank*, 445 U.S. at 337; cf. *Friends of the Earth, Inc.* v. *Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167, 183-184 (2000) (recognizing standing to sue where plaintiffs refrained from certain activities based upon "reasonable concerns" of adverse consequences). Finally, to the extent that the reviewability decision in *Electrical Fittings* was based on "policy considerations" (*Deposit Guar. Nat'l Bank*, 445 U.S. at 335), the decision below—which concerns not the business dealings of private parties but the constitutionality of governmental activities—presents a considerably stronger case for appellate review. See *Bunting*, 541 U.S. at 1024 (Scalia, J., dissenting from denial of certiorari) ("It seems to me that [the qualified-immunity] situation is exactly what we had in mind when we said, in *Deposit Guaranty Nat. Bank*, that 'in an appropriate case' a petitioner may appeal an adverse collateral ruling despite having secured a favorable judgment.") (quoting 445 U.S. at 334; one set of brackets omitted).

That petitioners here, unlike the defendants in *Electrical Fittings*, seek an appellate opinion not only vacating part of the lower court's ruling, but also addressing its merits, is of little moment. The merits question simply bears on the *reason why* the requested appellate relief (vacatur of the adverse portion of the lower-court decision) would be granted, not on whether this Court has jurisdiction to grant that relief.

Nor, for Article III purposes, is it significant that the validity of the patent at issue in *Electrical Fittings* may have been of ongoing significance to the non-appealing parties, whereas this case concerns the constitutionality of a practice that may or may not be applied to S.G. again. The prospective impact of the court's decision on

the non-appealing parties played no role in the Court's decision in *Electrical Fittings*. And in any event, this Court has throughout its history heard and decided numerous cases in which the non-appealing party had little or no interest in defending the lower court's judgment. See, *e.g.*, *Pacific Bell Tel. Co.* v. *LinkLine Comm'cns, Inc.* 129 S. Ct. 1109, 1117 (2009) (refusing to dismiss the writ of certiorari for "'lack of adversarial presentation' by an interested party" where respondents asked for vacatur of the lower-court decision in their favor, and noting that "prudential concerns favor our answering the question presented"); *District of Columbia* v. *Heller*, 128 S. Ct. 2783, 2845 (2008) (Stevens, J., dissenting) (observing that "only one side appeared and presented arguments" in *Marbury* v. *Madison*, 5 U.S. (1 Cranch) 137 (1803)); see also, *e.g.*, Stern & Gressman 666 (describing cases in which "the Court invites [an] *amicus* to present an argument because for some reason no other counsel will be representing that side of the case"); *Pepper* v. *United States*, No. 09-6822 (argued Dec. 6, 2010) (amicus appointed in light of government's confession of error).[2] It makes little sense to conclude that there was a sufficient case or controversy below to allow the court of appeals to decide the constitutional question notwithstanding its ultimate determination that petitioners were entitled to qualified immunity, yet conclude that the constitutional ruling is unreviewable because that case or controversy is absent now.

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[2] Notably, respondent in this case filed a brief in opposition to the petitions for a writ of certiorari in which she defended the court of appeals' constitutional ruling. See Br. in Opp. 7 ("The Court should deny the Petition for Writs of Certiorari because the Ninth Circuit has correctly stated the law.").

That is not to say that constitutional rulings by courts of appeals in qualified-immunity cases will always be reviewable. It may well be that an official defendant who has prevailed on qualified-immunity grounds will lack standing to seek further review because there is an insufficient likelihood that he will again engage in the practice that has been ruled unconstitutional. Cf. *City of L.A.* v. *Lyons*, 461 U.S. 95, 105-106 (1983). But where, as here, a court of appeals' constitutional ruling effectively prohibits the official defendants from performing an important and recurring job-related function, Article III permits an appeal.

3. In the absence of either a constitutional or a statutory bar, the only potential impediment to review in this case is this Court's traditional "practice" of declining "to entertain an appeal by a party on an issue as to which he prevailed." *Bunting*, 541 U.S. at 1023 (Scalia, J., dissenting from denial of certiorari). That "general rule," however, "should not apply where a favorable judgment on qualified-immunity grounds would deprive a party of an opportunity to appeal the unfavorable (and often more significant) constitutional determination." *Ibid.*

For reasons already explained, see pp. 12-14, *supra*, such constitutional determinations have the potential to inflict real and serious consequences upon governmental officials, the institutions that employ them, and other governmental agencies. Furthermore, petitions seeking review of such determinations are likely to reach this Court only if (1) the court of appeals deems it useful to decide a constitutional issue adversely to the official defendant despite granting qualified immunity, and (2) the issue is important and recurrent enough that the defendant perceives the need for further review despite

having won below. A categorical refusal to review such determinations not only would be "unfair to the litigant (and to the institution that the litigant represents)" but also would "undermine[] the purpose served by initial consideration of the constitutional question, which is to clarify constitutional rights without delay." *Bunting*, 541 U.S. at 1024 (Scalia, J., dissenting from denial of certiorari). This Court can and should review the court of appeals' Fourth Amendment ruling in this case.

II. THE FOURTH AMENDMENT PERMITS REASONABLE WARRANTLESS INTERVIEWS AT PUBLIC SCHOOLS OF SUSPECTED VICTIMS OF PARENTAL ABUSE

As this Court's cases make clear, "[t]he ultimate touchstone of the Fourth Amendment * * * is reasonableness," and the inquiry into what is reasonable "must be shaped by * * * context." *Michigan* v. *Fisher*, 130 S. Ct. 546, 548 (2009) (per curiam) (internal quotation marks omitted) (quoting *Brigham City* v. *Stuart*, 547 U.S. 398, 403 (2006)), *Terry* v. *Ohio*, 392 U.S. 1, 9 (1968). The court of appeals in this case erred by reflexively importing a requirement of a warrant (or a traditional warrant exception) into a context—official questioning—where a warrant issued on probable cause generally has not been a prerequisite for reasonableness. Indeed, outside the context of an arrest (or its functional equivalent), the constitutionality of a seizure related to official questioning does not turn on the presence of probable cause at all, but instead depends on a balancing of the public and private interests involved. When justified by reasonable suspicion and conducted in a reasonable manner, the warrantless in-school interview of a suspected victim of parental abuse satisfies such a balancing test.

A. The Law-Enforcement-Related Interview Of A Suspect Or Witness Does Not Presumptively Require Either A Warrant Or Probable Cause

The Fourth Amendment, as interpreted by this Court, establishes various "rules and presumptions designed to control conduct of law enforcement officers that may significantly intrude upon privacy interests." *Illinois* v. *McArthur*, 531 U.S. 326, 330 (2001). "Sometimes those rules require warrants," but the Court has also found "that certain general, or individual, circumstances may render a warrantless search or seizure reasonable." *Ibid.* Official questioning, when it implicates the Fourth Amendment at all, has been one of the "general circumstances" in which a warrant, or a probable-cause-based warrant exception such as exigent circumstances, is not presumptively required. Official questioning often does not require probable cause, and sometimes does not even require individualized suspicion.

1. As an initial matter, official questioning, whether by the police or otherwise, frequently will not amount to a "seizure" under the Fourth Amendment. "Even when law enforcement officers have no basis for suspecting a particular individual, they may pose questions, ask for identification, and request consent to search" the person's effects without implicating the Fourth Amendment. *United States* v. *Drayton*, 536 U.S. 194, 201 (2002). Such official conduct does not rise to the level of a seizure so long as "a reasonable person would feel free to terminate the encounter," and the Fourth Amendment accordingly imposes no threshold requirements before an officer may engage in that conduct. *Ibid.*

In this case, petitioners have not challenged the lower courts' determination that the interview of S.G. in-

volved a seizure.[3] See Pet. App. 18, 62. The determination that a seizure occurred, however, is the beginning, rather than the end, of the Fourth Amendment inquiry, which then requires an analysis of whether the seizure is reasonable. *E.g.*, *McArthur*, 531 U.S. at 331.

2. The degree of official justification necessary for an investigatory seizure depends upon the nature of the seizure. A small class of particularly invasive seizures—namely, arrests of suspects in a private place—require a warrant supported by probable cause. See *Steagald* v. *United States*, 451 U.S. 204, 205-206 (1981); *Payton* v. *New York*, 445 U.S. 573, 586 (1980). Most seizures, however, do not. Police officers may, for example, arrest a suspect in public without a warrant, so long as the arrest is supported by probable cause. *United States* v. *Watson*, 423 U.S. 411, 417-418 (1976).

For seizures less intrusive than an arrest—a category that includes most seizures related to official questioning—probable cause is not necessarily required. See *Brown* v. *Texas*, 443 U.S. 47, 50 (1979). Rather, the "reasonableness" of such seizures "depends 'on a bal-

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[3] Even assuming that there was a seizure in this case, it is far from clear that all in-school child interviews would be seizures. So long as the child is asked to come to the interview voluntarily, and a reasonable person in the child's position would feel free to terminate the interview, no seizure has occurred. See, *e.g.*, *Florida* v. *Rodriguez*, 469 U.S. 1, 5-6 (1984) ("The initial contact between the officers and respondent, where they simply asked if [the suspect] would step aside and talk with them, was clearly the sort of consensual encounter that implicates no Fourth Amendment interest."); *Drayton*, 536 U.S. at 201. The fact that the child's freedom is otherwise restricted in the school environment does not by itself mean that the child is unable to terminate the interview. See *id.* at 203-206 (questioning of passengers on a bus not a seizure); *INS* v. *Delgado*, 466 U.S. 210, 218 (1984) (questioning of factory workers by agents blocking exits not a seizure); see also pp. 30-31, *infra*.

ance between the public interest and the individual's right to personal security free from arbitrary interference by law officers.'" *Ibid.* (quoting *Pennsylvania* v. *Mimms*, 434 U.S. 106, 109 (1977)). The Court's seminal opinion in *Terry*, for example, applied an interest-balancing approach to conclude that law enforcement officers may stop and question someone based upon reasonable suspicion that he is about to commit a crime. 392 U.S. at 8-22. The *Terry* reasoning has since been extended to permit reasonable-suspicion-based questioning in other contexts as well. See, *e.g.*, *United States* v. *Sharpe*, 470 U.S. 675, 682 (1985) (stop to investigate reasonable suspicion of ongoing criminal activity in vehicle); *United States* v. *Hensley*, 469 U.S. 221, 229 (1985) (stop to investigate reasonable suspicion of already-completed felony); *United States* v. *Brignoni-Ponce*, 422 U.S. 873, 881-884 (1975) (stop to investigate reasonable suspicion of alien-smuggling at border). An officer with reasonable suspicion to stop someone for questioning may detain him for the length of time reasonably necessary to confirm or alleviate the suspicion. *Michigan* v. *Summers*, 452 U.S. 692, 700 n.12 (1981); see *e.g.*, *United States* v. *Montoya de Hernandez*, 473 U.S. 531, 542-544 (1985) (upholding multi-hour airport detention of suspected international drug smuggler); *Sharpe*, 470 U.S. at 687-688 (upholding 20-minute traffic stop); cf. *United States* v. *Place*, 462 U.S. 696, 709-710 (1983) ("[A]lthough we decline to adopt any outside limitation for a permissible *Terry* stop, we have never approved a seizure of the person for the prolonged 90-minute period involved here and cannot do so on the facts presented by this case.") (footnote omitted).

The Court's decision in *Illinois* v. *Lidster*, 540 U.S. 419 (2004), applied a similar balancing approach to per-

mit suspicionless seizures of potential witnesses to crimes. The Court in *Lidster* upheld the constitutionality of a checkpoint established for the purpose of asking motorists whether they had information about a fatal hit-and-run accident that had occurred around the same time roughly a week before. *Id.* at 421-422. The checkpoint stops, the Court held, were constitutional despite the absence of any sort of individualized suspicion that the stopped motorists would have any information about the event. *Id.* at 424-425. The Court recognized the importance of such "information-seeking stop[s]," even where accomplished by a seizure. *Id.* at 425-426.

3. In concluding that a formal warrant requirement applies to the questioning of a suspected child-abuse victim in a public school, the court of appeals misinterpreted this Court's precedents in two critical respects. First, the court of appeals relied on its precedent concerning the warrantless entry of a home, declining to distinguish for Fourth Amendment purposes between entry of a home and an interview at school. See, *e.g.*, Pet. App. 21. This Court, however, has recognized that "physical entry of the home is the chief evil against which the wording of the Fourth Amendment is directed." *United States* v. *United States Dist. Ct.*, 407 U.S. 297, 313 (1972). For that reason, "searches and seizures inside a home without a warrant are presumptively unreasonable." *Groh* v. *Ramirez*, 540 U.S. 551, 559 (2004) (citation omitted); see p. 22, *supra* (noting the application of a warrant requirement to in-home arrests). No similar reasoning, however, presumptively requires warrants for seizures that occur elsewhere. See, *e.g.*, *McArthur*, 531 U.S. at 336 ("Temporarily keeping a person from entering his home, a consequence whenever police stop a person on the street, is consider-

ably less intrusive than police entry into the home itself in order to make a warrantless arrest or conduct a search."). Indeed, the home-protection rationale is particularly inapplicable to a seizure at a public school. See *Vernonia Sch. Dist. 47J* v. *Acton*, 515 U.S. 646, 654 (1995) (distinguishing the privacy interests of an individual in his home from the interests of children who "have been committed to the temporary custody of the State as schoolmaster").

Second, the court of appeals erroneously believed that the "direct involvement of law enforcement" in a child-abuse investigation militates in favor of requiring a warrant or exigent circumstances justifying an exception to the warrant requirement. Pet. App. 36. The court reached that conclusion by negative inference from this Court's so-called "special needs" cases. *Id.* at 29. In those cases, the Court has addressed circumstances in which "special needs, beyond the normal need for law enforcement, make the warrant and probable-cause requirement impracticable." *Griffin* v. *Wisconsin*, 483 U.S. 868, 873 (1987) (quoting *New Jersey* v. *T.L.O.*, 469 U.S. 325, 351 (1985) (Blackmun, J., concurring in the judgment)). The court of appeals concluded that these special-needs cases dictate that when law enforcement is involved, "the general law of search warrants applies." Pet. App. 36 (brackets and citation omitted).

This Court has expressly rejected the "dubious logic" that its cases upholding special-needs searches and seizures can be read implicitly to *restrict* the scope of permissible law-enforcement practices. *United States* v. *Knights*, 534 U.S. 112, 117 (2001). The Court has explained that a search or seizure may be "otherwise reasonable within the meaning of the Fourth Amendment"

irrespective of whether it is deemed reasonable under a special-needs analysis. *Id.* at 117-118; see, *e.g.*, *Samson* v. *California*, 547 U.S. 843, 855 n.4 (2006) (suspicionless searches may be reasonable in both special-needs and non-special-needs cases). As the many law-enforcement cases cited above demonstrate, the mere fact that a case directly involves law enforcement personnel and objectives does not automatically trigger a warrant requirement. See pp. 21-24, *supra*. The court of appeals erred in concluding otherwise.

B. Reasonable Warrantless Questioning Of A Suspected Parental-Abuse Victim In A Public School Is Consistent With The Fourth Amendment

A seizure for the purposes of interviewing a suspected parental-abuse victim at a public school, like most questioning-related seizures, falls within the class of seizures "less intrusive than a traditional arrest" that do not necessarily require probable cause, and to which this Court applies a balancing test to determine reasonableness. *Brown*, 443 U.S. at 50. Whereas an arrest involves accusation and the serious threat of prolonged incarceration or other punishment, an interview with a suspected *victim* of child abuse does not.[4] Cf. *Lidster*, 540 U.S. at 425 (distinguishing information-seeking stops from interrogation of suspects). As discussed further below, the liberty restrictions in such an interview (to the extent they exist) arise primarily from the custodial aspects of public schooling, rather than the presence of law-enforcement officers. See pp. 30-31, *infra*. And

[4] Because S.G. was not herself suspected of committing a crime, this case provides no occasion to address the circumstances under which an in-school interview with a suspect would be reasonable.

so long as such interviews take place on school grounds, do not involve physical restraint, and do not involve the commandeering of personal property, they lack the indicia of a custodial arrest. Compare, *e.g.*, *Montoya de Hernandez*, 473 U.S. at 544 (prolonged detention of uncooperative suspect in private airport office not considered an arrest), with *Florida* v. *Royer*, 460 U.S. 491, 502-503 (1983) (plurality opinion) (functional arrest where police in airport seized ticket, identification, and luggage of suspect waiting to board plane and took him to private room for interrogation); *Dunaway* v. *New York*, 442 U.S. 200, 212 (1979) (functional arrest where suspect was taken to police station and would have been restrained had he tried to leave).

To assess the reasonableness of this type of seizure, this Court looks to "the gravity of the public concerns served by the seizure, the degree to which the seizure advances the public interest, and the severity of the interference with individual liberty." *Lidster*, 540 U.S. at 427 (quoting *Brown*, 443 U.S. at 51). Under that rubric, a warrantless interview at a public school of a child whom officials reasonably suspect to be a victim of parental abuse is constitutional, so long as the interview is conducted in a reasonable manner.

1. Multiple important "public concerns" are "served by" the interview of a suspected victim of parental abuse, particularly parental sexual abuse. To begin with, it is "evident beyond the need for elaboration" that the governmental "interest in 'safeguarding the physical and psychological well-being of a minor' is 'compelling,'" and that "prevention of sexual exploitation and abuse of children constitutes a government objective of surpassing importance." *New York* v. *Ferber*, 458 U.S. 747, 756-757 (1982) (quoting *Globe Newspaper Co.* v.

Superior Ct., 457 U.S. 596, 607 (1982)); see Child Abuse, Domestic Violence, Adoption and Family Services Act of 1992, Pub. L. No. 102-295, § 102(a), 106 Stat. 189 ("[S]ubstantial reductions in the prevalence and incidence of child abuse and neglect and the alleviation of its consequences are matters of the highest national priority."). There is also a related, but distinct, governmental interest in the public-schooling context in assuring that the influences a child is under (even if those influences arise off-campus) do not impede the ability of that child, or of other children, to participate in school activities. See *Board of Educ. of Indep. Sch. Dist. No. 92* v. *Earls*, 536 U.S. 822, 829-831 (2002) (recognizing a similar interest in relation to drug abuse); *Acton*, 515 U.S. at 661-662 (same); Jill Goldman et al., Office on Child Abuse & Neglect, U.S. Dep't of Health and Human Servs., *A Coordinated Response to Child Abuse and Neglect: The Foundation for Practice* 37 (2003) ("Research has consistently found that maltreatment increases the risk of lower academic achievement and problematic school performance."), http://www.childwelfare.gov/pubs/usermanuals/foundation/foundation.pdf.[5]

2. A seizure of the sort that has been presumed in this case "advances the public interest" to a significant degree. If officials were required to have probable cause (in support of either a warrant or an exigent-circumstances exception) to interview a suspected child-

[5] Even outside the particular contexts of child abuse and public school, the federal government and the states have a strong general interest in the detection, prevention, and prosecution of crime. See *Terry*, 392 U.S. at 22; see also *Lidster*, 540 U.S. at 427 ("grave" public concern in investigation of fatal hit-and-run accident); *Place*, 462 U.S. at 703 ("[T]he public has a compelling interest in detecting those who would traffic in deadly drugs for personal profit.") (citation omitted).

abuse victim, at least some child-abuse investigations could be completely stymied. See generally Arizona Amicus Merits Brief. "Because of a lack of physical or medical evidence in most cases, and because [child-sexual-abuse] offenses by their nature typically take place in private, often the statements of the child who is the alleged victim are critically important, and perhaps the only, evidence." Frank E. Vandervort, *Videotaping Investigative Interviews of Children in Cases of Child Sexual Abuse: One Community's Approach*, 96 J. Crim. L. & Criminology 1353, 1354 (2006) (footnote omitted); see *Pennsylvania* v. *Ritchie*, 480 U.S. 39, 60 (1987) ("Child abuse is one of the most difficult crimes to detect and prosecute, in large part because there often are no witnesses except the victim."). It will therefore be difficult, if not impossible, in many cases to obtain probable cause *before* interviewing the child. See, *e.g.*, Mark Hardin, *Legal Barriers in Child Abuse Investigations: State Powers and Individual Rights*, 63 Wash. L. Rev. 493, 519 (1988); *id.* at 520 n.98; 5 Wayne R. LaFave, *Search and Seizure* § 10.3(a), at 105 (4th ed. 2004).

The court of appeals' recognition of an exception to the warrant requirement where the parent has consented to the questioning may help officers overcome those obstacles in some cases. But while there will surely be many cases in which parental consent can be sought and obtained, there will be other cases in which it cannot—for example, cases involving single-parent families or families where both parents are alleged to have participated in the abuse. And even in two-parent families where only one parent is suspected, the other parent may not be open to cooperating with investigators. National Ctr. for Prosecution of Child Abuse, American Prosecutors Research Inst., *Investigation*

and Prosecution of Child Abuse 94 (3d ed. 2004) (APRI) (in cases involving "an abusing and a nonabusing parent," the "nonabusing mother may protect the child" or "pressure the child not to talk about the abuse"); cf. Children's Bureau, U.S. Dep't of Health & Human Servs., *Child Maltreatment 2008*, at 7 (fig. 2-1), 70 (tbl. 5-3) (national study reporting that parents committed over 80% of cataloged instances of mistreatment, but made fewer than 7% of the cataloged reports of mistreatment), http://www.acf.hhs.gov/programs/cb/pubs/cm08/cm08.pdf. Furthermore, even if there is a possibility that parental consent might be obtained, there is a risk that asking for it, and thereby making the investigation known, will give a parent (or others) a chance to thwart the investigation by pressuring the child. See, *e.g.*, APRI 94 (observing that non-abusing parent may "persuade the child to recant the disclosure so the perpetrator does not face the criminal justice system"); *Child Abuse and Neglect: Hearing Before the Senate Select Comm. on Indian Affairs*, 100th Cong., 2d Sess. 41 (1988) (testimony by U.S. Attorney that colleagues of a teacher accused of child abuse "beg[a]n to work on the victims so that we c[ould]n't get a good statement from them").

3. Particularly when balanced against the importance of investigating child abuse and the impossibility of doing so if probable cause or parental consent are required, the "severity of the interference with individual liberty" of a reasonable in-school interview is not great.

Since a schoolchild already is subject to the custodial authority of the public-school system, any liberty restriction imposed by the interview itself is, at most, minimal. A child at school, whether interviewed or not,

"lack[s] * * * the right of liberty in its narrow sense, *i.e.*, the right to come and go at will," because her parents' authority to "control" her "physical freedom" has been "delegated" to school authorities. *Acton*, 515 U.S. at 654-655. Those school authorities can restrict both the child's ability to leave school grounds and the child's ability to move about school grounds without permission. Though the interview may require the child (in order to *protect* her privacy) to go to a special room, the interview does nothing to change the preexisting restraints on the child's freedom that are imposed by the school. Those restraints, which are ancillary to the interview itself, do not factor into the Fourth Amendment calculus. Cf. *INS* v. *Delgado*, 466 U.S. 210, 218 (1984) ("Ordinarily, when people are at work their freedom to move about has been meaningfully restricted, not by the actions of law enforcement officials, but by the workers' voluntary obligations to their employers."); *Florida* v. *Bostick*, 501 U.S. 429, 436 (1990) (observing that while bus passenger's movements "were 'confined' in a sense, * * * this was the natural result of his decision to take the bus; it says nothing about whether or not the police conduct at issue was coercive"). Simply put, "Fourth Amendment rights * * * are different in public schools than elsewhere," and "the 'reasonableness' inquiry cannot disregard the schools' custodial and tutelary responsibility for children." *Acton*, 515 U.S. at 656.

4. The reasonableness inquiry does, of course, require consideration not only of the degree of the seizure, but also of the manner in which it was conducted, including its length and other factors. See, *e.g.*, *McArthur*, 531 U.S. at 332. The court of appeals here, however, did not squarely address those issues in its constitutional analysis, instead deciding the Fourth Amendment ques-

tion based upon the application of a threshold warrant requirement. This Court need not decide in the first instance whether the interview in this case was conducted in a reasonable manner. To resolve this case, this Court need only hold that officials are not categorically barred from conducting in-school interviews of suspected child-abuse victims in the absence of a warrant (or equivalent court order), exigent circumstances, or parental consent.

To the extent the Court chooses to address the manner in which the interview was conducted, however, it bears mention that certain factors that appeared to concern the court of appeals in its qualified-immunity analysis—namely, the presence of an armed police officer, and the presumed two-hour length of the interview, see, *e.g.*, Pet. App. 40—did not necessarily render the interview unreasonable. As to the presence of the officer, this Court has observed that "[o]fficers are often required to wear uniforms and in many circumstances, this is cause for assurance, not discomfort," and that because it is "well known to the public" that officers are frequently armed, the "presence of a holstered firearm is * * * unlikely to contribute to the coerciveness of the encounter absent active brandishing of the weapon." *Drayton*, 536 U.S. at 204-205; cf. Sherry Bohannan et al., CAMI Program, Or. Dep't of Justice, *Oregon Interviewing Guidelines* 43 (2d ed. 2004) (noting that while some children might be intimidated by a uniformed officer, others will be comforted), http://www.doj.state.or.us/crimev/pdf/orinterviewingguide.pdf; Pet. App. 8 (stating that S.G. said she was "generally comfortable around police officers," that Alford did not scare her, and that she "trusted him"). And as to the length of the encounter, the relevant requirement is simply that any seizure

be "reasonably related in scope to the circumstances which justified the interference in the first place." *Terry*, 392 U.S. at 20. A child-abuse interview, particularly of a young child, may take much longer than a typical *Terry* stop, because the interviewer cannot necessarily put the questions to the child directly, and instead needs time to lay the ground rules (including possibly explaining the difference between telling the truth and lying), develop a rapport, and delve sensitively into the subject matter. See generally Harborview Ctr. for Sexual Assault and Traumatic Stress & Wash. State Crim. Justice Training Comm'n, *Child Interview Guide* (2006), http://centerforchildwelfare.fmhi.usf.edu/kb/trpi/Child%20Interview%20Guide.pdf. The fact that it may take some time to "verify or dispel" the reasonable suspicion that justifies child-abuse interviews does not make such interviews unreasonable. *Montoya de Hernandez*, 473 U.S. at 544; see, *e.g.*, *Summers*, 452 U.S. at 700 n.12.

CONCLUSION

This Court should vacate the judgment of the court of appeals on respondent's Fourth Amendment claim and remand the case with instructions to enter judgment for petitioners consistent with Fourth Amendment principles set forth by this Court.

Respectfully submitted.

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