No. 25-178

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 2025

SARAH JONES, INDIVIDUALLY
AND ON BEHALF OF HER MINOR SON, A.J,
Petitioner,

V.

THE CITY OF LAURENTON, ET. AL.
Respondents.

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE THIRTEENTH CIRCUIT

BRIEF FOR PETITIONER
Team 15

QUESTIONS PRESENTED

I. Under the State-Created Danger Doctrine, does a police officer's deliberate indifference to a knowingly false assurance of safety given to an individual constitute the creation or enhancement of danger when the officer is aware of a recently detained person's violent tendencies and impending release?

II. Under the Fifth Amendment's Takings Clause, does a government action constitute a compensable taking when a city police department intentionally destroys a private residence during a law enforcement operation unrelated to any misconduct by the occupant?

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JURISDICTIONAL STATEMENT

This Court has jurisdiction over this matter under 28 U.S.C. § 1254(1). The judgment of the United States Court of Appeals for the Thirteenth Circuit was entered on February 14, 2025. A timely petition for a writ of certiorari was filed, and this Court granted certiorari on September 1, 2025.

STATEMENT OF THE CASE

I. Factual History

A. A Cry for Help

On the evening of September 8, 2023, Sarah Jones (hereinafter "Ms. Jones") did what every citizen would do when they are in need of help: she called the police. R. at 2. That night, Ms. Jones' former boyfriend, Mark Baker (hereinafter "Baker"), intoxicated and enraged, directed threats at both Ms. Jones and her ten-year-old son, A.J. id. Terrified that Baker's threats could potentially become lethal, Ms. Jones called the Laurenton Police Department (hereinafter "LPD") for protection. id. Shortly thereafter, Officers Trent and Williams arrived at her doorstep, where they witnessed a visibly angry Baker making open threats to Ms. Jones for calling the police. id.

Frantic and afraid, Ms. Jones pleaded her concerns to the officers. id. Ms. Jones explained to both officers that Baker possessed a handgun, other weapons, and most chillingly, a background in military explosives. id. Desperate to protect herself and her son, Ms. Jones asked Officer Trent whether she should vacate her home for the night. id. Officer Trent confidently assured her that Baker would "be locked up until at least the morning" because of an outstanding warrant for domestic assault in the neighboring county. id. That promise was no idle remark; it was a direct assurance from a state actor that Ms. Jones and her son could remain in their home and sleep in their beds without fear. id. Viewing the statement as an affirmative to her question, Ms. Jones chose to remain at her home that night. id.

B. Betrayal in an Hour of Need

As the officers left Ms. Jones' house with Baker in handcuffs, Officer Trent explained to Officer Williams what he promised Ms. Jones. id. Officer Williams quickly reminded Officer Trent of the Laurenton City (hereinafter "City") jail-overcrowding policy (hereinafter "Policy")

forbidding the execution of certain warrants when the county jail was over capacity. R. at 3. In response, Officer Williams called the jail and confirmed that the jail was indeed overcrowded. R. at 2. In that moment, the officers had a choice: to safeguard the Jones family they had just promised protection to, or to release a dangerous man back into the community. id. They chose the latter. id.

Pursuant to the City's Policy, the officers proceeded to transport Baker to his rental home. id. When they arrived, the officers confiscated Baker's handgun and released him. id. However, despite being aware of Baker's possession of alternative weapons, his documented history of domestic violence, and clear aggression towards Ms. Jones, neither officer notified Ms. Jones of Baker's release. id. Uninformed and alone, Ms. Jones was unaware that the very threat she tried to escape that evening was once again at large. id.

C. Fragments of a Broken Family

In the early hours of September 9, 2023, Baker retrieved and disguised two homemade bombs from his basement. id. Soon after, Baker transported the bombs to Ms. Jones' home, placing one Amazon-disguised package on the front porch and a second unmarked package on the back porch. id. Upon waking, Ms. Jones noticed the "Amazon" package on her porch. id. Believing it to be harmless, she carried it inside, where her son stood nearby. id. When she attempted to open it, the device exploded, tearing through her body, shattering her femur, searing her arms and face with third-degree burns, and permanently robbing her of hearing. R. at 2–3. A.J., caught in the blast radius, suffered a fractured arm, lung contusions, and severe psychological trauma. R. at 3. The explosion destroyed parts of their front porch and, more profoundly, their sense of safety. id.

But the nightmare was not over. id. Following the explosion, a neighbor called 911. id. While authorities transported Ms. Jones and A.J. to the hospital, the second bomb lay in wait. id. In accordance with protocol, the LPD Bomb Squad (hereinafter "Squad") arrived and deployed a

robot equipped with an X-ray system and an energetic tool designed to disrupt explosives. id. Unfortunately, the Squad's use of the energetic tool almost guaranteed that the bomb would detonate because Baker was not in custody and the bomb was sufficiently sophisticated. id. Predictably, the robot triggered the explosive, obliterating the back half of the Jones' residence, collapsing part of the roof, and rendering the structure unsound and uninhabitable. id. An expert concluded that the structure needed to be demolished and rebuilt, at an estimated cost of $385,000. id. In less than a day, the City and its actors abandoned a battered Ms. Jones and A.J., leaving them to collect the shattered pieces of their lives. id.

II. Procedural History

Ms. Jones filed suit against the City under 42 U.S.C. § 1983, alleging that the City was liable to her under (1) due process through the State-Created Danger Doctrine, and (2) the Fifth Amendment Takings Clause. R. at 4. The district court granted summary judgment in favor of the City on both claims. id. Ms. Jones appealed to the United States Court of Appeals for the Thirteenth Circuit, and on February 14, 2025, the court affirmed the district court's decision. R. 7–8. Acknowledging that the majority of circuit courts apply the State-Created Danger Doctrine, *see e.g.*, *Irish v. Fowler*, 979 F.3d 65, 73-74 (1st Cir. 2020), the Thirteenth Circuit declined to adopt it on the grounds that this Court has never embraced it. *See DeShaney v. Winnebago Cnty. Dep't of Soc. Servs.*, 489 U.S. 189 (1989); *see also*, *Fisher v. Moore*, 73 F.4th 367, 371 (5th Cir. 2023). Additionally, the Thirteenth Circuit rejected Ms. Jones' second claim under the Takings Clause. R. at 7. Applying *Lech v. Jackson*, the Thirteenth Circuit concluded that an exercise of valid police power does not result in a compensable taking. 791 F. App'x 711, 715–16 (10th Cir. 2019).

Accordingly, Ms. Jones timely petitioned for a writ of Certiorari; this Court granted Certiorari on September 1, 2025.

SUMMARY OF THE ARGUMENT

The matter before this Court is whether the Constitution, through the Fourteenth Amendment, obligates the State to protect and compensate individuals when state actors create or enhance dangers to their persons or property. This case presents a pivotal opportunity for this Court to recognize and clarify the circuit courts' scope of the State-Created Danger Doctrine and the constitutional protections afforded under the Takings Clause when law enforcement affirmatively exposes individuals to foreseeable harm.

First, the City and its officers violated Ms. Jones and A.J.'s constitutionally protected liberty interest. The Fourteenth Amendment's Due Process Clause provides substantive due process protections, including the fundamental right to bodily integrity and personal security, which cannot be infringed arbitrarily by government interference. In this case, Officers Trent and Williams, by their conduct, created or enhanced a risk of harm to Ms. Jones and A.J. that demands liability under the State-Created Danger Doctrine. In *Mitchell v. City of Benton Harbor*, 137 F.4th 420 (6th Cir. 2025), the court considered similar facts to determine if deliberate indifference by state actors sufficed. Here, Officer Trent's false assurance to Ms. Jones parallels such deliberate indifference. It is evidence of an affirmative act that led to Ms. Jones and A.J.'s physical injuries.

Second, Officers Trent and Williams, applying the City's Policy, affirmatively created the danger that caused catastrophic harm to Ms. Jones and A.J. While this Court has yet to formally recognize it, ten circuit courts actively apply the State-Created Danger Doctrine. The First Circuit, in *Irish v. Fowler*, recently crafted a test that meticulously evaluated and synthesized the various approaches of the other circuits. 979 F.3d at 75. Under the First Circuit's test, the officers affirmatively failed to correct the assurance made to Ms. Jones. This failure directly enhanced the danger specific to Ms. Jones and A.J., resulting in their direct harm. Ultimately, the officers'

actions shock the conscience due to their deliberate indifference to correcting the lie.

Lastly, the Fifth Amendment Takings Clause entitles Ms. Jones to just compensation. The destruction of Ms. Jones' home constitutes a physical and *per se* taking, depriving her of the property's value and use. Such a taking is not excused by police power or the Public-Necessity Doctrine. Furthermore, police are not categorically exempt from the Takings Clause because the Fifth Amendment ensures that government actors remain accountable for foreseeable or intentional property invasions. In this instance, the destruction of Ms. Jones' home was foreseeable and preventable. Therefore, the City and the LPD's refusal to provide just compensation is unconstitutional. In conclusion, this Court should reverse the Thirteenth Circuit's decision.

ARGUMENT

This Court should hold that the City and the LPD are liable to Ms. Jones under the State-Created Danger Doctrine and the Fifth Amendment's Takings Clause. The Fourteenth Amendment's Due Process Clause serves as the "touchstone" safeguarding an individual from arbitrary governmental action. *See Wolff v. McDonnell*, 418 U.S. 539, 558 (1974). Under the Fourteenth Amendment, no state shall "deprive any person of life, liberty, or property, without due process of law." U.S. Const. amend. XIV § 1. Additionally, under the Fifth Amendment, no person shall be deprived of property without just compensation. U.S. Const. amend V. Summary Judgment is appropriate where no genuine issue of material fact exists, and courts review such determinations *de novo*. *See Thompson v. District of Columbia*, 832 F.3d 339, 344 (D.C. Cir. 2016). In its review, courts draw all reasonable inferences in favor of the non-moving party. *See Tolan v. Cotton*, 572 U.S. 650, 656–57 (2014). This Court should reverse the Thirteenth Circuit's decision and find that (1) the officers' conduct gave rise to a state-created danger, and (2) the Squad's destruction of Ms. Jones' home resulted in a compensable Fifth Amendment Taking.

I. Under the Due Process Clause, the officers are liable to Ms. Jones.

First, the officers' conduct and application of the City Policy violated Ms. Jones' liberty interest under the State-Created Danger Doctrine. While the government does not bear an affirmative duty to prevent harm caused by third parties, under the Due Process Clause, the government is liable when it (1) creates or enhances a danger to an individual, or (2) when a special relationship exists between the government and an individual, severely restricting that person's ability to protect themselves. *See DeShaney*, 489 U.S. at 197–99; *see also*, *Irish*, 979 F.3d at 73, *cert. denied*, 142 S. Ct. 74 (2021). Here, Petitioner prays that this Court finds that the City and its officers violated Ms. Jones' liberty interest, recognizes the State-Created Danger Doctrine, and finds that Officers Trent and Williams' conduct enhanced a danger to Ms. Jones and A.J.

A. The City and its officers violated Ms. Jones' substantive due process rights.

First, the City and Officers Trent and Williams violated Ms. Jones' constitutionally protected liberty interest. This Court has recognized two components under the Fourteenth Amendment's Due Process Clause: procedural due process and substantive due process. *See e.g. Daniels v. Williams*, 474 U.S. 327, 337 (1986). Substantive due process protects individuals' fundamental rights to life, liberty, or property from arbitrary governmental interference without any legitimate justification. *See County of Sacramento v. Lewis*, 523 U.S. 833, 845–46 (1988). To establish a substantive due process violation, a plaintiff must demonstrate a deprivation of a fundamental right and provide a detailed description of the protected liberty interest. *Washington v. Glucksberg*, 521 U.S. 702, 720–21 (1997). The government's conduct must reflect deliberate indifference or reckless disregard for constitutional rights. *Daniels*, 474 U.S. at 331. Merely negligent behavior is insufficient. *Id.* Importantly, when the defendant is a municipality, liability attaches if the official policy, custom, or deliberate indifference attributable to the municipality

caused the deprivation, not the isolated act of its employees. *See Monell v. Dep't of Soc. Servs.*, 436 U.S. 658, 694 (1978) (holding municipalities liable under 42 U.S.C. § 1983).[1] Accordingly, Officers Trent and Williams deprived Ms. Jones and A.J. of their fundamental liberty interest.

Specifically, the City deprived Ms. Jones of her liberty interest in bodily integrity and personal security. *See, e.g.*, *Glucksberg*, 521 U.S. at 777-78 (citation omitted). This Court has consistently recognized that the Due Process Clause protects an individual's right to bodily integrity and personal security. *See Rochin v. California*, 342 U.S. 165, 172 (1952) (finding that police violated petitioner's right to bodily integrity when officers forced his mouth open and later pumped his stomach contents to obtain evidence without consent); *Youngberg v. Romeo*, 457 U.S. 307, 315–16 (1982) (holding that an involuntarily admitted mental patient had a constitutional right to be free from bodily harm and unreasonable restraint from the institution); *Cruzan v. Dir. Mo. Dep't of Health*, 497 U.S. 261, 281 (1990) (recognizing that an individual's right to refuse unwanted medical intervention); *Ingraham v. Wright*, 430 U.S. 651, 674 (1977) (emphasizing that the restraint and infliction of physical pain on a child implicates liberty interests).

In *Mitchell v. City of Benton Harbor*, the court held that a state actor violates a group or an individual's bodily integrity interest by misrepresenting the nature or magnitude of a known danger. *See, e.g.*, *Mitchell*, 137 F.4th at 441. The city issued misleading statements downplaying the severity of the lead contamination in the drinking water. *Id.* at 426-27. As a result, several hundred children drank lead-contaminated water from the city's public water system, thereby elevating the levels of lead in their blood. *Id.* at 424–25. The court reasoned that underplaying the contamination crisis represented a deliberate indifference that resulted in direct bodily harm. *Id.* at 437-38.

[1] In this case, the City does not dispute that *Monell*'s standard for liability has been met. R. at 4, n. 2.

In this case, Ms. Jones' liberty interest was implicated when Officers Trent and Williams affirmatively misled her. R. at 2. Like the misleading statements in *Mitchell*, which caused bodily harm to every child who drank the contaminated water, Officer Trent's assurance facilitated bodily harm to Ms. Jones and A.J. by creating a false sense of security in their persons. id. Additionally, where the physical harm to the children in *Mitchell* constitutes a violation of a protected liberty interest, Ms. Jones and A.J.'s injuries resulted in a violation of their protected liberty interest. id. Therefore, a liberty interest violation is not merely limited to direct physical intrusions, forced medical restraints, and unwanted treatments, such as those condemned in *Rochin*, *Youngberg*, and *Cruzan*. *See Rochin*, 342 U.S. at 172; *Youngberg*, 457 U.S. at 315–16; *Cruzan*, 497 U.S. at 281. Thus, injuries to bodily integrity that derive from falsely represented policy from state actors are the type of invasion the Due Process Clause forbids.

B. The State-Created Danger Doctrine is a real and enforceable protection of fundamental rights that this Court should adopt.

Second, this Court should adopt and apply the First Circuit's formulation of the State-Created Danger Doctrine. In *Irish v. Fowler*, the First Circuit formulated the following four factors: the Plaintiff must prove that (1) a state actor(s) took affirmative action that enhanced or created a danger to the plaintiff; (2) the action heightened a danger to the plaintiff, not the public; (3) the action resulted in plaintiff's harm; and (4) the actor's conduct, viewed in totality, shocks the conscience. *Irish*, 979 F.3d at 75.

While this Court has not specifically adopted the State-Created Danger Doctrine, ten circuit courts have recognized it and continue to apply varying standards. *See Irish*, 979 F.3d at 75; *Okin v. Vill. of Cornwall-on-Hudson Police Dep't*, 577 F.3d 415, 428 (2d Cir. 2009) (necessitating proof of affirmative acts or sustained inaction by state actors that create or increase the risk of danger to the victim); *Johnson v. City of Philadelphia*, 975 F.3d 394, 400 (3d Cir. 2020) (expecting a

showing of foreseeable harm to an individual, conduct that "shocks the conscience", a special relationship between the state and plaintiff, and affirmative acts by a state authority); *Doe v. Rosa*, 785 F.3d 429, 439 (4th Cir. 2015) (evaluating state-created or enhanced danger to private individuals and affirmative action); *Estate of Romain v. City of Grosse Pointe Farms*, 935 F.3d 485, 493 (6th Cir. 2019) (identifying affirmative acts, special danger to an individual, and knowledge of a risk of danger); *D.S. v. E. Porter Cnty. Sch. Corp.*, 799 F.3d 793, 798 (7th Cir. 2015) (reviewing affirmative acts, failure of the state to protect an individual, and conduct shocking the conscience); *Fields v. Abbott,* 652 F.3d 886, 891 (8th Cir. 2011) (requiring proof that a plaintiff is of a limited definable group, state conduct put the victim at risk, the risk is known by the state, reckless disregard to the risk, and conduct that shocks the conscience); *Kennedy v. City of Ridgefield*, 439 F.3d 1055, 1063 (9th Cir. 2006) (analyzing whether state authorities acted affirmatively with deliberate indifference creating foreseeable injury to the plaintiff); *Armijo ex rel. Chavez v. Wagon Mound Pub. Sch.*, 159 F.3d 1253, 1262, 1306 (10th Cir. 1998) (incorporating six factors which include a requirement that the risk was obvious or known); *Waddell v. Hendry Cnty. Sheriff's Off.*, 329 F.3d 1300, 1305 (11th Cir. 2003) (emphasizing that a state actor must act with "conscious disregard" toward a known risk); *Butera v. District of Columbia,* 235 F.3d 637, 654 (D.C. Cir. 2001) (recognizing liability when a state actor restrains an individual's ability to care for himself).

With all but one circuit recognizing some form of the State-Created Danger Doctrine, the First Circuit undertook the critical task of evaluating and synthesizing the various circuits' approaches to establish a coherent framework. *See Fisher*, 73 F.4th at 371. In conducting a survey of nine other circuits, the First Circuit established a workable and balanced standard for this Court to apply that faithfully supplements *DeShaney*'s holding. *See DeShaney*, 489 U.S. at 197–99

(holding that state actors do not have an affirmative duty to protect against private harm); *Irish*, 979 F.3d at 73. In light of persistent circuit splits, it is imperative that this Court adopt a uniform standard that preserves the doctrine and ensures consistent protection of individuals' fundamental rights nationwide.

C. Officers Trent and Williams created and enhanced a danger to Ms. Jones and A.J. under the State-Created Danger Doctrine.

Third, under the State-Created Danger Doctrine Officers Trent and Williams are liable for creating and enhancing a danger to Ms. Jones and A.J. This Court should hold Officers Trent and Williams liable under the First Circuit's State-Created Danger Doctrine framework, *see supra section I.B*., because (1) their failure to correct the assurance to Ms. Jones was an affirmative act, (2) that failure directly enhanced the danger specific to Ms. Jones and A.J., (3) the failure resulted in their direct harm, and (4) the failure to correct the assurance demonstrated the officers' deliberate indifference to Ms. Jones.

1. Officers Trent and Williams' assurance to Ms. Jones was an affirmative act.

First, Officers Trent and Williams took affirmative action when they assured Ms. Jones that she would be safe at her home. Affirmative action occurs when the state voluntarily acts in a way that enhances a danger to an individual. *See DeShaney*, 489 U.S. at 197 (taking physical control of the individual or limiting the victim's ability to protect themselves); *see Irish*, 979 F.3d at 79 (contacting victim's aggressor which triggered him to shoot the victim); *see Hemphill v. Schott*, 141 F.3d 412, 418–19 (2d Cir.1998) (providing the murder weapon used to kill the victim); *but cf.*, *Wood v. Ostrander*, 879 F.2d 583, 588 (9th Cir. 1989) (holding that continued refusal to act in the face of a known danger constituted affirmative action).

In *Kennedy v. Ridgefield*, the Ninth Circuit held that an officer's assurances of protection

to the victim constituted an affirmative act. *See Kennedy*, 439 F.3d at 1062. An officer promised the victim that he would notify her prior to contacting the alleged aggressor and that the police would patrol their neighborhood. *Id.* at 1058. However, when the officer contacted the aggressor and failed to provide said protections, the aggressor broke into the victim's home that evening and shot the victim and her family. *Id.* The court reasoned that the officer's assurance created and enhanced the danger, placing the victim in a false sense of security, which limited her ability to protect herself. *Id.* at 1063.

In this case, Officers Trent and Williams affirmatively acted to assure Ms. Jones that Baker would be detained and that staying home was safe. R. at 2. Similar to the officers' assurance to protect the victim in *Kennedy*, which created a false sense of security in the victim, Officer Trent's assurance to Ms. Jones that Baker would be booked created a false sense of security for her and A.J. id. These actions directly put her and her son at risk. id. When Ms. Jones asked whether she should leave her home, Officer Trent induced in her a false sense of security by affirming that Baker would be "locked up until at least the morning." id. To Ms. Jones, this assurance reinforced the idea that the home would remain safe, as she would have otherwise vacated it had Officer Trent corrected his statement that Baker could not be detained. id. Therefore, Officer Trent's assurance, which effectively became a lie, was an affirmative act that enhanced the danger to Ms. Jones and A.J.

2. <u>The officers' failure to correct the assurance enhanced the danger specific to Ms. Jones and A.J.</u>

Second, the officers' failure to correct the assurance enhanced the danger Baker posed specifically to Ms. Jones and A.J., rather than the public. A danger becomes particularized when it is evident that the danger will affect that person or a small group. *See Irish* 979 F.3d at 75; *Kennedy*, 439 F.3d at 1064–65; *contrast Okin*, 577 F.3d at 430–431 (emphasizing that the officer's dismissive

conduct encouraged the aggressor to continue abusing the victim); *with Waddell*, 329 F.3d at 1308 (recognizing that the confidential informant's intoxication did not create a specific risk to the individual).

In *Irish*, the court held that an officer's conduct can place a specific individual in harm's way when they disregard prior warnings about a known risk. *See Irish*, 979 F.3d at 79. The petitioner warned the authorities that her alleged rapist would react violently if he knew she contacted the police. *Id.* at 69. The officers understood this, but contacted the aggressor anyway, triggering him to hunt the petitioner down. *Id.* at 71. The court reasoned that a reasonable jury could properly conclude that the police officers' conduct increased the foreseeable harm specific to her. *See id.* at 79–80.

In this instance, Officer Trent's lie enhanced the foreseeability of danger to Ms. Jones and A.J. Like in *Irish*, where the officers were specifically aware that contacting the aggressor would lead to the victim's harm, Officers Trent and Williams were similarly aware that Ms. Jones would be in peril based on Baker's aggressive nature. R. at 2. Specifically, the officers observed a "visibly angry" Baker when they arrived at the home. id. In addition, the officers later discovered that Baker had an outstanding warrant for domestic assault charges in the neighboring county. id. Moreover, witnessing Baker's anger towards Ms. Jones and knowing that they could not book him, the officers could have reasonably concluded that upon release, Baker would only return to one place: back to Ms. Jones. id. Therefore, the officers' failure to correct the assurance after identifying its falsity enhanced a danger specific to Ms. Jones.

3. <u>Officers Trent and Williams' conduct caused Ms. Jones and A.J. to suffer direct physical harm.</u>

Third, the officer's false assurance cemented Ms. Jones' position at the home, which led to her and A.J.'s direct physical harm. A state actor can cause physical harm to an individual when

the officer assists an aggressor in causing harm to the individual or takes steps that lead to an individual's direct harm. *See Hemphill*, 141 F.3d. at 418–19 (holding that an officer assisted in harming the victim when the officer supplied the handgun used to shoot the victim); *see also*, *Ross v. United States*, 910 F.2d 1422, 1433 (7th Cir. 1990) (holding that an officer's denial of any rescue services, pursuant to county policy, resulted in the plaintiff's death); *Kneipp v. Tedder*, 95 F.3d 1199, 1210–11 (3d. Cir. 1996) (holding that officers conduct purposefully isolating an intoxicated person from support resulted in permanent injuries).

Here, Officers Trent and Williams assisted Baker in harming Ms. Jones by depositing him at his alternative residence. R. at 2. Like *Hemphill*, where the officers facilitated the shooting of the victim when they supplied a handgun to the shooter, Officers Trent and Williams enabled Baker to retrieve two homemade bombs when they released him. id. Although the officers confiscated the handgun Baker kept on his person, they were aware that Baker possessed additional weapons and was familiar with explosive devices. id. Had Officers Trent and Williams detained Baker, or even informed Ms. Jones that Baker would not be secured that night, Ms. Jones' shattered femur, third-degree burns to her face and arms, permanent hearing loss, and A.J.'s fractured arm, lung contusions, and severe psychological trauma would have been entirely preventable. id.

4. Officers Trent and Williams' conduct is conscience-shocking.

Fourth, the officers' deliberate indifference to their false assurance to Ms. Jones is conscience-shocking. To show deliberate indifference, it must be shown, "at a bare minimum, that the defendant actually knew of a substantial risk of serious harm and disregarded that risk." *Irish*, 979 F.3d at 75. In less-stressful environments, an actor's deliberate indifference may shock the conscience where the actor performs "multiple acts of indifference to a rising risk of acute and severe danger." *Id*. Alternatively, if the environment requires quick action or split-second thinking,

the law gives the state more deference. *Id.*; *see also*, *Lewis*, 523 U.S. at 853 (holding an officer's involvement in high speed police chase does not shock the conscience); *Whitley v. Albers*, 475 U.S. 312, 320 (1986) (holding officers' use of force in restoring order in the face of a prison riot does not shock the conscience); *Ryburn v. Huff*, 565 U.S. 469, 474 (2012) (noting that the threat of imminent violence necessitates split-second judgements).

In *Okin v. Vill. of Cornwall-on-Hudson Police Dep't*., the Second Circuit held that the officers' consistent deliberate indifference to the victim's domestic violence complaints was conscience-shocking. *Okin*, 577 F.3d at 432. The officers responded to the victim's twelve documented domestic violence calls, only to issue one investigative report. *Id.* at 420–27. The court reasoned that the dismissal of the victim's injuries, the "disregard of the obvious risks of a domestic violence situation, [and] the serious implications of [the victim's] complaints over a fifteen-month period" sufficiently demonstrated deliberate indifference to her. *Id.* at 432. Moreover, the court concluded that the officers' conduct in disregarding obvious warning signs may have "galvanized [the aggressor] to persist in violent encounters with [the victim]." *Id.*

Like in *Okin,* where the officers' indifference to the victim's safety shocked the conscience, the indifference of Officers Trent and Williams to the risk Baker posed to Ms. Jones shocks the conscience. Ms. Jones' call for help left no room for Officers Trent and Williams to misunderstand the risk of harm Baker posed. R. at 2. Furthermore, the environment lacked any intensity that would require Officers Trent and Williams to respond with split-second decisions. id. The officers could have notified Ms. Jones that they were going to release Baker because they had time to understand the consequences of the assurance and verify that the jail was overcrowded. R. at 2. Baker did not pose an immediate threat to the officers during that time as he was comfortably within police custody. id. With no risks, ample time, and total control of the situation, the officers

encouraged Baker to continue as he had before, unchecked and undeterred.

In contrast, the Fourth Circuit held in *Pinder v. Johnson* that a failure to incarcerate does not shock the conscience. *Pinder v. Johnson*, 54 F.3d 1169, 1175 (4th Cir. 1995). In *Pinder*, the victim's ex-boyfriend broke into her home, assaulted her, and threatened her life. *Id.* at 1171–72. When the victim asked the officers whether it was safe to leave her children at home while she returned to work, the officers assured her that her ex-boyfriend would remain in custody overnight. *Id.* Following his arraignment, the ex-boyfriend was released with a warning to stay away from the victim. *Id.* Disregarding this warning, the ex-boyfriend returned to the victim's home, setting it on fire and killing her children inside. *Id.* The court noted that the decision to release the ex-boyfriend, while unfortunate, was not conscience-shocking because if it was, every failure to incarcerate would result in civil liability. *Id* at 1175.

While Officer Trent's assurance to Ms. Jones resembles the promise to incarcerate in *Pinder*, which is not conscience-shocking, this assurance is distinguishable because Ms. Jones did not rely on his incarceration in her decision to stay at the home. R. at 2. Although there is a clear promise from Officer Trent to Ms. Jones to lock Baker up, the intent behind the promise was to guarantee her safety within the home. id. While both cases involved a broken promise to incarcerate, the conduct in this case is conscience-shocking. Unlike in *Pinder*, where the officers booked and presented the ex-boyfriend before a court, Officers Trent and Williams arbitrarily chose to release Baker instead of relying on the judicial process. id.

If this Court were to hold that the officers' false assurance did not violate a protected liberty interest, it would erode public trust in governmental authority, which is the foundation of state power. Individuals dial 911 because they believe officers will help them during their time of need. Ms. Jones did just that when she called for help that night. R. at 2. Specifically, she relied heavily

on Officer Trent's assurance so completely that she deferred to his judgment about her own safety. R. at 2. It was foreseeable to both Officer Trent and Officer Williams, who even corrected Officer Trent's misstatement, that Ms. Jones was depending on their authority to protect her from future harm. id. Given Baker's anger upon the officers' arrival and his imminent release, the officers should have been keenly aware that Ms. Jones was unsafe. id. By failing to correct Officer Trent's misstatement, the officers demonstrate deliberate indifference to a civilian who placed her trust in their protection. id. Therefore, under the State-Created Danger Doctrine, Officers Trent and Williams' affirmative conduct in assuring Ms. Jones that she was no longer safe constituted deliberate indifference that left her utterly helpless to protect herself from impending harm by Baker.

II. Even under valid police power, the Fifth Amendment requires the City to justly compensate Ms. Jones for the taking of her home.

Second, Ms. Jones is entitled to just compensation by the City and the LPD for the Fifth Amendment taking of her home. The Fifth Amendment's Takings Clause, applicable to the states through the Fourteenth Amendment, declares that "private property [shall not] be taken for public use, without just compensation." U.S. Const. amend. V. This clause protects individual property owners from government overreach and provides a mechanism for redressability through compensation. *See id.* This safeguard prevents the government from placing the entire burden on the individual, instead spreading the burden to the public who receives a benefit from the public good involved in the taking. *Id.*; *Armstrong v. United States*, 364 U.S. 40, 49 (1960). In this case, (1) the Officers' destruction of Ms. Jones' home constitutes a physical and *per se* taking under the Fifth Amendment, and (2) the LPD is not exempt from compensability to Ms. Jones under its police power or the Public-Necessity Doctrine.

A. The destruction of Ms. Jones' home is a compensable Fifth Amendment taking.

First, the LPD's destruction of Ms. Jones' home falls squarely within the bounds of a Fifth Amendment taking. Although eminent domain power offers the government broad latitude in seizing or taking control of private property, *see Kelo v. City of New London*, 545 U.S. 469, 489-90 (2005) (holding that application of eminent domain power to develop private property qualifies as public use), such takings are permissible only if the owner receives just compensation. *See Kohl v. United States*, 91 U.S. 367, 371 (1876) (holding that government seizure of private property necessitates just compensation). Takings are generally classified into two categories: physical takings and regulatory takings. *See Kohl*, 91 U.S. at 367 (addressing physical takings); *see also*, *Penn. Cent. Transp. Co. v. City of New York*, 438 U.S. 104, 138 (1978) (defining regulatory takings). Physical takings occur when the government directly appropriates an individual's property. *See Kohl*, 91 U.S. at 367. Alternatively, regulatory takings arise when government regulations excessively restrict the use of property. *See Penn. Cent.*, 438 U.S. at 138. Importantly, a *per se* taking can occur during a permanent physical invasion or when an owner is deprived of all economic benefit. *See Loretto v. Teleprompter Manhattan CATV Corp*., 458 U.S. 419, 434-35 (1982); *see also*, *Lucas v. S.C. Coastal Council*, 505 U.S. 1003, 1015–16 (1992). Here, the Squad's destruction of the Jones' home is (1) a physical taking and (2) a *per se* taking.

1. <u>The LPD's destruction of Ms. Jones' home is a physical taking.</u>

First, the Squad's detonation of the back-porch bomb, which destroyed Ms. Jones' home, can simply be defined as a physical taking. Physical takings encompass a broad range of government interference. *Arkansas Game and Fish Comm'n v. United States*, 568 U.S. 23, 31 (2012). In determining a physical taking, courts analyze whether any government action physically invaded, occupied, or appropriated private property temporarily or permanently *See, e.g., Kohl*, 91 U.S. at 371 (upholding the federal government's right to take land to build a post office so long as

just compensation was rendered); *DeVillier v. Texas*, 601 U.S. 285, 293 (2024) (holding that physical takings include government action that leads to indirect effects on private property, such as road construction that caused flooding to neighboring homeowners); *Cedar Point Nursery v. Hassid*, 594 U.S. 139, 146-47 (2021) (recognizing that government-authorized entry of third-parties onto private property qualifies as a physical taking). Physical takings can be classified as either explicit or implicit. *See Kohl*, 91 U.S. at 371 (holding that government confiscation of private land for public use is an explicit taking); *Kelo*, 545 U.S. at 484 (holding the appropriation of a neighborhood for a private development plan is an explicit taking); *Cedar Point Nursery*, 594 U.S. at 146-47 (holding that government-authorized interference on private property is an implicit taking); *Loretto*, 458 U.S. at 438–39 (holding that installation of a minor electrical cable without seizure still constitutes an implicit taking). Here, the Squad's detonation of the bomb signified a physical taking because they invaded and appropriated Ms. Jones' property, and that taking deprived her of the complete use of her home.

Second, a government's appropriation of private property, whether permanent or temporary, intermittent or continuous, is a physical taking. *Cedar Point Nursery*, 594 U.S. at 153. In *Cedar Point Nursery v. Hassid*, this Court held that a California regulation forcing agricultural property owners to grant access to their private lands for labor organizations qualified as a physical taking. *Id.* at 143. The regulation stipulated that the labor organizations were allowed to access their properties for up to three hours per day for a period of 120 days. *Id.* The Court reasoned that because the labor organizations were granted access to the property under state law, the regulation was a physical taking because it bypassed the owner's consent and control over their properties. *Id.* at 151. This Court concluded that because "the government appropriated a right to [physically] invade, compensation was due" to the property owners. *Id.* at 156.

Third, regardless of the scale or nature of the intrusion, any appropriation results in a physical taking. *See Loretto*, 458 U.S. at 441. In *Loretto v. Teleprompter Manhattan CATV Corp.*, this Court held that a state law forcing the installation of television cables in the petitioner's residence was a physical taking. *Id.* The respondent installed a cable that was less than an inch thick on the exterior of the petitioner's property. *Id.* at 430. In finding that a physical taking had occurred, the Court reasoned that any physical occupation, even one as unintrusive as a small cable, constituted a permanent occupation that effectively destroyed the owner's property rights. *Id.* at 435. Additionally, the Court unequivocally held that the petitioner was entitled to just compensation. *Id.* at 441.

Here, the Squad's use of a robot to detonate Baker's second bomb resulted in a temporary physical intrusion of Ms. Jones' property. First, like the physical taking in *Cedar Point Nursery*, where union organizers temporarily intruded onto private land, the Squad's robot temporarily intruded onto Ms. Jones' property. R. at 3. Second, unlike *Cedar Point Nursery*, where the intrusion caused minimal disruption and the land remained intact, the Squad's actions leveled half of Ms. Jones' home and rendered it completely uninhabitable. id. Because this Court held in *Cedar Point Nursery* that even temporary entry onto otherwise unaffected land was a compensable taking, it cannot be said that the Squad's destruction and prolonged deprivation of Ms. Jones' home is not similarly a physical taking. id. Moreover, the Squad's conduct falls within this Court's established articulation of a physical taking.

In addition, the Squad's detonation of the bomb is a physical intrusion that qualifies as a physical taking. Unlike in *Loretto*, where the small and unobtrusive cable proved to be a physical taking, the Squad's actions in rendering the home uninhabitable definitively constituted a physical taking. id. An expert testified that the house was so unsound that demolition and ultimate

reconstruction were the only viable options. id. The expert further estimated the damage amount to equal $385,000. id. Although Ms. Jones' home can be rebuilt, the home's indeterminant reconstruction does not recognize the deprivation that occurred. id. Until the home is rebuilt, the City has effectively forced Ms. Jones to rebuild her life. id. Therefore, this physical taking is far more severe in both scale and consequence than the intrusion in *Loretto*. *See Loretto*, 458 U.S. at 441. Even the *Loretto* Court recognized that the smallest intrusions necessitate compensation. *Id.* Thus, the detonation and destruction of Ms. Jones' home is a physical taking and Ms. Jones is entitled to compensation.

2. The LPD's complete destruction of Ms. Jones' home is a *per se* taking.

Second, the Squad's detonation of the bomb resulted in a *per se* taking. A *per se* taking occurs when the government appropriates or invades an individual's property interest or has the effect of depriving them of the property's economic value. *See Cedar Point Nursery*, 594 U.S. at 153; *see also*, *Lucas*, 505 U.S. at 1031-32. The brevity of the government-authorized entry onto property is inconsequential to an owner's fundamental right to exclude. *Cedar Point Nursery*, 594 U.S. at 153. Specifically, it is the infringement on the owner's fundamental right to exclude that is a key consideration for what signifies a *per se* taking. *Id.* at 153; *Loretto*, 458 U.S. at 430. *Per se* takings, like all takings, mandate just compensation. *Cedar Point Nursery*, 594 U.S. at 153; *Lingle v. Chevron U.S.A. Inc.*, 544 U.S. 528, 537 (2005). Here, the Squad's destruction of Ms. Jones' home is a *per se* taking because (1) the detonation physically appropriated her use of the home and (2) the destruction denied Ms. Jones' property right to exclude.

First, government-authorized intrusion onto private property is a physical appropriation that results in a *per se* taking. *See Cedar Point Nursery*, 594 U.S. at 153. In *Cedar Point Nursery*, this Court held that a California regulation created an easement-like right of access that violated

the private landowners' right to exclude state-sponsored agents. *Id.* at 151 (citations omitted). The Court emphasized that the mere allowance and presence of strangers violated an owner's right to exclude and thus constituted a *per se* taking. *Id.* Like the government-authorized access in *Cedar Point Nursery*, which bypassed the property owner's right to refuse access, the Squad's efforts to defuse the bomb necessarily bypassed Ms. Jones' ability to have any say in what happened to her property. R. at 3. Importantly, the Squad's decision to deploy the robot, which triggered the bomb, violated her right to exclude because it eliminated her ability to cast dominion over her property. id. The Squad's actions in denying Ms. Jones' right to exclude destroyed one of the core principles of property ownership: the right to use and enjoy the property itself. id. Therefore, in one fell swoop, the Squad extinguished Ms. Jones' fundamental property rights by creating a clear, compensable *per se* taking. id.

Second, government action that "denies all economically beneficial or productive use of land" is a *per se* taking. *Lucas*, 505 U.S. at 1015. In *Lucas*, this Court held that South Carolina's regulation prohibiting economic development in a protected coastal area rendered a real estate developer's property effectively worthless. *Id.* This Court reasoned that when government action causes total devaluation of an owner's property interest, such deprivation is the functional equivalent of a physical appropriation and is a *per se* taking. *Id.* In this instance, Ms. Jones' home was significantly reduced in value and, more importantly, was rendered uninhabitable. R. at 3. Similar to the total economic deprivation in *Lucas*, which left the owner with no productive use of the land, the uninhabitability of Ms. Jones' property eclipsed the mere economic deprivation suffered in *Lucas*. id. But by rendering the home uninhabitable, the Squad essentially deprived Ms. Jones of the most important use of all: the ability to live in it. id. Therefore, the significant loss of value and use of Ms. Jones' home sufficiently demonstrates a compensable *per se* taking.

B. Police power is subject to the Fifth Amendment's Takings Clause.

Second, the LPD's police power is not exempt from the Takings Clause. Police power is an elusive and vaguely defined legal concept. *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560, 569 (1991) (defining police power as the states' "authority to provide for the public health, safety, and morals" of its population). While this Court distinguishes between eminent domain power and police power in assessing compensation, *see Mugler v. Kansas*, 123 U.S. 623, 668–69 (1887), police power is not without its constitutional limits. *See Amerisource Corp. v. United States*, 525 F.3d 1149, 1155 (Fed. Cl. 2008) (noting that use of police power in an investigative capacity is still limited by the Fifth Amendment). Some courts categorically exclude police power from takings claims, while others apply the narrow Public-Necessity Doctrine to police power. *See United States v. Caltex*, 344 U.S. 149, 154–56 (1952) (declaring that police are immune from takings claims if a significant public necessity exists); *see also*, *Lech v. Jackson*, 791 F. App'x 711, 717 (10th Cir. 2019) (holding that police are categorically exempt from takings claims in any scenario). Here, the Squad's detonation of the bomb (1) renders the Public-Necessity Doctrine inapplicable, (2) undermines the applicability of this doctrine, and (3) voids the categorical exemption from Takings Clause scrutiny.

1. The Public-Necessity Doctrine is inapplicable.

First, the City and the LPD cannot apply the Public-Necessity Doctrine because there was no imminent harm to persons. This doctrine is rooted in the principle that "[u]ncompensated destruction of property has been occasionally justified by reason of war, riot, pestilence or other great public calamity." *Baker v. City of McKinney*, 84 F.4th 378, 388 (5th Cir. 2023) (citation omitted). Courts have held that a "public calamity" requires a high level of danger and imminency. *See TrinCo Inv. Co. v. United States*, 722 F.3d 1375, 1378 (Fed. Cl. 2013). Accordingly, the

government entities bear the burden of demonstrating that the circumstances qualify as a necessity. *See Milton v. United States*, 36 F.4th 1154, 1162 (Fed. Cl. 2022). Property destruction is necessary only in a narrow sense "to prevent imminent harm to persons." *Baker*, 84 F.4th at 388. Courts have primarily approved the destruction of private property in calamitous situations involving the spread of large, uncontrollable, public fires. *See Bowditch v. Boston*, 101 U.S. 16, 18 (1879) (justifying the lack of remedy for a homeowner who lost his property in the government's attempt to prevent a fire); *see also*, *Steele v. Houston*, 603 S.W.2d 786, 791 (Tex. 1980) (qualifying that the decision to destroy a burning home must be subject to pertinent procedural requirements).

Destruction of private property under police power is justified only when there is imminent harm to persons. *Baker*, 84 F.4th at 388. In *Baker v. City of McKinney*, the Fifth Circuit held that a hostage situation pertained to public safety and thus was an "imminent harm" justifying the police's destruction of private property. *Id.* To apprehend a dangerous fugitive inside, the police completely destroyed an innocent homeowner's property using "armored vehicles, explosives, and toxic gas grenades." *Id.* at 379. The court reasoned that these actions were necessary to prevent imminent harm to the *persons* including, a "hostage child, the responding officers, and other individuals in the residential community." *Id.* (emphasis added).

Here, there was no imminent harm to persons in the immediate vicinity of Ms. Jones' home. R. at 3. Unlike the presence of fugitives and hostages in *Baker*, which posed an immediate danger to those present on the property, the Squad ensured everyone was at a safe distance from the home. id. Importantly, authorities had already transported Ms. Jones and A.J. away from the scene to receive medical attention. id. There is no indication that the neighbor, who notified the LPD of the first explosion, was directly affected by the detonation of either bomb. id. Therefore, there was no imminent threat to any persons on the property. id. Thus, these circumstances do not rise to the

level of imminent harm in *Baker* necessary to invoke the Public-Necessity Doctrine.

Additionally, a credible and dangerous bomb threat is not rooted in the "public calamity" framework that informs the Public-Necessity Doctrine. *See Bowditch*, 101 U. S. at 18; *see also*, *Steele*, 603 S.W.2d at 792. In *Bowditch,* this Court held that a fast-spreading fire in residential areas justified the exercise of police power to destroy private property as a means of preventing a public calamity. *Id.* This Court reasoned that the danger presented to neighboring property owners justified the exercise of police power and exempted the government from liability under the Takings Clause. *Id.* Here, the bomb threat was isolated and did not pose a larger danger to the community as a whole. R. at 3. The difference between the fast-spreading fires and the Squad's decision to detonate the bomb is the lack of imminent harm to persons. id. Therefore, the Public-Necessity Doctrine doesn't apply, and the LPD is liable to Ms. Jones.

2. Government-created risk undermines the Public-Necessity Doctrine.

By creating an unnecessary risk, the LPD cannot rely on the Public-Necessity Doctrine to excuse the compensable taking of Ms. Jones' home. A traditional public necessity is sudden and unavoidable like a fire or flood. *See Steele*, 603 S.W.2d. at 792. In *Steele v. Houston*, the Texas Supreme Court held that the Houston police were not exempt from the Takings Clause and also failed to demonstrate a public necessity. *Id*. Several escaped inmates took refuge in the plaintiff's home, and the police used incendiary material to cause a fire in the house, while instructing the fire department not to extinguish it. *Id.* at 789. The court reasoned that the dangerous escapees did not contribute the same level of imminent harm to the public as a rapidly spreading fire. *Id.* at 792. Additionally, the court stated that while the police were not at fault, "innocent third parties are entitled by the Constitution to compensation for their property." *Id.* at 793.

The threat of the second bomb was not sufficiently imminent to warrant the Squad's

destructive actions. Like the police department in *Steele*, which heightened the danger by starting a house fire, the LPD escalated the risk by releasing Baker, an angry bomb expert. R. at 2. Officers Trent and Williams created and contributed to the risk by releasing Baker, fully aware of his military background with explosives. id. The Squad exacerbated the risk by deploying a robot that detonated the bomb, causing the destruction of Ms. Jones' home. R. at 2-3. The LPD cannot rise to the *Steele* court's high standard for imminent harm. *See Steele*, 603 S.W.2d. at 792. Therefore, the LPD created an unnecessary risk that contributed to the dangerous situation, undermining the Public-Necessity Doctrine.

3. The Squad's detonation of the bomb voids the categorical exemption from Takings Clause scrutiny.

Lastly, the Squad's deployment of the robot is not categorically exempt from a Fifth Amendment taking. The categorical rule exempting police power from the Takings Clause conflicts with this Court's precedent against wholesale exemptions of government action from constitutional scrutiny. *See, e.g., Ark. Game & Fish Comm'n*, 568 U.S. at 36–37 (explaining that the Court has "[t]ime and again" rejected arguments "deployed to urge blanket exemptions from the Fifth Amendment's instruction"). Takings occur even during exercises of police power. *See Baker*, 84 F.4th at 388 (concluding that there is no categorical exception for police powers). "That [g]overnment actions taken pursuant to the police power are not *per se* exempt from the Takings Clause is axiomatic in the Supreme Court's jurisprudence." *Yawn v. Dorchester Cnty.*, 1 F.4th 191, 195 (4th Cir. 2021). Additionally, the Fourth Circuit refused to treat public-safety measures as *per se* exempt, instead examining whether the harm was an intended or foreseeable result of the government's action. *Id.* Furthermore, the Fifth Circuit's takings jurisprudence "is premised on the notion that a city's exercise of its police powers can go too far, and if it does, there has been a taking." *John Corp. v. City of Houston*, 214 F.3d 573, 578 (5th Cir. 2000).

In performance of their duties, police destruction of an innocent party's home does not shield officers from liability under the Takings Clause. *See Steele*, 603 S.W.2d at 792. In *Steele*, the court held that innocent homeowners are entitled to compensation for property destruction regardless of the actor, rejecting a categorical exemption for police power. *Id.* at 793. Conversely, in *Lech v. Jackson*, the court held that police are free to destroy any amount of private property, provided it is conducted under the guise of police power. *See Lech,* 791 F. App'x at 719. This Court should recognize that adopting *Lech*'s approach would create a dangerous precedent, effectively allowing police to destroy private property with impunity. *Id.* Conversely, *Steele* demonstrates that protecting a homeowner's rights under the Fifth Amendment serves as a necessary check on government power and promotes accountability among its actors. *See Steele*, 603 S.W.2d at 792. Following *Baker*'s lead in rejecting the categorical exemption of police power reinforces the principle that government actors cannot claim blanket immunity from Takings Clause claims even when acting in the public interest. Rejecting a categorical exemption ensures accountability, protects private property rights, and prevents arbitrary and excessive destruction of property. This creates a legal check that balances public safety with individual constitutional protections.

In *Yawn v. Dorchester County*, the Fourth Circuit held that government-sanctioned intrusion onto private property constitutes a taking only when it is intended or foreseeable. *Yawn*, 1 F.4th at 195. In areas where cases of the Zika virus were reported, state government officials were authorized to spray pesticides that were highly toxic to bees. *Id.* at 192-93. The exposure ultimately killed a local beekeeper's hives. *Id.* Before spraying the pesticide, officials took several precautions, including contacting local beekeepers, marking beehives on a map to avoid spraying in their vicinity, and issuing a press release warning of the pesticide's harmful effects. *Id.* The court reasoned that because the government had no intent to harm the beekeeper's property, and the harm

was not reasonably foreseeable given the precautions taken, the intrusion did not constitute a taking. *Id.* at 195. In other words, the court emphatically rejects the categorical exemption of police power and provides a narrow set of circumstances in which exemptions would apply.

Here, Ms. Jones was not given a sufficient level of precaution. Unlike the state agents in *Yawn*, who provided repeated and advanced notice of the use of harmful pesticides that damaged the hives, the LPD failed to properly warn Ms. Jones of the impending detonation of the bomb. R. at 4. The LPD not only failed to inform Ms. Jones that Baker had not been booked, creating the initial danger, but also failed to give any precautions regarding the use of the robot that ultimately detonated the bomb. R. at 3–4. The LPD's actions were sufficiently intentional and foreseeable to bring about the damage caused to her home. id. Therefore, the LPD's police power is not exempt from the Takings Clause, and the Squad's detonation is a compensable taking.

In sum, the City and the LPD owe Ms. Jones just compensation for the unconstitutional taking of her home.

CONCLUSION

For these reasons, the Petitioner requests that this Court reverse the Thirteenth Circuit's decision and formally adopt the State-Created Danger Doctrine. Under this doctrine, Petitioner requests that this Court hold the City and its officers liable to Ms. Jones for affirmatively enhancing the danger to her and her son, resulting in their catastrophic injuries. Furthermore, this Court should hold that the Fifth Amendment entitles Ms. Jones to just compensation for a taking resulting from the destruction of her property in a valid exercise of police power.

Respectfully Submitted,

Team 15

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