No. 24-624

In the Supreme Court of the United States

WILLIAM TREVOR CASE, PETITIONER

v.

STATE OF MONTANA

ON WRIT OF CERTIORARI
TO THE SUPREME COURT OF MONTANA

BRIEF FOR THE UNITED STATES
AS AMICUS CURIAE SUPPORTING RESPONDENT

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QUESTION PRESENTED

Whether, in circumstances where there is an objectively reasonable basis to believe that emergency aid is necessary, the Fourth Amendment invariably requires probable cause as a prerequisite for warrantless entry into a residence.

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INTEREST OF THE UNITED STATES

This case concerns the circumstances under which the Fourth Amendment permits government officials to address an emergency by entering a residence without a warrant to provide aid to a person inside. Federal officials make warrantless entries into residences in a variety of emergencies that pose a threat to life and safety. The federal government also prosecutes cases in which state or local officials making such entries have encountered evidence of a crime. The United States therefore has a substantial interest in the resolution of this case.

INTRODUCTION

The Fourth Amendment protects against "*unreasonable* searches and seizures," U.S. Const. Amend. IV (emphasis added), making reasonableness central to Fourth Amendment analysis. Accordingly, the Fourth Amendment permits officers to enter a home without a

warrant to provide emergency assistance to someone inside when doing so would be "reasonable under the circumstances." *Brigham City* v. *Stuart*, 547 U.S. 398, 406 (2006). Petitioner contends that for a warrantless emergency home entry to be reasonable, the officer must have "probable cause" to believe that a person inside the home is in danger. That argument has no basis in constitutional text, history, or precedent. And by petitioner's own admission, it will inevitably result in the "tragic cost" of unprevented injuries. Pet. Br. 51. The overwhelming majority of people who actually suffer life-threatening emergencies inside the home and need immediate public assistance would not desire such a standard. This Court should not adopt it.

As a textual matter, the phrase "probable cause" in the Fourth Amendment attaches to "warrants," not all searches and seizures. Therefore, since emergency-aid entries do not require a warrant, the text does not require probable cause. Instead, the sole textual requirement is to avoid "unreasonable" entries, a standard that here does not equate to the criminal-investigation-focused concept of probable cause. As a historical matter, that standard responds to overzealous policing of criminal wrongdoing, not government officials' efforts to save lives in emergency situations. Indeed, the Founding-era common law recognized a robust necessity doctrine, under which even cherished property rights could give way when life and limb were at stake.

This Court accordingly has never required "probable cause" for an emergency-aid entry. Instead, it has found entries reasonable when officers have an "objectively reasonable basis for believing" that someone inside is in danger or needs medical help. *Brigham City*,

547 U.S. at 406. That standard does not invariably require probable cause. Instead, it allows courts and officers to consider the totality of circumstances, including not only the likelihood of an emergency but also its severity. And the standard's flexibility reflects the strong governmental interest in acting to preserve life and safety, the relatively limited nature of emergency-aid entries, and the ability of legislatures to address any problems that such entries may pose. There is no sound reason to abandon or undermine that preexisting approach by adopting an inflexible probable-cause standard that will impede first responders from saving lives.

STATEMENT

1. During a phone call with his ex-girlfriend J.H., petitioner threatened to commit suicide. Pet. App. 3a. Petitioner's "erratic" behavior on the call led J.H. to assume that petitioner had been drinking, and she became concerned when petitioner told her that "he was going to get a note or something like that" and planned to kill himself. *Ibid.*

After J.H. tried and failed to deescalate the conversation, she heard a "clicking" noise that sounded like a pistol cocking. Pet. App. 3a. When J.H. told petitioner that she was going to call the police, petitioner threatened to harm any officers who came to his home. *Ibid.* J.H. continued pleading with petitioner until she heard a "pop," followed by "dead air," leading J.H. to believe that petitioner had pulled the gun's trigger. *Ibid.*; J.A. 69.

J.H. reported the call to the police and then immediately drove to petitioner's house. Pet. App. 3a-4a. Three officers from the Anaconda-Deer Lodge County police department met her outside the house and spoke to her

about petitioner's threats of suicide. *Id.* at 4a, 33a. Recognizing that the situation was "very serious," one of the responding officers called the chief of police and asked him to come assist. J.A. 75-76.

While waiting for the chief to arrive, the responding officers approached petitioner's house to look for signs of injury or danger. Pet. App. 4a. The officers knocked on petitioner's door, but petitioner did not answer. *Ibid.* Nor did petitioner respond when the officers knocked on and yelled into an open window. *Ibid.* The officers continued walking around the outside of petitioner's house, shining their flashlights into the windows. *Ibid.* They saw empty beer cans and an empty handgun holster inside. *Ibid.* They also saw a notepad with a handwritten entry, which the officers believed to be a suicide note. *Ibid.*; J.A. 140.

After the officers had been there for about 30 minutes, the chief arrived, and the officers discussed their next steps. See J.A. 106. They knew that petitioner had a history of alcohol abuse and mental-health issues. Pet. App. 4a. The officers were aware, for example, that petitioner had previously threatened suicide at the local school where he taught and that the school had been locked down due to petitioner's possession of a weapon. *Ibid.* And on at least one other occasion, petitioner had appeared to attempt "suicide-by-cop," acting obstinately when interacting with law enforcement in an apparently deliberate attempt to provoke a lethal response. *Id.* at 5a.

On this occasion, the officers did not know whether petitioner had shot himself during his phone call with J.H., and if so, whether the shot was fatal. See J.A. 84-85. They did not consider applying for a warrant "because it wasn't a criminal thing," but they believed that

they might need to enter petitioner's home to assist him. J.A. 85; Pet. App. 4a. At the same time, the officers believed that if petitioner were alive, entry could be dangerous—both because petitioner had told J.H. that he intended to shoot any law enforcement that came to his home, and because of his previous attempt at "suicide by cop." Pet. App. 4a-5a. Concerned for their safety, two officers retrieved long-barrel guns from their patrol car, and one retrieved a ballistic shield from the station. *Id.* at 5a.

About 40 minutes after the responding officers had first arrived, the chief made the decision to enter petitioner's home. Pet. App. 5a. The officers opened the unlocked front door, loudly announced themselves, and continued to yell out as they walked through petitioner's home. *Ibid.* One of the officers, Sergeant Richard Pasha, was walking through an upstairs bedroom when he saw petitioner "jerk[] open" a closet curtain. *Id.* at 6a. Petitioner had an "'aggressive'" look on his face and "'gritted' teeth." *Ibid.* Sergeant Pasha also saw a "dark object," which looked like a gun, pointing out of the curtain from petitioner's waist. *Ibid.* Fearing that he was about to be shot, Sergeant Pasha drew his weapon and shot petitioner in the abdomen. *Ibid.* The other officers entered the room, and one immediately began administering first aid to petitioner. *Ibid.* Another officer then spotted a gun lying in a hamper next to petitioner. *Ibid.*

2. Petitioner was charged with assaulting a peace officer by pointing a gun at Sergeant Pasha. Pet. App. 6a; J.A. 4. Petitioner moved to suppress all evidence obtained as a result of the officers' warrantless entry into his home, arguing that the entry violated the Fourth Amendment. Pet. App. 6a-7a.

The Montana Third Judicial District Court denied petitioner's suppression motion. Pet. App. 35a. The court observed that petitioner's phone call to J.H. had "created [an] exigency," and that the officers were "clearly" dealing with "an emergency" that required them to enter petitioner's house. *Id.* at 42a; see *id.* at 34a. The court rejected petitioner's contention that the officers' response time was inconsistent with an exigency. *Id.* at 42a. The court acknowledged that officers did not enter petitioner's house until 30 to 40 minutes after they first arrived, but it emphasized that the officers "had to be careful" in entering, given petitioner's threat to shoot police who came to his house. *Id.* at 42a-43a. And the court explained that in such circumstances, one "would expect" the officers "to use more caution rather than just going in." *Id.* at 43a.

The case proceeded to trial, and the jury found petitioner guilty. Pet. App. 7a.

3. The Montana Supreme Court affirmed the denial of petitioner's suppression motion. Pet. App. 23a.

a. The Montana Supreme Court applied its "community caretaker doctrine," under which an officer may enter a home to conduct a "welfare check" when "'objective, specific and articulable facts'" would lead an "'experienced officer [to] suspect'" that a person inside "'is in need of help or is in peril.'" Pet. App. 9a, 12a-13a (quoting *State* v. *Lovegren*, 51 P.3d 471, 476 (Mont. 2002)). The court explained that, under the doctrine, an "officer may take appropriate action to render assistance or mitigate the peril," but only until the officer determines that the occupants are not in danger or no longer need assistance. *Id.* at 13a (citation omitted). And the court observed that the doctrine is consistent with this Court's decision in *Caniglia* v. *Strom*, 593 U.S.

194 (2021), which it read to "require[] reasonable exigency to enter a home, and probable cause of any seizure after that point." Pet. App. 11a.

The Montana Supreme Court rejected the argument that an officer's warrantless entry to provide emergency aid, as opposed to any subsequent seizure, requires some form of probable cause. Pet. App. 13a-15a. The court explained that requiring probable cause of a criminal violation would make no sense in the context of emergencies "wholly divorced from a criminal investigation." *Id.* at 14a. And the court declined to try to craft a modified "probable cause requirement" for emergency-aid situations, under which officers would need "probable cause to believe a person is in imminent peril and in need of help," rather than probable cause of a crime. *Id.* at 15a (quoting *id.* at 24a (McKinnon, J., dissenting)). The court explained that such a requirement would be "unprecedented," as the court had "only ever" applied "the probable cause standard" to an officer's belief "'that the suspect *has committed an offense*.'" *Ibid.* (quoting *State* v. *Stone*, 92 P.3d 1178, 1181 (Mont. 2004)).

Turning to the facts at hand, the Montana Supreme Court found that the warrantless entry into petitioner's home was lawful because "the officers were acting on 'objective, specific, and articulable facts from which an experienced officer would suspect that a citizen is in need of help.'" Pet. App. 16a (citation omitted). The court emphasized that the officers had received a report that petitioner was potentially intoxicated, suicidal, and armed, and then encountered evidence at petitioner's house "consistent" with that report, including "empty beer cans, an empty holster, and a notepad." *Ibid.* And

the court observed that in those circumstances, "the officers' entry and subsequent walk through the premises" were "appropriate for mitigating peril." *Id.* at 16a-17a.

The Montana Supreme Court accepted that once Sergeant Pasha shot petitioner, the encounter "'morphed' from a welfare check" to a seizure requiring probable cause of a crime. Pet. App. 17a (citation omitted). But the court explained that by then, probable cause of a crime existed because petitioner had pointed what appeared to be a pistol at Sergeant Pasha. *Ibid.*

b. Justice McKinnon dissented, joined by two other justices. Pet. App. 24a-32a. The dissenting justices would have held that the officers' warrantless entry into petitioner's home required both exigent circumstances and "probable cause to believe a person is in danger," *id.* at 28a, both of which they deemed to be lacking in this case, see *id.* at 29a-32a.

SUMMARY OF ARGUMENT

Home entries for the purpose of rendering emergency aid to an occupant are a well-recognized circumstance in which no warrant is required under the Fourth Amendment. The Fourth Amendment's text, this Court's precedents interpreting that text, and the history that informed the Amendment's enactment all indicate that such entries are subject to a constitutional standard of reasonableness—not an invariant requirement of probable cause. Petitioner's proposal to inflexibly require probable cause lacks any sound basis in law and would undisputedly lead to injury in practice. This Court should reject it.

I. The Fourth Amendment's text supplies no basis for an inflexible probable-cause requirement for emergency home entries. The Amendment's overarching

standard asks simply whether searches and seizures were "unreasonable," and the text requires "probable cause" only as the basis for a warrant. U.S. Const. Amend. IV. Where, as here, "a warrant is not required (and the Warrant Clause therefore not applicable), probable cause is not invariably required either." *Vernonia Sch. Dist. 47J* v. *Acton*, 515 U.S. 646, 653 (1995).

A rigid probable-cause requirement is particularly inappropriate for emergency-aid entries because "probable cause" is "rooted * * * in the criminal investigatory context." *O'Connor* v. *Ortega*, 480 U.S. 709, 723 (1987). The Framers crafted the Fourth Amendment's prohibition "against unreasonable searches," U.S. Const. Amend. IV, principally to guard against abusive searches for evidence of criminal activity. There is no indication that the prohibition extends a probable-cause requirement to emergency home entries, particularly when the common law of necessity at the time of its enactment recognized that homeowners' rights could yield in emergency situations.

In accord with text and history, this Court has eschewed a probable-cause requirement for emergency-aid home entries in favor of an assessment of their overall reasonableness under the circumstances. The Court has upheld emergency-aid entries where officers have an "'objectively reasonable basis for believing' that medical assistance was needed, or persons were in danger." *Michigan* v. *Fisher*, 558 U.S. 45, 49 (2009) (per curiam) (quoting *Brigham City* v. *Stuart*, 547 U.S. 398, 406 (2006)). That holistic standard accords with a "careful balancing" of interests that points to a "standard of reasonableness that stops short of probable cause." *New Jersey* v. *T.L.O.*, 469 U.S. 325, 341 (1985).

Governmental and public interests are at their zenith when officers act to protect life and safety. Meanwhile, individuals have little legitimate interest in preventing life-saving aid—indeed, they may welcome it—particularly because life-saving entries are typically less intrusive than criminal-investigatory searches. Accordingly, the standard that this Court has applied to emergency scenarios is neither textually nor conceptually equivalent to "probable cause" (or, for that matter, to the standard of "reasonable suspicion"). Instead, it puts the strength of the evidence alongside other factors—such as the severity of the possible harm—to enable an overall evaluation of the reasonableness of law-enforcement action.

Petitioner's counterarguments in favor of an inflexible probable-cause requirement lack merit. His sole support for the assertion that "probable cause" applies outside of the context of criminal investigation involved the criminal-adjacent context of investigations for municipal-code violations. See *Camara* v. *Municipal Ct.*, 387 U.S. 523 (1967). His contention that the "objectively reasonable basis" standard is "probable cause" by another name is simply an effort to rewrite the Court's words based on a cherrypicked description of probable cause in the criminal context. His reliance on the common law of affrays likewise conflates the criminal and noncriminal contexts and is mistaken on its own terms. And in his practical arguments, petitioner misbalances the interests at stake, underselling the governmental interests in saving lives and overstating individuals' interests in preventing emergency entries.

II. Under either the appropriate reasonableness standard or petitioner's proposed framework, the warrantless home entry in this case did not violate the

Fourth Amendment. The officers in this case were aware that petitioner had threatened suicide on the phone with his ex-girlfriend and had failed to respond to their knocking and yelling, and that there were empty beer cans, an empty holster, and a handwritten note in his house. That was undisputedly enough under the proper standard; it was also enough for probable cause; and it was, either way, enough to render the officers' actions lawful.

The officers faced a situation with "no easy or risk-free answers." *Barnes* v. *Felix*, 145 S. Ct. 1353, 1362 (2025) (Kavanaugh, J., concurring). They had reason to believe that petitioner had already shot himself while on the phone with his ex-girlfriend, but they could not be certain. If petitioner had not yet shot himself and the officers entered petitioner's home, then petitioner might attempt to shoot them. If they decided to leave, petitioner would still be suicidal, drunk, and alone in a house with a gun. Faced with those "highly stressful and unpredictable circumstances," *id.* at 1363, the officers reasonably decided to enter petitioner's home to prevent him from dying by suicide. Their emergency entry did not violate the Fourth Amendment.

ARGUMENT

Petitioner contends (Br. 19-33) that a warrantless entry into a home to provide emergency aid invariably requires "probable cause" that a person inside is in danger. But as a matter of text, history, precedent, and practicality, the lawfulness of a warrantless entry for purposes of rendering emergency aid depends on the overall "reasonableness of the entry," *Brigham City* v. *Stuart*, 547 U.S. 398, 404 (2006), not an invariant requirement of probable cause. Where, as here, officers "have an objectively reasonable basis for believing that

an occupant is seriously injured or imminently threatened with such injury," *id.* at 400, they may enter the home to provide assistance.

I. THE CONSTITUTIONALITY OF WARRANTLESS HOME ENTRIES FOR EMERGENCY AID TURNS ON THEIR OVERALL REASONABLENESS, NOT A RIGID REQUIREMENT OF PROBABLE CAUSE

This Court has recognized that the Fourth Amendment authorizes officers to enter a home without a warrant to perform emergency aid when they have an "'objectively reasonable basis for believing' that medical assistance was needed, or persons were in danger." *Michigan* v. *Fisher*, 558 U.S. 45, 49 (2009) (per curiam) (quoting *Brigham City*, 547 U.S. at 406). That flexible reasonableness standard reflects the text of the Fourth Amendment and the balance of interests at stake in emergency entries. There is no sound reason to replace it.

A. The Fourth Amendment Applies A General Reasonableness Standard To Warrantless Entries For The Purpose Of Emergency Aid

1. As the "text makes clear, 'the ultimate touchstone of the Fourth Amendment is reasonableness.'" *Riley* v. *California*, 573 U.S. 373, 381 (2014) (citation omitted). The Fourth Amendment generally provides that the right "against unreasonable searches and seizures, shall not be violated." U.S. Const. Amend. IV. And it more specifically provides that "no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." *Ibid.*

The Warrant Clause's probable-cause standard thereby provides a textual definition of reasonableness—but only where the Warrant Clause applies. "The text of

the Fourth Amendment does not specify when a search warrant must be obtained." *Birchfield* v. *North Dakota*, 579 U.S. 438, 456 (2016) (quoting *Kentucky* v. *King*, 563 U.S. 452, 459 (2011)) (brackets omitted). For searches "undertaken by law enforcement officials to discover evidence of criminal wrongdoing," this Court has explained that "reasonableness generally requires the obtaining of a judicial warrant," *Vernonia Sch. Dist. 47J* v. *Acton*, 515 U.S. 646, 653 (1995), which must be supported by "probable cause," U.S. Const. Amend. IV. But the Court has also recognized that not all home entries require a warrant. And "when a warrant is not required (and the Warrant Clause therefore not applicable), probable cause is not invariably required either." *Vernonia Sch. Dist.*, 515 U.S. at 653.

One context in which the Fourth Amendment permits officers to enter or search a home without a warrant is when they act for the purpose of rendering emergency aid. Such situations do not depend on the belief that a crime—as opposed to a medical or other emergency—has occurred, and they typically involve exigencies that do not readily allow for the delay of obtaining a warrant. See *Mincey* v. *Arizona*, 437 U.S. 385, 392 (1978); see also *Caniglia* v. *Strom*, 593 U.S. 194, 203 (2021) (Alito, J., concurring) ("[W]arrants are not typically granted for the purpose of checking on a person's medical condition."). Accordingly, this Court has recognized that "officers may enter a home without a warrant to render emergency assistance to an injured occupant or to protect an occupant from imminent injury." *Brigham City*, 547 U.S. at 403.

2. Because "a warrant is not required (and the Warrant Clause therefore not applicable)" for emergency-aid entries, the text of the Fourth Amendment does not

require "probable cause" for such entries. *Vernonia Sch. Dist.*, 515 U.S. at 653. Moreover, the phrase "probable cause" in the Warrant Clause has a distinctive meaning that is poorly suited, at best, for the context of emergency aid. Since the time of the Framing, "probable cause" for a search warrant traditionally has required "a fair probability that *contraband or evidence of a crime* will be found in a particular place." *Illinois* v. *Gates*, 462 U.S. 213, 238 (1983) (emphasis added); see, *e.g.*, *Locke* v. *United States*, 11 U.S. (7 Cranch) 339, 348 (1813) (noting that "the term 'probable cause,' * * * in all cases of seizure, has a fixed and well known meaning" of "a seizure made under circumstances which warrant suspicion").

Absent an expansive new interpretation of the term "probable cause" in the Fourth Amendment's text, it is difficult to see how the Warrant Clause's probable-cause requirement would apply to emergency-aid scenarios, which lie outside the "criminal investigatory context" in which "the concept of probable cause" is "rooted." *O'Connor* v. *Ortega*, 480 U.S. 709, 723 (1987). This Court has already recognized as much, explaining in multiple cases that the "standard of probable cause is peculiarly related to criminal investigations" and is "unhelpful when analysis centers upon the reasonableness of routine administrative caretaking functions." *South Dakota* v. *Opperman*, 428 U.S. 364, 370 n.5 (1976); see *Colorado* v. *Bertine*, 479 U.S. 367, 371 (1987) (same); *National Treasury Emps. Union* v. *Von Raab*, 489 U.S. 656, 667 (1989) (same).

3. The Framers would not have anticipated, let alone intended, that a government official would invariably need probable cause in order to enter a home to provide emergency aid to someone inside. The abusive practices

that were "[t]he driving force behind the adoption of the Amendment," *United States* v. *Verdugo-Urquidez*, 494 U.S. 259, 266 (1990), were practices aimed at uncovering violations of the law—not at protecting health and safety. As this Court has explained, the "Founding generation crafted the Fourth Amendment as a response to the reviled 'general warrants' and 'writs of assistance' of the colonial era, which allowed British officers to rummage through homes in an unrestrained search for evidence of *criminal* activity." *Carpenter* v. *United States*, 585 U.S. 296, 303 (2018) (emphasis added; internal quotation marks omitted); see *Payton* v. *New York*, 445 U.S. 573, 583 n.21 (1980); see also *Verdugo-Urquidez*, 494 U.S. at 266 (noting that writs of assistance typically "empower[ed] revenue officers to search suspected places for smuggled goods," while "general search warrants permitt[ed] the search of private houses, often to uncover papers that might be used to convict persons of libel").

Thus, in a famous 1761 speech denouncing the writs of assistance, James Otis specifically linked the need for "probable suspicion" to the search for "stolen goods" or contraband. As recorded by a young John Adams, who attended the speech, Otis argued that "a warrant from a Justice of the Peace *to search for stolen goods*" was lawful, and that such "special writs may be granted *on oath and probable suspicion*" that the officer "suspects such goods to be concealed in those very places he desires to search." John Adams, Notes of the Argument of Counsel in the Cause of Writs of Assistance, and of the Speech of James Otis, *in* 2 The Works of John Adams 524-525 (Charles Francis Adams ed., 1850) (first emphasis added). "[S]pecial warrants to search * * * houses specially named, in which the complainant has

before *sworn that he suspects his [stolen] goods are concealed*," he argued, "are legal." *Id.* at 524 (emphasis added). By contrast, Otis denounced writs of assistance, which had enabled officers to search houses "for uncustomed goods" based on "revenge, ill humor, or wantonness" rather than "probable ground." *Id.* at 525.

The Framers showed no similar skepticism of warrantless home entries for the purpose of providing emergency aid. To the contrary, Founding-era common law placed extremely "high value" on individual safety —"the life and limbs of a man." 1 William Blackstone, *Commentaries on the Laws of England* 126 (1765) (Blackstone). "[W]hatever [was] done by a man, to save either life or member, [was] looked upon as done upon the highest necessity and compulsion." *Ibid.* Accordingly, while "every man's house [was] looked upon by the law to be his castle," 3 Blackstone 288 (1768), the common law recognized that those property rights could give way when safety was at stake.

As a matter of "public necessity," even a private individual could intrude upon or destroy another's private property in order to keep the broader community safe. See *Case of the King's Prerogative in Saltpetre*, (1606) 77 Eng. Rep. 1294 (K.B.) 1294 ("[F]or saving of a city or town, a house shall be pulled down if the next be on fire."); *Respublica* v. *Sparhawk*, 1 U.S. (1 Dall.) 357, 362 (Pa. 1788). And the doctrine of private necessity permitted such intrusions in order to save individual lives. See *Mouse's Case*, (1609) 77 Eng. Rep. 1341 (K.B.) 1342 ("lawful" for a barge passenger to throw other passengers' property overboard to prevent the passengers from drowning in a storm). The common-law sources do not suggest that such intrusions were contingent on the existence of "probable cause." Rather, they reflect the

general recognition that health and safety concerns can take precedence over property rights in certain situations.

B. As This Court Has Recognized, The Fourth Amendment Allows Home Entries Based On A Reasonable Belief That Emergency Aid Is Required

Consistent with the text and history of the Fourth Amendment, this Court has assessed the constitutionality of emergency warrantless home entries by applying the classic Fourth Amendment reasonableness standard, without reference to the Warrant Clause's probable-cause requirement. See *Brigham City*, 547 U.S. at 406; *Fisher*, 558 U.S. at 48. The core lesson from the Court's decisions is that, for noninvestigatory actions, the Fourth Amendment's reasonableness standard does not automatically require a certain quantum of evidence in every case. Instead, officers must have an "objectively reasonable basis for believing" that emergency aid is necessary, *Brigham City*, 547 U.S. at 406—a standard with the flexibility to account for all of the circumstances and interests at issue.

1. Traditional reasonableness analysis supports a holistic inquiry into the case-specific justification for entering a home to provide emergency aid

Under a traditional reasonableness approach, courts determine whether an intrusion complies with the Fourth Amendment "by assessing, on the one hand, the degree to which it intrudes upon an individual's privacy and, on the other, the degree to which it is needed for the promotion of legitimate governmental interests." *Virginia* v. *Moore*, 553 U.S. 164, 171 (2008) (citation omitted); see *Scott* v. *Harris*, 550 U.S. 372, 383 (2007). "Where a careful balancing of [those] governmental and

private interests" points to "a Fourth Amendment standard of reasonableness that stops short of probable cause," this Court has "not hesitated to adopt such a standard." *New Jersey* v. *T.L.O.*, 469 U.S. 325, 341 (1985). And here, a rigid standard of probable cause would prevent officers from engaging in otherwise reasonable, only moderately intrusive, and highly desirable efforts at emergency aid.

a. In an emergency-aid scenario, government and public interests are at their apex because an officer is acting to protect life and safety. See *Scott*, 550 U.S. at 383 (observing that "ensuring public safety" is "the paramount governmental interest"). Consistent with the common law, this Court has recognized that "concern for the safety of the general public" can be an "immediate and constitutionally reasonable" basis for government action that might otherwise violate the Fourth Amendment. *Cady* v. *Dombrowski*, 413 U.S. 433, 447 (1973); see *Georgia* v. *Randolph*, 547 U.S. 103, 118 (2006) (observing that no question "reasonably could be" raised "about the authority of the police to enter a dwelling to protect a resident from domestic violence").

Indeed, officers are not simply permitted to investigate and address serious impending threats to public safety and health; society expects them to do so. See *Fisher*, 558 U.S. at 49 ("It does not meet the needs of law enforcement or the demands of public safety to require officers to walk away from [the] situation."). If officers have reason to believe that someone inside a home needs life-saving aid, and they nevertheless refrain from making emergency entry to render such aid, they will be "harshly criticized" for their inaction, 3 Wayne R. LaFave, *Search and Seizure: A Treatise on the Fourth*

Amendment § 6.6(a), 629 n.25 (6th ed. 2020) (LaFave)—especially if the person inside does not survive.

b. Entry to aid someone in danger of death or serious injury is also typically less intrusive to individual interests than other types of home entries. As a threshold matter, emergency-aid entries promote individual interests in health and safety. Although a person "may have regarded her house as her castle," it is "doubtful" that she would "want[] it to be the place where she die[s] alone and in agony." *Caniglia*, 593 U.S. at 203 (Alito, J., concurring); see *Tennessee* v. *Garner*, 471 U.S. 1, 9 (1985) (observing that a person's "fundamental interest in his own life need not be elaborated upon"). When someone inside a home needs life-saving emergency aid, the home is no longer that person's "defence against injury and violence." *Wilson* v. *Layne*, 526 U.S. 603, 609 (1999) (citation omitted). In that case, the danger exists inside the home, and rescue may come from outside its walls. Indeed, a life-saving measure may also be a property-saving measure, as in the case of a gas leak that threatens an imminent explosion.

A home entry to provide emergency aid will also often be less intrusive than an entry for the purpose of investigating crime or apprehending a suspect. Officers acting outside the criminal context are "not imbued with the adversarial spirit that so prompted" concern about warrantless entries in other contexts. Debra A. Livingston, *Police, Community Caretaking, and the Fourth Amendment*, 1998 U. Chi. Legal F. 261, 274 (1998) (Livingston). This Court has already recognized that even some investigatory searches—namely, administrative searches of residences for building-code violations—involve "a relatively limited invasion of the urban citi-

zen's privacy," because they are "neither personal in nature nor aimed at the discovery of evidence of crime." *Camara* v. *Municipal Ct.*, 387 U.S. 523, 537 (1967). Entries to provide emergency aid, which are wholly noninvestigatory and do not inherently "damage reputation or manifest official suspicion," Livingston 273, infringe even less on individual interests.

In addition, the noninvestigatory nature of an emergency-aid entry also limits the scope of the intrusion to measures objectively necessary to render the emergency assistance. Under the Fourth Amendment, the manner and scope of an entry into a home must be reasonable in relation to the public interest that objectively justifies it. See *Brigham City*, 547 U.S. at 406-407; see also, *e.g.*, *Michigan* v. *Clifford*, 464 U.S. 287, 294-295 (1984); *Mincey*, 437 U.S. at 393. An entry for the purpose of emergency aid will not ordinarily necessitate calling for a SWAT team, searching every nook and cranny of the house, or even visiting certain portions of it.

2. This Court's decisions on warrantless entries for emergency aid look to an officer's reasonable belief that such aid is required, not to the existence of probable cause

Under the "careful balancing" of the governmental and private interests explained above, a warrantless emergency entry to prevent death or serious injury can be reasonable even when the likelihood of danger "stops short" of the standard associated with "probable cause." *T.L.O.*, 469 U.S. at 341. When life and limb are at stake, an emergency entry based on a lesser degree of certainty—such as a "moderate chance" of imminent death—can still be reasonable. Cf. *Safford Unified Sch. Dist. #1* v. *Redding*, 557 U.S. 364, 371 (2009) (requiring

only "moderate chance" of wrongdoing under a "lesser standard" than probable cause). Accordingly, this Court's decisions specific to the emergency-aid context have adopted an approach that reflects the need for flexibility rather than rigidity.

In *Brigham City* v. *Stuart*, the Court held that a warrantless emergency entry was "plainly reasonable under the circumstances" because "the officers had an objectively reasonable basis for believing" that an "injured adult might need help" and that ongoing violence was occurring. 547 U.S. at 406; see *ibid.* (noting that the "manner of the officers' entry was also reasonable"). And in *Michigan* v. *Fisher*, the Court similarly held that an officer's warrantless home entry was "reasonable under the Fourth Amendment" because the officer had an "'objectively reasonable basis for believing' that medical assistance was needed, or persons were in danger" inside. 558 U.S. at 49 (citation omitted). In neither case did the Court engraft a probable-cause requirement atop that standard.

The "objectively reasonable basis for belie[f]" standard is neither textually nor conceptually equivalent to "probable cause"—or, for that matter, "reasonable suspicion of criminal activity," *Bailey* v. *United States*, 568 U.S. 186, 193 (2013) (describing *Terry* v. *Ohio*, 392 U.S. 1 (1968)). "Reasonableness" under the Fourth Amendment is evaluated under "the totality of the circumstances." *Ohio* v. *Robinette*, 519 U.S. 33, 39 (1996). Accordingly, the approach in *Brigham City* and *Fisher* allows courts to consider emergency entries case-by-case and holistically. Cf. *Caniglia*, 593 U.S. at 203 (Alito, J., concurring) (suggesting that analysis of emergency-aid entries turns on "the basic Fourth Amendment question of reasonableness").

In particular, the reasonable-belief standard, taken on its terms, permits officers and courts to account for not only the apparent likelihood of the danger at issue, but also its potential severity. Those two factors are often interrelated and will typically operate on a sliding scale: the more severe a danger, the less certain a reasonable officer would need to be about its occurrence for an emergency entry to be reasonable. See Akhil Reed Amar, *Fourth Amendment First Principles*, 107 Harv. L. Rev. 757, 802 (1994) ("[S]erious needs can justify more serious searches and seizures."); cf. *Graham* v. *Connor*, 490 U.S. 386, 396 (1989) (listing "severity of the crime at issue" as a relevant circumstance in evaluating Fourth Amendment reasonableness of use of deadly force).

If, for example, officers were aware that a relatively slim chance existed that a highly destructive bomb was about to detonate inside a house, the potential value of saving lives (and homes) in the neighborhood would make a warrantless entry reasonable. But a similarly slim chance that, say, someone inside broke his arm might not similarly justify home entry. The overall reasonableness standard of the Fourth Amendment, applied in *Brigham City* and *Fisher*, allows courts to consider those and other factors conjunctively, and permits officers "to graduate their response to the demands of any particular situation." *United States* v. *Montoya de Hernandez*, 473 U.S. 531, 542 (1985) (citation omitted).

In some cases, the officers might ultimately be wrong that a serious emergency was underway. But "[t]o be reasonable is not to be perfect, and so the Fourth Amendment allows for some mistakes on the part of government officials." *Heien* v. *North Carolina*,

574 U.S. 54, 60-61 (2014). That leeway is especially appropriate in life-or-death emergencies, which often involve "highly stressful and unpredictable circumstances." *Barnes* v. *Felix*, 145 S. Ct. 1353, 1363 (2025) (Kavanaugh, J., concurring). And the result of inaction would be injury or death to people who could have been saved through a justifiable and reasonable effort at emergency aid.

C. Petitioner's Efforts To Engraft A Probable-Cause Standard Onto The Reasonable-Belief Standard Are Unsound

Petitioner proposes (Br. 14, 19-33) layering a new standard onto Fourth Amendment emergency home entries, under which officers must always have "probable cause to believe someone is in urgent need of help" before they can enter. Borrowing from this Court's criminal cases, petitioner argues that officers should be prohibited from making a warrantless emergency home entry unless the facts support a "fair probability" or "substantial chance" that a danger exists inside. Br. 47 (quoting *Gates*, 462 U.S. at 238, 243 n.13). That requirement lacks any basis in the Constitution's text, Founding-era history, or this Court's precedents. And as a practical matter, it would deter emergency responders from providing aid to endangered, sick, and potentially fatally injured people. This Court has not interpreted the Fourth Amendment's prohibition against "*un*reasonable searches and seizures," U.S. Const. Amend. IV (emphasis added), to preclude such reasonable life-saving efforts, and it should not do so here.

1. Petitioner's only support for the assertion (Br. 17) that the concept of "probable cause has long been applied to non-criminal contexts" is *Camara* v. *Municipal*

Court, *supra*. But this Court has explained that *Camara*'s reference to a "probable cause" requirement for administrative search warrants was "referring not to a quantum of evidence, but merely to a requirement of reasonableness." *Griffin* v. *Wisconsin*, 483 U.S. 868, 877 n.4 (1987). And in any event, *Camara* concerned *investigative* searches—namely, inspections for violations of a municipal code, 387 U.S. at 534-539—that are distinct from noninvestigatory efforts at protecting health and safety.

A similar flaw undermines petitioner's reliance (Br. 28) on Founding Era-era treatises addressing in-home affrays. Common-law sources indicate that "a Constable ha[d] no Power to *arrest* a man"—in his home or elsewhere—"for an Affray done out of [the constable's] own View, without a Warrant from a Justice of the Peace." 1 William Hawkins, *A Treatise of the Pleas of the Crown* 137 (1716) (Hawkins) (emphasis added). Accordingly, some sources observed that a constable could not "break open the doors" in order "to arrest the affrayers" without having personally observed the affray. Joseph Chitty, *Practical Treatise on the Criminal Law* 56 (1816) (Chitty). But the requirement of personal observation was primarily tied to the arrest, rather than the emergency entry as such.

Affrays were not only emergencies but also "crimes." *Lange* v. *California*, 594 U.S. 295, 312 (2021). And the constable's general purview was "to preserve the Peace, not to punish the Breach of it." 1 Hawkins 137. Indeed, many of the quotations in petitioner's brief are from treatise chapters that focus on arrests, rather than entries into the home. See, *e.g.*, Br. 27 (quoting from chapter of Chitty titled "Of the arrest"). The personal-

observation requirement for arresting affrayers therefore does not support a categorical probable-cause requirement for all emergency home entries—particularly given that the latter requirement would be inconsistent with other aspects of the common law.

For one thing, the requirement of personal observation to arrest an affrayer yielded in cases where "a Felony were done or likely to be done." 1 Hawkins 137; see 1 Matthew Hale, *Historia Placitorum Coronae* 587 (1736) (suggesting that arrests based on another's information were permissible "if a felony be committed," but not "if there be only an affray"). Indeed, some sources suggested that for very serious felonies, even a private citizen could "break and enter the house of another in order to prevent him from murdering another who cries out for assistance," without having seen the attempted murder himself. Chitty 52-53 (citing *Handcock* v. *Baker*, (1800) 126 Eng. Rep. 1270 (C.P.) 1273). Thus, Founding-Era doctrine about home entries for affrays and felonies disclaimed a one-size-fits-all rule. Instead, it factored the severity of harm into the overall consideration of whether an officer or private individual had acted lawfully.

The common law of that era took a similar approach in the previously discussed context of allowing trespass prohibitions to yield in emergency-aid situations. See p. 16, *supra*. Even today, a private individual may enter another person's property without being liable for trespass if such entry "is *or reasonably appears to be* necessary to prevent serious harm" to someone inside who is not opposed to such aid. Restatement (Second) of Torts § 197 (1965) (emphasis added). And it has been the case since the Founding Era that "officers may generally take actions that 'any private citizen might do'

without fear of liability." *Caniglia*, 593 U.S. at 198 (citation omitted); see William Baude & James Y. Stern, *The Positive Law Model of the Fourth Amendment*, 129 Harv. L. Rev. 1821, 1840 (2016) (noting "the absence of any known historical instance of people complaining about a Fourth Amendment violation that was not also a positive law violation").

2. Petitioner acknowledges (Br. 24) that this Court's emergency-aid decisions in *Brigham City* and *Fisher* make no mention of "probable cause" that a danger exists. But he asserts (*ibid.*) that "*Brigham City's* 'objectively reasonable basis' requirement" nonetheless "sounds in probable cause." The apparent premise of that assertion is the supposition that *Brigham City*'s standard echoes the Court's occasional description of probable cause as "'a reasonable ground for belief of guilt.'" Br. 23 (quoting *Brinegar* v. *United States*, 338 U.S. 160, 175 (1949)). But *Brigham City* says nothing about "guilt." And petitioner's singularly selected formulation of probable cause is not the only way that the Court has described it. See, *e.g.*, *District of Columbia* v. *Wesby*, 583 U.S. 48, 57 (2018) (probable cause "requires only a probability or substantial chance of criminal activity") (citation omitted); *Gates*, 462 U.S. at 238 (describing standard as a "fair probability"); see generally, *id.* at 232 ("[P]robable cause is a fluid concept, * * * not readily, or even usefully, reduced to a neat set of legal rules.").

Furthermore, in other instances, the Court has made clear that "reasonable grounds" to believe something are *not* necessarily the same thing as "probable cause" to believe it. See *Griffin*, 483 U.S. at 872 (observing Wisconsin rule required probation officers to have "only 'reasonable grounds' (not probable cause) to believe

that contraband is present"). Given the possibility of confusion, if the Court in *Brigham City* "wanted to require" probable cause, it "surely would have said so," *Jones* v. *Mississippi*, 593 U.S. 98, 112 (2021). It did not.*

3. Petitioner's efforts (Br. 23-24) to derive support from decisions of this Court involving exigencies other than emergency aid are likewise misplaced. In *United States* v. *Santana*, 427 U.S. 38 (1976), for example, the Court merely noted that a previous case had "recognized the right of police, who had probable cause to believe that an armed robber had entered a house a few minutes before, to make a warrantless entry." *Id.* at 42 (citing *Warden* v. *Hayden*, 387 U.S. 294 (1967)). That observation, made in the context of a case concerning the warrant exception for hot pursuit, does not imply that officers must *always* have "probable cause" to believe that an exigency exists, no matter what type of exigency it is or what the surrounding circumstances are.

Nor did the Court obliquely adopt such a requirement in *Minnesota* v. *Olson*, 495 U.S. 91 (1990). In that case, the Court commented that the state supreme court had "applied essentially the correct standard in determining whether exigent circumstances existed," where that lower court had "apparently thought that in

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* Petitioner cites (Br. 25) a footnote in the United States' amicus brief in *Brigham City*, which stated that emergency-aid entries would require "an objectively reasonable belief—*i.e.*, probable cause" of a danger. U.S. Amicus Br. at 18 n.18, *Brigham City*, *supra* (No. 05-502). That footnote predated the Court's decision in that case, which applied a reasonable-belief standard, without equating it to probable cause. The government has subsequently endorsed that approach. See U.S. Amicus Br. at 11-13, *Caniglia*, *supra* (No. 20-157).

the absence of hot pursuit there must be at least probable cause to believe that one or more of the other factors" —such as "'risk of danger to the police or to other persons inside or outside the dwelling'"—"justifi[ed] the entry." *Id.* at 100 (citation omitted). But the lower court's decision explicitly noted that it was not addressing emergency aid. See *State* v. *Olson*, 436 N.W.2d 92, 97 (Minn.) ("The police knew that Louanne and Julie were with the suspect in the upstairs duplex with no suggestion of danger to them."), cert. granted, 493 U.S. 806 (1989). And this Court's opinion cannot be taken as an unexplained adoption of a probable-cause standard for emergency-aid cases, at odds with *Brigham City* and *Fisher*.

4. Petitioner additionally errs in suggesting (Br. 28-32) that traditional reasonableness interest-balancing favors adoption of a probable-cause requirement in emergency-aid cases. As a threshold matter, petitioner undersells the governmental interests at stake in the emergency context. Emergency home entries—which could be conducted not just by police, but by firefighters, paramedics, and others—save lives. Petitioner downplays (Br. 48-51) that critical benefit of warrantless entries for emergency aid, insisting that officers will have other potential alternatives for providing needed care, such as asking for consent to enter or calling someone else for assistance. Officers sometimes try those tactics first, and their opportunity and actions to do so can be factored into the reasonableness analysis. And courts are often not well equipped to second-guess what strategic response is appropriate for any particular emergency situation. Cf. *Barnes*, 145 S. Ct. at 1362 (Kavanaugh, J., concurring).

Petitioner also overstates the individual interest in preventing emergency entries. For the same reason that "someone inside the home may consent to (and perhaps even welcome) a warrantless entry" for the purpose of providing emergency aid, Pet. Br. 49, even a resident who is initially confused or angered by the entry may ultimately be quite glad that the officials entered. Even if the officials are mistaken in their reasonable belief that emergency aid is necessary, the resident may appreciate that the officials were trying to help him. A warrantless entry by, for example, paramedics or firefighters is unlikely to invite hostility or opposition. Unobjected entries are undoubtedly underrepresented in the case law, but that is because they are more likely to result in commendation than litigation.

5. Petitioner ultimately appears to acknowledge (Br. 51) that his proposed rule will mean some lives will be lost. That is a powerful reason to reject it. Although "[p]robable cause * * * is not a high bar," *Kaley* v. *United States*, 571 U.S. 320, 338 (2014), it cannot easily be transposed to noncriminal contexts. See p. 14, *supra*. Emergencies come in any number of varieties, including "apparent suicide attempt[s]," "seek[ing] an occupant reliably reported as missing," "check[ing] out an occupant's hysterical telephone call to the police," or responding to "screams in the dead of the night." LaFave § 6.6(a), at 638-639, 646-647. Particularly for officials—like firefighters, social workers, and paramedics—who may not apply probable-cause standards as commonly as police officers do, the application of such standards to such scenarios will be unpredictable. And the end result will be to deter reasonable home entries that would have prevented injuries and saved lives.

Petitioner is willing to accept the "tragic cost" of a probable-cause rule in the name of privacy. Br. 51. But the Fourth Amendment strikes a different, and more reasonable, balance. This Court has already adopted the Fourth Amendment's textual approach of reasonableness, which balances *both* public and private interests and allows officials to do the jobs that the public expects them to do. See, *e.g.*, *United States* v. *Tepiew*, 859 F.3d 452, 457 (7th Cir.) (emergency entry based on child's report that her one-year-old brother had sustained a head injury and had a puffy face), cert. denied, 583 U.S. 927 (2017); *Schreiber* v. *Moe*, 596 F.3d 323, 331 (6th Cir. 2010) (emergency entry where anonymous 911 call and circumstances at the scene made it reasonable to believe that father was beating his teenage daughter); *State* v. *Tran*, 545 P.3d 248, 254-255 (Utah 2024) (emergency entry after grandmother who was caring for a two-month-old baby in the home uncharacteristically failed to pick up another grandchild from school and failed to answer phone calls); *Gaetjens* v. *City of Loves Park*, 4 F.4th 487, 490 (7th Cir. 2021) (entry into woman's home based on information that her doctor and neighbor were unable to get in touch with her, and the woman's mail and garbage were piling up), cert. denied, 142 S. Ct. 1675 (2022).

The Court should not abandon the reasonableness approach and thereby encourage "officers to walk away" from life-or-death emergencies. *Fisher*, 558 U.S. at 49. If officers are overzealous, or engage in abusive or otherwise undesirable practices, the reasonableness standard is flexible enough to address those circumstances. In addition, legislatures can adopt tailored restrictions that address any systemic concerns that may arise. But the Fourth Amendment does not impose a

fixed floor that precludes reasonable action and impedes officials from carrying out community-protective functions.

II. THE WARRANTLESS ENTRY IN THIS CASE WAS REASONABLE UNDER THE CIRCUMSTANCES AND DID NOT VIOLATE THE FOURTH AMENDMENT

The warrantless entry into petitioner's home in this case complied with the Fourth Amendment because the officers had an objectively reasonable basis to believe that petitioner needed emergency life-saving aid. Before they even arrived at the house, the officers knew that petitioner had a history of mental-health issues, that he had threatened to commit suicide and talked about "get[ting] a note" (presumably a suicide note) while on the phone with J.H., and that J.H. had thought she heard the sound of a gun cocking and a "pop" before the line went dead. Pet. App. 3a-4a. Then, at the house, J.H.'s fears were corroborated when petitioner did not answer the officers' knocks and shouts, and the officers saw empty beer cans, an empty holster, and what looked like a suicide note through petitioner's windows. *Ibid.*

Petitioner does not meaningfully dispute that the officers had an objectively reasonable basis for believing that his life was in danger. Instead, he suggests (Br. 43-44) that the officers' 40-minute investigation before entry illustrates that the main risk was "suicide-by-cop," which would counsel against entry. But suicide and "suicide-by-cop" are not mutually exclusive risks. Rather, "suicide-by-cop" is simply one method of suicide. See *North Am. Co. for Life & Health Ins.* v. *Caldwell*, 55 F.4th 867, 870 (11th Cir. 2022). Even if petitioner's past attempts at suicide-by-cop suggested that he had some general preference for that method, a reasonable officer could reach the "common-sense conclusion[],"

Wesby, 583 U.S. at 58 (citation omitted), that petitioner's overarching goal that night was to die by suicide—and, based on J.H.'s information, that he might already have attempted it and might lie bleeding from a gunshot wound. The officers could also reasonably believe that, if petitioner had not already shot himself while on the phone with J.H., he might do so imminently if they left.

Rather than contest the officers' reasonable belief that entry was necessary to render emergency aid, petitioner mainly argues that the circumstances do not meet his own proposed probable-cause requirement. See Br. 44-45. But even if the Court's "reasonable basis" approach were equivalent to "probable cause," petitioner inappropriately attempts to "evaluate probable cause in hindsight," *Florida* v. *Harris*, 568 U.S. 237, 249 (2013). Petitioner contends (Br. 43) that the officers should have disbelieved that he shot himself while on the phone with J.H. because he "had a history of suicide threats that came to naught." But officers cannot be expected to ignore credible and corroborated reports of attempted suicide on that basis, particularly given that a history of prior suicidal gestures or attempts is a well-established risk factor for future suicide. See, *e.g.*, Gary R. Jenkins et al., *Suicide Rate 22 Years After Parasuicide: Cohort Study*, 325 BMJ 1155 (2002).

Petitioner also quotes (Br. 43-45) portions of the officers' discussions, captured on bodycam, to suggest that the officers themselves did not believe that petitioner imminently needed aid. Considered as a whole, however, those conversations reveal only that the officers knew that petitioner might not have shot himself yet, and that they faced mortal danger themselves if they were to enter. See State Ex. 1-3; see also J.A. 85, 153-154. Moreover, even if the discussions did indicate

that the officers did not subjectively believe that petitioner needed immediate aid, that would not make their entry unconstitutional. The relevant test "is not what [the officers] believed, but whether there was 'an objectively reasonable basis for believing'" that emergency assistance was needed. *Fisher*, 558 U.S. at 49 (citation omitted).

Accordingly, this Court should affirm the judgment below even if it ultimately adopts petitioner's proposed requirement of probable cause in the context of warrantless entries for emergency aid. See *Thigpen* v. *Roberts*, 468 U.S. 27, 30 (1984) (explaining that this Court can "affirm on any ground that the law and the record permit and that will not expand the relief granted below"). But the better route to affirmance—and the one more consistent with the Fourth Amendment—is simply to apply the Court's "reasonable basis" precedent according to its terms, which reflect a faithful implementation of the text and history of the Fourth Amendment. On that standard as well, the officers' actions were plainly reasonable and lawful.

CONCLUSION

The judgment of the Montana Supreme Court should be affirmed.

Respectfully submitted.

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