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How to Punish Your Least Favorite Online Influencer: Wellness Checks as Swatting and their Disproportionate Impact on Marginalized Creators

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How to Punish Your Least Favorite Online Influencer: Wellness Checks as Swatting and their Disproportionate Impact on Marginalized Creators

Tara Blackwell*

Abstract

Marginalized online creators are vulnerable to attacks using digital means of harassment including traditional swatting as well as the abuse of wellness checks that can act as swatting. Enabled by permissive Supreme Court 4th Amendment jurisprudence, malignant online actors have taken advantage of the ramshackle system of wellness checks that sends armed police officers with little training and even less compassion to the doors of individuals with reported mental health crises. This Note focuses on two polarizing influencers who have been subject to wellness check swatting after being very open about their mental health statuses online. This Note argues that we should not attempt to solve the problems inherent in wellness checks with federal anti-swatting legislation because it has already been passed at the state level with no success. Rather, localities should invest in creating abolitionist alternatives to the police wellness checks system that are less vulnerable to abuse from bad actors, and the Supreme Court should abolish the 4th Amendment emergency aid exception that allows the police to enter

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and search the homes of individuals with mental health crises without a warrant.

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I. Introduction

There is a video on YouTube with over 350,000 views entitled “Live Phone Call To Police Concerning Eugenia Cooney Welfare

(Twitch Streamer Tries Saving her Life).”¹ In this video, a man named Corey livestreams his conversation with the police in which he advocates for a wellness check on an online creator named Eugenia Cooney who is well known for her extremely low weight in her YouTube videos.² Corey does not know Cooney personally.³ Instead, he believes that she has anorexia based on the content she has posted online and that she should be involuntarily held in a psychiatric facility.⁴ Corey affirmatively states that she is “easily 75 pounds” with a BMI of “around 10.”⁵ He continues by repeating the conspiracy theory that Cooney’s mother is not only enabling this behavior but capitalizing on it financially.⁶

The responding police officers repeatedly express disbelief that someone who does not know Cooney personally could speak so emphatically about her health.⁷ Corey assures them that he has been watching Cooney for years and has seen Cooney’s weight dwindle himself.⁸ These police officers are clearly not aware of the power of parasocial relationships which refer to the one-sided and often deeply passionate connection that is forged between the

1. Love Eugenia Cooney, *Live Phone Call To Police Concerning Eugenia Cooney Welfare (Twitch Streamer Tries Saving her Life)*, YOUTUBE (Apr. 29, 2021) [perma.cc/J45J-4KBU].

2. *See id.* (providing a compilation of multiple calls to the police that were livestreamed by Twitch streamer in order to get a wellness check for Eugenia Cooney on January 28, 2019).

3. *See id.* at 17:50 (confirming that Corey does not know Cooney personally with the exception of perhaps messaging her on a couple of occasions online).

4. *See id.* at 04:10 (explaining to the officer on the phone his theory of Cooney’s medical condition and referencing his knowledge of a 2016 law to involuntary hospitalize people with anorexia).

5. *See id.* at 05:17 (giving the police officers the approximate weight of Cooney in order to convey the seriousness of her health issues and why she should be involuntarily committed to a healthcare facility).

6. *See id.* at 04:50 (repeating conspiracies that have swirled around internet forums about Cooney’s mother’s involvement in her eating disorder in order to get a police presence at Cooney’s house).

7. *See id.* at 17:50 (affirming that the Twitch streamer does not personally know Cooney in response to the police officer’s question about whether he has a personal relation to her).

8. *See id.* at 17:56 (explaining to the officer that the Twitch streamer “operate[s] in the same circles” as Cooney because he is an online performer but does not know her personally).

viewers of social media and content creators.⁹ Parasocial bonds often lead to viewers feeling entitled to know the details of content creators' lives which can blur the viewer's conception of what sort of private lives creators are allowed to have.¹⁰

Before the audio of Corey's calls play, the compiler of the video explains the context for the calls and states that "addresses and phone numbers have been muted for privacy."¹¹ In this series of recorded calls, Corey's address and phone number are omitted to protect his privacy.¹² Cooney does not receive the same courtesy.¹³ While her phone number is not included in this recording of the stream, her local police department is which gives viewers a general idea of the area in which she lives.¹⁴ Furthermore, summaries of the officer's conversations with Cooney's mother are relayed to Corey and the audience of his streams.¹⁵ The police officers speak in fairly general terms but if they were to have included private details about Cooney's life, they also would have been broadcasted.

These calls that were streamed ultimately result in at least two wellness checks for Cooney which entail police being sent to her place of residence.¹⁶ All the while, the officers involved express wariness about continuing to contact Cooney because she has been

9. See Otegha Uwagba, *Too Close for Comfort: The Pitfalls of Parasocial Relationships*, GUARDIAN (Feb. 13, 2022, 5:00 AM) (describing the harmful consequences of parasocial relationships despite their necessity for certain types of influencers to maintain a large audience of engaged followers) [perma.cc/CZD6-UQKJ].

10. See *id.* ("The more you give, the more people expect of you.").

11. See Cooney, *supra* note 1, at 00:00 (providing context for the livestreamed phone calls and explaining the decisions made by the compiler of the calls to omit certain information).

12. See *generally id.* (refraining from displaying the caller's information).

13. See *id.* at 19:13 (displaying the disparity in how Corey's last name and phone number are omitted from the part of the stream that has been put on YouTube for his privacy while Cooney's private information remains in the call).

14. See *id.* at 16:08 (showing that the streamed phone call with the police did include Cooney's local police department for her former address in California).

15. See *id.* at 02:56 (relaying by the officer of what Cooney's mother had told them, which included that her daughter was healthy, that rumors were often spread about Cooney's weight online, and that Cooney had been swatted before).

16. See *id.* at 19:06 (agreeing to send a police officer to do a wellness check on Cooney for the second time and to give her Corey's number for Cooney to talk to him if she chooses to).

swatted before.¹⁷ Swatting is a term used to describe calling in a fake threat to get the police to go to someone's house and it is used as a form of harassment.¹⁸ It is commonly used to punish internet creators.¹⁹

Corey replied with complete certainty in these calls that Cooney has never been swatted before.²⁰ Instead, he says all of the calls that have been made regarding Cooney have been pleas for help with no ulterior motives.²¹ This Note will dispute Corey's characterization of wellness checks and swatting as mutually exclusive and make the case for increased scrutiny of the system of wellness checks that does not serve either marginalized communities or internet personalities well.

Part II of this Note explains the Supreme Court's current stance on the Fourth Amendment as it relates to wellness checks and the virtual carte blanche they give police to raid the residences of mentally ill people without a warrant. Part III then provides a definition of traditional swatting and situates it in the current internet landscape. Part III also includes a broad overview of previous legal scholarship on swatting as well as the carceral solutions to it that have been instituted and have failed over the past decade at the state level. Part IV details how wellness checks can serve as a form of swatting and why this form of swatting is both more dangerous for and more likely to happen to marginalized people. Part IV goes on to perform two case studies on internet

17. See *id.* at 02:56 (confirming that Cooney's mother told officers that Cooney had been swatted before).

18. See *The Crime of Swatting*, FBI (Sept. 3, 2013) (defining the term swatting as it is used by the FBI) [perma.cc/RZ6S-AXEA].

19. See Casey Parks, *Gamergate: Woman Blames Online Harassers for Hoax that Sent 20 Portland Cops to Her Former Home*, OREGONIAN (last updated Jan. 3, 2015, 9:23 PM) (describing the formation of the concept of swatting and how it has risen to popularity as a way to get back at internet creators whose opinions or actions callers disagree with) [perma.cc/9TBP-C234].

20. See Love Eugenia Cooney, *supra* note 1, at 06:49 (denying that past calls were swatting attempts and asserting that the calls were actually from concerned viewers who wanted Cooney's deteriorating health to be taken seriously).

21. See *id.* ("It's not that she's being swatted, it's that people are doing serious calls to the police asking for her help when it comes to her mental health.").

creators who are widely perceived as mentally ill by their audience and who have been subject to wellness checks as swatting.

Part V of this Note includes analysis of a proposed federal anti-swatting law and explains why criminalizing disingenuous wellness checks will not be successful. Part VI lays out an abolitionist solution to wellness checks as swatting that can help the internet become a safer place for marginalized creators. Finally, Part VI ends by advocating for the scrapping of the emergency aid exception because of how it has been abused by bad actors online and created situations rife for police brutality and the criminalization of mental illness.

II. *Legal Basis for Wellness Checks*

The Fourth Amendment provides that individuals have the right “to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures.”²² At the “very core” of the Fourth Amendment’s protections is the right of a person “to retreat into his own home and there be free from unreasonable governmental intrusion.”²³ In *Florida v. Jardines*, the Supreme Court succinctly laid out how the value of the Fourth Amendment would be irreparably diminished if police officers could conduct warrantless searches by “trawl[ing]” the exterior of someone’s home for evidence of wrongdoing.²⁴

There is, however, a carve-out for warrantless searches if someone is in danger or requires medical assistance because in those instances an intrusion by police into someone’s private dwelling is uniformly deemed “reasonable.”²⁵ The emergency aid exception allows for police to conduct warrantless searches of someone’s home if the police are there to “render emergency assistance” to someone who is already injured or at risk of serious

22. See U.S. Const. amend. IV.

23. See *Florida v. Jardines*, 569 U.S. 1, 6 (2013) (interpreting the purpose of the Fourth Amendment as envisioned by the founding fathers).

24. See *id.* (explaining how to maintain the sanctity of the Fourth Amendment).

25. See *Caniglia v. Strom*, 141 U.S. 1596, 1600 (2021) (Roberts, C.J., concurring) (“A warrant to enter a home is not required, we explained, when there is a need to assist persons who are seriously injured or threatened with such injury.”) (internal quotations omitted).

injury.²⁶ This exception allows for what are traditionally called wellness checks or instances in which the police go to a person's house to inquire about their wellbeing.

This carve-out is not limitless, as recently shown by the Supreme Court's 2021 ruling on a broader exception to the Fourth Amendment for anything defined as "community caretaking" in *Caniglia v. Strom*.²⁷ The Court held that this community caretaking special rule was far too broad and distinguished the more permissible set of rules for vehicle searches as opposed to home searches.²⁸ This ruling acts as an outer limit on what can be considered a valid reason for the police to enter a person's home without a warrant.

Nevertheless, the emergency aid exception, and the structure of wellness checks in particular, allows considerable leeway for officers who wish to enter the home of anyone they deem to be a danger to themselves or others. This exception does not anticipate the rise of a type of online harassment known as swatting.²⁹ This exception also does not anticipate a newer mutation of swatting in which people disingenuously call in wellness checks to scare disfavored online creators with a police presence.³⁰

III. *Traditional Swatting Scholarship and Swatting in the Popular Consciousness*

This part of the Note gives a detailed explanation of the history of swatting on the internet and explains why it is especially

26. See *Kentucky v. King*, 563 U.S. 452, 460 (2011) (describing how the emergency aid exception to the Fourth Amendment that allows for warrantless searches if certain criteria is met).

27. See *Caniglia*, 141 U.S. at 1600 (showing that the emergency aid exception to the Fourth Amendment is not limitless and dismissing the "community caretaking" theory).

28. See *id.* (distinguishing the searching of homes from the searching of vehicles for the purpose of the Fourth Amendment).

29. See *The Crime of Swatting*, *supra* note 18 (describing swatting on the internet as a new and dangerous phenomenon) [perma.cc/RZ6S-AXEA].

30. See xirus11, *wellness checks are just a legal, cringey version of swatting*, REDDIT (May 3, 2018, 9:50PM) (explaining the author's contention that wellness checks act as a substitute for swatting in certain situations) [perma.cc/D73W-97TF].

dangerous for marginalized creators. A summary is then provided of previous legal scholarship on swatting and how it attempts to reconcile unsuccessful state legislation with the impulse to further criminalize swatting.

A. *General Definition of Swatting and Popular Examples of Swatting*

To understand how wellness checks can function as a swatting attempt, it is first necessary to understand the history and cultural significance of swatting in online culture. Swatting, as defined by the FBI, is a form of online harassment in which a person makes a false 911 call to generate a law enforcement response, usually in the form of a SWAT team, to go to another person's home.³¹ This law enforcement response is meant to induce fear in the target of the swatting who has to suffer the psychological terror of a heightened police response on their doorstep.³² Some may view this as a harmless prank, but it is more aptly characterized as an act of revenge meant to rectify some perceived slight done by the targeted person.³³

Swatting is not a new phenomenon. Swatting has been on the FBI's radar since 2008.³⁴ It rose to prominence in the public consciousness after becoming the favored tool of harassment by

31. See *The Crime of Swatting*, *supra* note 18 (“The individuals who engage in this activity use technology to make it appear that the emergency call is coming from the victim’s phone. Sometimes swatting is done for revenge, sometimes as a prank.”).

32. See Jason Fagone, *The Serial Swatter*, N.Y. TIMES MAG. (Nov. 24, 2015) (reporting how swatting victims described their experience as “a sense of unreality,” “like you’re drowning, and the person doesn’t understand what water is,” and traumatizing) [perma.cc/SS79-6MTW].

33. See Dakin Andone, *Swatting is a Dangerous Prank with Potentially Deadly Consequences. Here’s What You Need to Know*, CNN (Mar. 30, 2019, 3:52 PM) (detailing the potentially deadly consequences of a swatting attempt and reporting on swatter, Tyler Barriss, who “made the call after becoming involved in a dispute with other video gamers engaged in an online Call of Duty match”) [perma.cc/8Y9Z-B5FH].

34. *Id.*

certain cloistered online communities like those involved in Gamergate.³⁵

Gamergate was an online harassment campaign originally directed towards a game developer after their boyfriend falsely accused them of trading sex for a positive review of a video game in 2014.³⁶ This campaign expanded to target female game reporters as well as feminists who were accused of being unethical by members of the nascent online alt-right movement.³⁷ One opponent of Gamergate, web developer Israel Galvez, was swatted in 2015 even after alerting his local police to the high likelihood of a swatting attempt.³⁸ Five officers went to Israel Galvez's house and twenty went to the home of Grace Lynn, another critic of Gamergate, who had previously been a member of the alt-right harassment campaign before she renounced it.³⁹ These swatting attempts came into being on a website called 8chan, a forum which has previously been associated with a lack of moderation and allowance of extremist sentiments.⁴⁰

8chan is not the only website whose lax moderation has led to rampant harassment campaigns. Similar websites are often the fertile ground on which swatting attempts are fomented. Kiwifarms, another site with little moderation and which is associated with nasty online harassment campaigns, was at the center of the recent swatting of a transgender streamer in 2021.⁴¹

35. See Parks, *supra* note 19 (providing a general overview of Gamergate and how it resulted in multiple swatting attempts on feminist figures in the gaming community).

36. *Id.*

37. See Aja Romano, *What We Still Haven't Learned from Gamergate: Gamergate Should Have Armed Us Against Bad Actors and Bad-Faith Arguments. It didn't.*, VOX (last updated Jan. 7, 2021, 11:43 AM) (listing the targets of the Gamergate fiasco who were primarily games reporters who had expressed feminist sentiments) [perma.cc/V5MH-TKNY].

38. Alex Hern, *Gamergate Hits New Low with Attempts to Send Swat Teams to Critics*, GUARDIAN (Jan. 13, 2015, 9:57 AM) [perma.cc/LH2Y-UWYF].

39. See *id.* (describing the similarities between the swatting of two Gamergate victims who came into contact with a large law enforcement presence).

40. See *id.* (naming one of the largest social media platforms primed for a swatting attempt as a result of little content moderation and ties to white nationalism).

41. See John Russel, *Transgender Twitch Streamer Keffals Targeted with Swatting: "I Thought I Was Going to Die,"* LGBTQ NATION (Aug. 11, 2022)

Clara Sorrenti, known as Keffals online, is a transgender streamer and activist who was swatted after an email was sent to local city hall officials saying that she planned to open fire on city hall and had already killed her mother.⁴² This led to police searching Sorrenti's apartment for eight hours during which they deadnamed her and made her fear for her life.⁴³ This swatting attempt was the brainchild of members of Kiwifarms, which has been known to be associated with vicious anti-trans harassment campaigns.⁴⁴ After her harrowing experience, Sorrenti successfully spearheaded a campaign to get the cloud service that supported Kiwifarms to drop them, making the Kiwifarms operation innumerable more difficult.⁴⁵

This story occurred in Ontario, Canada, and highlights that, like most things steeped in internet culture, swatting transcends state boundaries.⁴⁶ Additionally, Sorrenti's experience with the police deadnaming her exemplifies the dangers of being a marginalized person caught in the crosshairs of a swatting attempt.⁴⁷

Swatting impacts targets across the ideological spectrum but that does not mean it impacts all targets equally regardless of their position in society.⁴⁸ Around the same time Sorrenti's swatting

(providing another website, Kiwifarms, that has lacked significant content moderation in the past and is associated with online harassment campaigns) [perma.cc/3ES8-MFD5].

42. *See id.* (explaining the story of Sorrenti, a transgender streamer who was targeted by a swatting attempt in 2021, who has since started a campaign to lobby Kiwifarms' cloud server to drop them).

43. *See id.* (highlighting the unique experience of LGBTQ individuals who are targeted by swatting and defining deadnaming as calling a transgender person the name they were given before transitioning).

44. *See id.* (reporting the site of the genesis of the campaign against Sorrenti which is the message board Kiwifarms)

45. *See Blocking Kiwifarms*, CLOUDFLARE (Sep. 2, 2022) (rationalizing the decision to block Kiwifarms after Sorrenti's successful campaign to have Kiwifarms dropped from Cloudflare) [perma.cc/42L9-3SVL].

46. *See Russel, supra* note 41 (making clear that swatting is not solely an American problem as the internet dissolves such boundaries).

47. *See id.* (emphasizing how Sorrenti's identity factored into how she was treated during her swatting attempt as police deadnamed her multiple times).

48. *See* Melissa Alonso, *Rep. Marjorie Taylor Greene Again Targeted in 'Swatting' Incident, Police Say*, CNN (last updated Aug. 25, 2022, 12:21 PM)

became news, notorious QAnon-adjacent member of the U.S. House of Representatives, Marjorie Taylor Greene, was swatted at her home in Georgia.⁴⁹ Ideologically, Taylor Greene has more in common with the proponents of the attacks on Gamergate opponents than Sorrenti.⁵⁰ In fact, the initial suspect who incited the swatting later robocalled the police department and said that she had swatted Taylor Greene because of her attacks on transgender youth.⁵¹ While her status did not protect her from a swatting attempt, Taylor Greene was afforded other ameliorating circumstances that changed how swatting impacted her personally including her identities as a white woman and member of Congress.⁵²

It is useful to compare the swattings of Sorrenti and Taylor Greene to shed light on the impact a marginalized status can have on a person's experience being swatted. First, if you do have a visibly marginalized identity, such as race, gender non-conforming status, or mental health status, interactions with the police are already heightened as assumptions are made about the dangers you pose as a marginalized person.⁵³ Whereas Taylor Greene was able to calmly explain to the police that a swatting had occurred, Sorrenti was hassled by the police who both deadnamed her and made her fear for her safety.⁵⁴

(showing the diverse array of targets of swatting that range from transgender activists to alt-right representatives) [perma.cc/K3N8-8YKB].

49. *See id.* (explaining the timeline of Marjorie Taylor Greene's 2022 swatting).

50. *Compare* Alonso, *supra* note 48 (providing that the person who swatted Taylor Greene was angry about her systematic dehumanization of transgender people) *with* Russell, *supra* note 41 (reporting that Sorrenti was swatted due to her status as a high profile transgender activist).

51. Alonso, *supra* note 48.

52. *See id.* (describing the de-escalation of the situation once the officers realized they were at Taylor Greene's home).

53. *See* Julia Craven, *Black People Are Way More Likely to Be Killed By Police Than Their White Peers: Study*, HUFFINGTON POST (last updated Dec. 22, 2016) (showing that Black people are more likely to die in encounters with the police) [perma.cc/9RMV-EW7W].

54. *Compare* Alonso, *supra* note 48 ("Upon arriving at the address . . . Greene assured the officers there was no issue and the call was determined to be a false call commonly known as swatting."), *with* Russell, *supra* note 41

Second, having a visibly marginalized identity also effects your ability to plan for and prevent future swatting attempts. In order to prevent future swatting attempts, any successful strategy would have to include further engagement with the police by way of getting added to an anti-swatting registry.⁵⁵ This engagement could be strained if the initial swatting turned violent or was otherwise dehumanizing to the victim based on their marginalized identity. Additionally, other measures to prevent swatting, including getting security and removing your address from online sources are oftentimes very costly.⁵⁶ Taylor Greene, as a member of the House of Representatives, could probably foot the bill to scrub her information from the internet. But that would be infinitely more difficult for a creator such as Sorrenti who might have to crowdfund to raise the money needed for such security measures.

Without these security measures, swatting can be, and often is, deadly. One of the highest profile instances of swatting resulted in the death of Andrew Finch in 2017.⁵⁷ A man called the police in Wichita, Kansas, and told them there was a shooting and kidnapping at Finch's residence in California.⁵⁸ The caller intended to swat another gamer that he had a dispute with over Call of Duty but accidentally gave Finch's address instead.⁵⁹ Finch

(reporting how police insisted on using Sorrenti's deadname, which is not her legal name, searched her apartment for eight hours, and arrested her).

55. See Emma G. Ellis, *Swatting Is a Deadly Problem—Here's the Solution*, WIRED (Aug. 22, 2019, 7:00 AM) (outlining how the Seattle Police Department has instituted a swatting registry that is described as efficient and easily implemented) [perma.cc/6R5N-JSMN].

56. See Kenzie Bryant, *The Staggering Price Tag on Safety in the Modern Celebrity World*, VANITY FAIR (Nov. 4, 2016) (analogizing the price of traditional celebrities hiring security guards with the cost that internet celebrities, minor or otherwise, would have to pay) [perma.cc/E346-GSQL].

57. See Alex Johnson, *Wichita Officer Who Killed Andrew Finch in 'Swatting' Mistake Won't be Charged*, NBC NEWS (last updated Apr. 21, 2018, 10:21 PM) (giving a detailed account of Finch's swatting) [perma.cc/FC5W-D4AS].

58. *Id.*

59. See *Call of Duty 'Swatting' Death Prankster Pleads Guilty*, BBC (Nov. 14, 2018) [perma.cc/3BLP-8LTQ] ("The 25-year-old had meant to direct the police to another player's home. But instead he gave the address of the victim, a Kansas-based father-of-two.").

answered the door to the police and was shot at point-blank range because a police officer thought he was reaching down for a gun.⁶⁰

This might be the highest profile incident of a deadly swatting attack, but Finch is far from the only death caused by swatting. Another more recent incident is Mark Herring's death, which was the result of a dispute over a Twitter handle (username).⁶¹ Law enforcement went to Herring's home in large numbers with guns drawn which resulted in Herring having a massive heart attack.⁶²

It might be tempting to see these swatting deaths as an unintentional outgrowth of a practice that is meant to scare instead of maim people. This falsehood is advanced by the language used by news sources that refer to these calls as "prank" or "hoax" calls.⁶³ But at least since 2017 with the death of Finch, and likely before that, people engaging in swatting have been on notice that death is a possible outcome of swatting, and they continue to engage in this behavior.

The possibility of a swatting resulting in the death or grave bodily harm of the target is a feature rather than a bug for the instigators of these attacks. Understanding swatting as an inherently violent use of police presence wielded to intimidate and hurt victims is central to a deeper understanding of how wellness checks can function as swatting.

60. See Johnson, *supra* note 57 ("The officer believed that Finch 'was reaching for the gun that he would have used to shoot his father moments earlier,' [District Attorney] Bennet said. 'The officer believed he saw a gun come up in Mr. Finch's hands.'").

61. See Minyvonne Burke, *Tennessee Man, Targeted for His Twitter Handle, Dies After 'Swatting' Call Sends Police to His Home*, NBC NEWS (last updated Jul. 24, 2021, 11:56 AM) (referring readers to the inciting incident for this swatting which was Herring's refusal to surrender his Twitter handle) [perma.cc/J85F-48SM].

62. See *id.* (describing another deadly incident of a swatting, where the subject of the swatting died from a heart attack).

63. See *The Crime of Swatting*, *supra* note 18 (introducing swatting as "making a hoax call to 9-1-1"); see also Andone, *supra* note 33 (describing swatting as a "prank phone call"); *Swatting Away Prank 911 Calls Irritating for Cops, Lawmakers*, USA TODAY (April 29, 2015, 2:27 PM) ("Swatting is a prank where someone makes a hoax 911 call while disguising their phone number and its origin, drawing police and often heavily armed SWAT officers to the location of a made-up emergency.") [perma.cc/C9AH-PXUG].

B. Legal Scholarship on Traditional Swatting

In order to have a fully fleshed out conversation about wellness checks as swatting, the legal scholarship and proposed solutions to traditional swatting must also be explained. Legal scholarship on the topic of swatting correctly identifies swatting as a significant issue impacting marginalized people trying to use online spaces.⁶⁴ The scholarship, however, fails in terms of imagination by considering carceral solutions as the sole method of deterring further swatting attempts.

Critically, legal scholarship by Svana Calabro in “From the Message Board to the Front Door: Addressing the Offline Consequences of Race- & Gender-Based Doxxing & Swatting” centers the disproportionate impact of swatting and doxing on marginalized people online.⁶⁵ Calabro outlines how online abuse is targeted towards women and people of color with gender-based insults about sexual violence and race-based insults on topics such as lynching.⁶⁶ She goes on to say that swatting in particular is targeted towards members of marginalized groups who are advocates for disadvantaged groups.⁶⁷

This same principle of disproportionate online abuse also applies for other marginalized groups such as LGBTQ people and those with mental illnesses.⁶⁸ Calabro’s framework applies perfectly to Sorrenti who was swatted because she angered the

64. See Svana M. Calabro, *From the Message Board to the Front Door: Addressing the Offline Consequences of Race- & Gender-Based Doxxing & Swatting*, 51 SUFFOLK U.L. REV. 55, 67 (2018) (giving a comprehensive framework for looking at swatting and other internet crimes as disproportionately impacting women and people of color).

65. *Id.*

66. See *id.* at 61–62 (“Online harassers disproportionately target women and people of color, worsening the physical and psychological effects of doxxing and swatting.”).

67. See *id.* at 70 (“Moreover, both doxxers and swatters intentionally target notable, vocal victims, often focusing on individuals who advocate for marginalized groups or who work in industries typically dominated by heterosexual, white men.”).

68. See Kat Tenbarge, *LGBTQ People Face ‘Groomer’ Accusations and Trolling as Culture War Rages On*, NBC NEWS (Apr. 19, 2022, 2:31 PM) (“In a survey of LGBTQ kids conducted last year by the Trevor Project, 42 percent of respondents said they had been bullied electronically, including online or via text message.”) [perma.cc/8MHZ-H3AU].

wrong corner of the internet.⁶⁹ Calabro's work highlights a very real problem: swatting targeting minorities and driving them from online spaces.

Once targeted, marginalized people are also more likely to have dangerous interactions with the police when a swatting occurs.⁷⁰ This means these populations are doubly vulnerable to (1) being swatted in the first place and (2) having a swatting experience that results in death or other bodily impairment. It necessarily follows from the fact that a key feature of swatting is getting someone to encounter the police in a heightened and threatening situation that those more vulnerable to police brutality are more in danger. For example, mentally ill people are 16 times more likely to be killed by the police.⁷¹ Similarly, Black people are 2.8% more likely to be killed than their white peers.⁷² If a member of either of these groups gets swatted and encounters the police, that interaction is significantly more dangerous for them.

Lamentably, Calabro advocates for a carceral solution to this problem by supporting federal legislation to criminalize both swatting and doxing. Calabro largely agrees with the tenants of the proposed Interstate Swatting Hoax Act which criminalizes "causing an emergency response" by falsely reporting a threat to public safety.⁷³

69. See Russel, *supra* note 41 ("They want me dead because I'm a high-profile transgender activists [sic]," Sorrenti said. "There's a big target on my back and for the past year, transgender people have been the focal point of a culture war.").

70. See Alexandra Sifferlin, *Untreated Mentally Ill 16 Times More Likely to Be Killed By Police, Study Says*, TIME (Dec. 10, 2015, 10:36 AM) ("The new report . . . reports that around 1 in 4 fatal police encounters results in the death of a person with severe mental illness.") [perma.cc/UFU2-5VLY].

71. *Id.*

72. See Craven, *supra* note 53 (correcting a previous study that had asserted that white people were more likely to be killed than Black people in encounters with the police).

73. See Calabro, *supra* note 64, at 66–69 ("Congresswoman Clark's bills would target both the causes and effects of doxxing and swatting by deterring harassers, validate the seriousness of these actions, and expand cybercrime training opportunities for law enforcement agencies supporting the Interstate Swatting Hoax Act with minor moderations.").

This impulse to look towards federal legislation as the logical next step of anti-swatting initiatives is shared by many scholars.⁷⁴ This focus on federal legislation fails to adequately grapple with very similar bills at the state level that have resulted in no prosecutions.⁷⁵ In “Combating the Swatting Problem: The Need for A New Criminal Statute to Address A Growing Threat,” Jacob Hoferkamp helpfully catalogues the state swatting legislation in Michigan, California, Louisiana, and Oregon.⁷⁶ These state bills criminalize falsely reporting an emergency and were passed in 2013, 2014, 2018 and 2018 respectively.⁷⁷ With no successful prosecutions of internet swatting resulting from these laws, some of which are close to 10 years old, it is necessary to ask why they have failed and whether a federal bill would have an alternate outcome.⁷⁸

Cultural problems that have been conceded by proponents of further criminalization include a lack of understanding or even indifference by law enforcement officers to the plight of the victims of swatting.⁷⁹ Another problem cited is the difficulty of law enforcement to find the true origin of calls because of the technology used by the swatters.⁸⁰ The answer to these concerns in the anti-swatting bill championed by Calabro is giving more money to police departments to get them more technology and training on cybercrimes. But with police budgets in major cities exceeding hundreds of millions of dollars, the argument that police in the

74. See Jacob Hoferkamp, *Combating the Swatting Problem: The Need for A New Criminal Statute to Address a Growing Threat*, 2019 MICH. ST. L. REV. 1133, 1150–51 (2019) (providing model legislation for a federal anti-swatting bill).

75. See *id.* at 1151 (supporting the contention that there have been no court cases using these state anti-swatting bills).

76. See *id.* at 1151–55 (providing a more detailed review of the text of each bill criminalizing false reporting as they each have slightly different wording but largely overlap).

77. *Id.*

78. See *id.* at 1154 (“No court cases have been brought under these statutes.”).

79. See Calabro, *supra* note 64 (detailing why state anti-swatting bills have been ineffective in the pursuit of advocating for federal legislation).

80. See Eric Brumfield, *Chapter 284: Deterring & Paying for Prank 911 Calls That Generate A Swat Team Response*, 45 MCGEORGE L. REV. 571, 590 (2014) (explaining how their preferred bill would deal with the issue that is swatters using technology to disguise where their calls are coming from).

past 10 years have not had the resources to make previous state level swatting bills work strains credulity.⁸¹

With this understanding of the definition of traditional swatting and the unsuccessful punitive solutions that have been proposed in the past, this Note will now show why a carceral solution makes even less sense in the case of wellness check swatting.

IV. Wellness Checks as Swatting

This portion of the Note begins by establishing that wellness checks are more physically dangerous for marginalized populations such as racial minorities, the mentally ill, and the LGBTQ community. It then argues for certain types of wellness checks being considered swatting depending on the intentions of the person calling and their impact on the person receiving the police visit. This section then grounds this discussion of wellness check as swatting by doing case studies of two internet creators, Eugenia Cooney and Gabbie Hanna, who have been swatted in the midst of mental health crises.

A. Wellness Checks are Generally Regarded as Resulting in Dangerous Interactions with the Police for Marginalized Populations

The proposition that wellness checks can act as a form of swatting rests on the understanding that wellness checks, similar to swatting, are an interaction with the police more likely to turn dangerous if you are part of an already marginalized group. This knowledge is then weaponized by proposed swatters.

Wellness checks can be physically dangerous for the mentally ill, people of color, and other groups viewed as “deviant” by society.”⁸² In 2019, a Black woman named Atatiana Jefferson was

81. See Niall McCarthy, *How Much Do U.S. Cities Spend Every Year On Policing? [Infographic]*, FORBES (Aug. 7, 2021, 8:21 AM) (helping to visualize the proportion of city budgets that go to policing) [perma.cc/9DUC-RFNJ].

82. See Doug Criss & Leah Asmelash, *When a Police Wellness Check Becomes a Death Sentence*, CNN (Oct. 19, 2019) (demonstrating a connection between

shot and killed by police doing a wellness check at her residence.⁸³ In response to this news, a Twitter user tweeted out “Dear neighbors (and I mean this in the most sincere way) please don’t ever, EVER call the police to do a welfare check on me. PERIOD. #SayHerName #Atatiana Jefferson.”⁸⁴

This sentiment that wellness checks are dangerous is internationally recognized. In the summer of 2020, four different people were killed by wellness checks in Canada.⁸⁵ The victims included a Black-Indigenous woman named Regis Korchinski-Paquet, an Indigenous woman named Chantel Moore, a Black man with schizophrenia named D’Andre Campbell, and a schizophrenic man named Ejaz Ahmed Choudry.⁸⁶ Choudry was shot by police after he was unable to understand their commands during the wellness check because English was his second language.⁸⁷ These tragedies help to show a now well-established pattern that wellness checks are more dangerous for the mentally ill, people of color, and other marginalized groups.

The deadly nature of wellness checks when trained on marginalized groups is something that bad actors online are well aware of. Bad actors use this knowledge to weaponize the police presence involved in wellness checks to hurt people they disagree with online.

Black identity and the dangers inherent in wellness checks) [perma.cc/S84L-RCUJ].

83. *See id.* (engaging in a thorough review of Atatiana Jefferson’s interaction with the police).

84. *See id.* (illustrating the perspective of Black Twitter users who saw the news of Atatiana Jefferson’s death and how it impacted their perception of the danger of wellness checks).

85. *See* Alex Cooke, *Recent Deaths Prompt Questions About Police Wellness Checks*, CBC (last updated June 23, 2020) (highlighting that the danger associated with wellness checks is an international problem that impacts Black and Indigenous peoples) [perma.cc/U75B-HFSY].

86. *See id.* (naming each of the people who died after getting a wellness check with an eye towards the tendency of marginalized people to have dangerous experiences with wellness checks).

87. *See id.* (connecting the tragic circumstances of Choudry’s death and how English being his second language heightened the danger of the wellness check).

B. Wellness Checks Can be Used as a Form of Swatting

Wellness checks as swatting is not a completely novel idea. It has been floating around the ethers of the internet for a few years. For example, on Reddit in 2017 a user posted that “wellness checks are just a legal, cringey version of swatting.”⁸⁸ One user responded in a joking fashion “cop mentality: ‘We’re here to make sure that you’re okay, and we are willing to kill you to do it.’”⁸⁹ This interaction gets at two key components of wellness checks as swatting. First, the first user is essentially recognizing that wellness checks can be weaponized and have been in the past. Second, the responding user is showcasing that what is being weaponized is the deadly police presence that is trained on the swatted party during a wellness check.

A second Reddit post from 2020 posed the question “why is it so easy for wellness checks to be weaponized?”⁹⁰ A conversation then occurred in the comments between multiple users. One user said that “this,” or wellness checks, were “becoming the new swatting.”⁹¹ Another user responded, “this does happen, where wellness checks are used to harass someone.”⁹² These conversations on Reddit cement that wellness checks as swatting, or a form of harassment, were a topic of discussion on the internet in the 2010s.

Elsewhere on social media, chaos abounds as people argue on Twitter about whether various incidents are swatting or wellness checks. These passionate fights about swatting classification are numerous and go back to 2018 at the earliest.⁹³ In one 2021 exchange, a user described an incident as a swatting and another

88. xirus11, *supra* note 30.

89. *See id.* (commenting on the irony of wellness checks, made to help keep people safe, turning deadly).

90. *See* djingrain, *Why is it so easy for wellness checks to be weaponized?*, REDDIT, (Mar. 31, 2020) (posing a question that implies that it is too easy for wellness checks to be weaponized with current laws) [perma.cc/J2XR-Z7C7].

91. *Id.*

92. *Id.*

93. *See* Aurelia Cotta (@AureliaCotta), TWITTER (Dec. 22, 2018, 9:51 PM) (acting as the first tweet that says wellness checks and swatting are equivalent) [perma.cc/ET5D-P72B].

user responded, “Swatting and a wellness check are not the same thing you absolute troglodyte . . . a wellness check is ‘I think my friend is unwell and not responding’ not ‘I want this person to be viewed as a threat by the cops.”⁹⁴ This user’s argument, however, rests on the fact that (1) the police react to wellness checks in a way that is fundamentally different from how they react to swatting calls and (2) people always call in wellness checks with good intent. Neither predicate is true. As shown in the preceding section, police often react to wellness checks with a heightened police presence including guns being drawn and used. Furthermore, the intent of the person in calling in a wellness check is highly situation dependent and cannot be said to always be positive.

Unlike traditional swatting, which is almost universally done with ill intent, there is a spectrum of intent for wellness checks some of which act as swatting. Traditionally, swatting is calling in a completely false threat.⁹⁵ For example, a swatting call could include a hostage situation that does not exist. Wellness check as swatting have a spectrum of intention. On one end of the spectrum, you have someone who is genuinely concerned about the physical wellbeing of a person who has expressed suicidal ideation on Twitter and calls emergency services for a wellness check. This is obviously not swatting. On the complete other end of the spectrum, you have someone who knows that someone does not have a mental or physical health issue and calls emergency services for a wellness check anyway to harm them. This is clearly an attempt at swatting. Then, there is substantial real estate in the middle of the spectrum.

The middle of this spectrum is a place rife for debate about which wellness checks actually constitute swatting. The intent of the person calling the police to get them to check on a particular online party is much of what was being argued about by Twitter users. If someone is highly disliked but also showing signs of

94. See kim (@kilmesn0), TWITTER (July 29, 2021, 8:06 PM) (contending that there is a clear delineation between swatting and wellness checks) [perma.cc/TFA4-39NW].

95. See *The Crime of Swatting*, *supra* note 18 (Sep. 3, 2013) (explaining what traditional swatting is and the ill intent imputed to the caller) [perma.cc/RZ6S-AXEA].

mental illness on social media platforms, were you calling in a wellness check to help them or punish them for being visibly mentally ill online? How aware is the caller of the mortality statistics for certain populations that come into contact with police during wellness checks? Does the caller know that the person they are calling about has had bad interactions with the police in the past during wellness checks? How does that factor into their decision to call? All of these questions will be considered in the subsequent section that includes two case studies of wellness check as possible swatting attempts.

*C. Two Recent Case Studies of Wellness Checks as Swatting
of Women Perceived as Mentally Ill by the Internet*

To further illustrate how mental wellness checks have been weaponized as swatting on the internet, it is necessary to look at two case studies of online creators who have been the victim of these attacks.

Eugenia Cooney is an online creator who has been the subject of scrutiny on the internet for her mental health status. Cooney gained notoriety on the platform YouTube and now streams on Twitch.⁹⁶ The YouTube community has expressed concern over Cooney's extremely low weight for years.⁹⁷ She was very publicly placed in an involuntary psychiatric hold in February of 2019 because Cooney's friends were concerned about her eating disorder.⁹⁸ Cooney has been famously reluctant to speak about her mental health status but did seem to acknowledge implicitly in

96. See Julia Alexander, *Shane Dawson's New Documentary About Eugenia Cooney is a Real Moment of Growth*, VERGE (July 22, 2019, 3:31 PM) (identifying Cooney as a prominent content creator on Youtube) [perma.cc/3GGV-74CQ].

97. See *id.* (reporting on speculation about Cooney's weight that resulted in her involuntary stay at a mental health institution and the subsequent documentary series about her recovery).

98. See Lindsay Dodgson, *A YouTuber Opened Up About Her Friends Forcing Her Into Psychiatric Hospital Because of Her Eating Disorder*, BUS. INSIDER (Jan. 14, 2020, 11:05 AM) (covering Cooney's involuntary hospitalization in 2019 by her friends and the public response) [perma.cc/WSV6-MLR5].

videos after her psychiatric hold that she was in recovery.⁹⁹ It is pertinent to the swatting inquiry that Cooney's mental health struggles have been incredibly public online for the past few years. Cooney is viewed as having a mental illness by the wider internet community but that does not mean that she is always seen as a sympathetic figure.

Cooney has been accused of glamorizing eating disorders in her internet content.¹⁰⁰ This criticism has been levied by many people and gets at the controversial question of whether existing online with a certain eating disorder should necessarily be viewed as promoting it.¹⁰¹ This fact is relevant to the swatting question because it gets at the issue of the intent of people who call in wellness checks on Cooney. While many are surely solely concerned with her physical and mental health, there is a large contingency of people who are genuinely aggravated about what they view as her irresponsible promotion of disordered eating on her platforms.¹⁰² These people would like to force Cooney off YouTube and used wellness checks to further this goal.

In May of 2021, a viewer of Cooney's called the police and told them that Cooney was in cardiac arrest and close to death.¹⁰³ This person was lying and had no information other than Cooney's public internet content.¹⁰⁴ The police came to Cooney's house, as they had done many times before, and found that she was

99. See *id.* (summarizing a video filmed by Cooney talking to her therapist about recovery after leaving her involuntary hospitalization).

100. See Lindsay Dodgson, *An Extremely Thin YouTube Star Disappeared from the Internet, But People with Eating Disorders are Still Getting 'Thinspiration' From Her Videos*, BUS. INSIDER (May 15, 2019, 4:18 AM) (describing the argument that Cooney's content is necessarily acting to promote eating disorders because of her weight) [perma.cc/9MAC-HZKU].

101. See *id.* ("She knows that she's influencing young teenage girls into thinking being 60 lbs. is normal.").

102. See umyeahcici, *I Don't Care if Eugenia Dies Anymore.*, REDDIT (June 11, 2021) (relaying the feelings of a disaffected former fan of Cooney's who believes that she has taken advantage of her audience and exposed children to disordered eating) [perma.cc/WZ4B-5RLL].

103. See Charlotte Colombo, *Eugenia Cooney is Talking to Police After Someone Baselessly Reported that She was 'About to Die' and in Cardiac Arrest*, BUS. INSIDER (May 21, 2021, 4:47 PM) (reporting the details of Cooney's wellness check and the negative impact it had on her) [perma.cc/4BYN-PPDM].

104. See *id.* ("YouTuber Eugenia Cooney said she would visit police next week following an anonymous emergency call.").

physically fine.¹⁰⁵ The next day Cooney tweeted “Good morning guys! Today’s the day I’m meeting with some of the police cops so let’s hope everything goes good.”¹⁰⁶ Cooney then Instagram storied herself going to the police station and meeting with the cops about the slew of wellness checks that had been called in on her.¹⁰⁷

This was not the first time Cooney had been swatted and was not the first time that she had publicly expressed her discomfort with these calls being made. Since at least February of 2019 and likely before, welfare check requests were made based solely on Cooney’s online presence. As stated in the introduction to this Note, one streamer even uploaded their conversation with the police about Cooney’s welfare after he had requested a wellness check.¹⁰⁸

This background for how Cooney was situated online is necessary to evaluate whether some of the wellness checks were in fact swatting attempts. There is no denying that many of these callers had earnest concerns about Cooney’s wellbeing. However, these calls continued to be made after Cooney repeatedly expressed her lack of desire to interact with the police again, her worries about these calls diverting resources from other crimes, and the disruption it had caused in her own life. Many of these callers lied about having personal information about Cooney’s health status and were aware of her past negative interactions with law enforcement when she was involuntarily held in 2019. Finally, if these callers were aware of the sheer volume of calls about Cooney, they must have known that these calls were serving more as harassment than actually helping Cooney to receive help. This raises the uncomfortable question of whether some of these callers were concerned more with Cooney’s health or if they wanted her off the internet as a person publicly battling an eating disorder.

105. See *id.* (“Cooney said this isn’t the first time she has been ‘swatted’ . . .”).

106. Love Eugenia Cooney, *Eugenia Cooney Records Herself Meeting With The Police Today* | Instagram May 25, 2021, YOUTUBE (May 25, 2021) at 00:00 [perma.cc/C4JU-45QA].

107. See *id.* at 01:50 (including footage Eugenia has taken of the police station during her visit with an aesthetic camera filter overlaid).

108. Love Eugenia Cooney, *supra* note 1.

Even more upsetting, the aforementioned livestreaming of a call with a policeman about Cooney's wellness check shows that another motive to make such calls is to gain clicks or get personal information about a creator you are interested in.¹⁰⁹ This assertion may seem cynical to those not steeped in internet culture. However, there have been numerous instances of aspirational creators taking drastic actions to get views or information about an internet celebrity.¹¹⁰ For example, a man made several videos on TikTok explaining how he bailed another popular internet creator, Nikita Dragun, out of jail in 2022.¹¹¹ In these videos, he shared personal information about her that he received by FaceTiming her while she was in jail.¹¹² The possibility of playing a part in an internet creator's police-led intervention via wellness check is appealing to many for reasons other than pure concern for that creator's health.

Many of these calls likely did rise to the more expansive definition of swatting argued for in this Note. People who may have been concerned about Cooney also wanted her to stop posting on YouTube and tried to use a police presence to do it by calling in and telling the cops false information about Cooney's health. Cooney is not the only online creator with a mental illness who has been targeted this way.

Gabbie Hanna is another online creator who has been very public about her mental health struggles. She has written two poetry books with themes of depression and anxiety and has described one of her music singles as being about her mental

109. See Priyanka Tamang, *Icy Wyatt Reportedly Helps Nikita Dragun Bail Out of Jail*, GLAMOUR BUFF (Nov. 10, 2022) (reporting on how a stranger bailed a social media star out of prison while documenting the process on TikTok) [perma.cc/Z4S3-UM4E].

110. See *id.* ("In the videos that followed, Wyatt said that he had paid per bond and intended to pick her up, but because they weren't very close, he wasn't sure whether he should go.")

111. See *id.* (exemplifying the benefit of gaining any sort of proximity to an internet creator including getting involved in their journey through the criminal legal system).

112. See *id.* (describing the TikToks posted by Icy Wyatt about Nikita Dragun's detention).

health.¹¹³ Perhaps even more so than Cooney, Hanna has become an incredibly polarizing figure online. She has had multiple online altercations with other influencers such as Trisha Paytas, insulted various vulnerable communities, and has admitted to timing her dramatic outbursts to promote her music singles.¹¹⁴ Like Cooney, Hanna has people following her who fall on a spectrum from being genuinely concerned about her mental health to absolutely horrified by her behavior and angry that she continues to have a platform.¹¹⁵

Hanna is no stranger to wellness checks. On July 26, 2022, she tweeted “the police just came for a wellness check and i answered the door stoned, covered in paint and wearing only my underwear and a ‘make sure your friends are okay’ t shirt. i can’t believe they didn’t take me away.”¹¹⁶ This joking tone used by Hanna would fall away as she began getting more and more frequent wellness checks.

In August of 2022, Hanna’s fans and the wider internet community became concerned when she began erratically posting TikToks.¹¹⁷ She posted over 100 TikTok videos in one day and these videos were widely viewed as containing nonsensical and

113. See Catie Kopp, *How Gabbie Hana Spoke for Mental Health ‘Out Loud,’* ODYSSEY (Oct. 2, 2017) (detailing how Hanna’s candidness about mental health in her music positively impacted the writer) [perma.cc/JR5X-7K2K].

114. See Michele Theil and Charissa Cheong, *Inside the Rise and Fall of Gabbie Hanna: How a Decade of Online Feuds and Controversies Culminated in a TikTok Frenzy that Dominated the Internet and Had Fans Concerned,* BUS. INSIDER (Sep. 8, 2022, 4:32 AM) (recounting the timeline of Hanna’s many controversies over her years on the internet) [perma.cc/M329-F9SP].

115. See *id.* (“The 31-year-old is no stranger to controversy, having been involved in countless explosive feuds, drama, and speculation over the course of her almost decade-long career as an influencer.”).

116. See Miranda Siwak, *TikTok’s Gabbie Hanna Claims She Was ‘Detained’ by Police Officers After Wellness Check: Watch Video,* US WKLY. NEWS (Aug. 26, 2022) (providing the text of deleted tweets from Hanna describing a wellness check that occurred in July of 2022) [perma.cc/JY3K-3QC7].

117. See Sana Khan, *Gabbie Hanna Fans, YouTubers React After TikTok Star Posts 100 Videos In 1 Day,* INT’L BUS. TIMES (Aug. 25, 2022, 5:48 AM) (contextualizing fans’ concern about Hanna’s online presence) [perma.cc/J5SX-8PEM].

grandiose statements.¹¹⁸ Critically, some of these statements were offensive and included harmful generalizations about gay people and the Black community.¹¹⁹ This spurred a public conversation about how to deal with Hanna's behavior and it resulted in several calls to the police.

On August 26, 2022, a man who did not know Hanna took it upon himself to help her after seeing her videos online.¹²⁰ He pretended to need to use the bathroom and once inside her house started taking videos without her permission.¹²¹ Hanna told him to leave after he began asking if she was taking what he believed to be an antidepressant on her counter (the medication was for her acne).¹²² The internet was aghast at this invasion of Hanna's privacy during a vulnerable time and this incident caused even more calls for wellness checks to flood the Los Angeles Police Department.¹²³

Later that day, officers came to Hanna's home for a wellness check. In multiple posts after this incident, Hanna explained how terrifying it was to have the police sent to her home. In one text post, she said "I was then cuffed and detained by 5 officers who busted into my house through the backdoor because I exercised my free speech and religion."¹²⁴ In a video post, Hanna said that the cops forced her to drink water while her hands were cuffed behind

118. See *id.* ("People saying Gabby Hanna needs to be held accountable for saying transphobic/racist things on her TikTok rn [right now] must be ignoring the parts where she says she is the second coming of Christ, died and is in Heaven and saving Gods babies," a user shared. "She has no idea who she is rn.").

119. See Rebekah Suber, *Gabby Hanna's Meltdown: Mental Health Issues Are Not an Excuse For Racism and Transphobia*, FEMESTELLA (Aug. 25, 2022) (advocating for, but not excusing Hanna's transgressions because of her mental illness) [perma.cc/W6JX-DWA6].

120. See Spill Sesh, *GABBY HANNA SCARES MORE FANS (lapd called)*, YOUTUBE (Aug. 29, 2022) at 01:15 (summarizing the events that led up to a stranger being invited into and filming Hanna's home for his TikTok audience) [perma.cc/B8TB-WCVJ].

121. *Id.*

122. *Id.*

123. See *id.* at 01:50 ("This invasion of privacy and just this sick behavior of thinking it was okay to Google her address and go inside and film her home is extremely disturbing and disturbed the entire internet who was watching it happen live.").

124. *Id.* at 03:20.

her back.¹²⁵ Then, when she accidentally spilled her water she said one of the cops “put his hand on his fucking hip as if he was going to shoot me.”¹²⁶ These posts served as a record of what had happened to Hanna but also acted as a plea to her followers to understand the gravity of calling in a wellness check on someone. This should have alerted anyone who wished to call the LAPD again that there was a high probability that harm may result from calling in a wellness check on Hanna.

In another TikTok on August 26, Hanna explained that she had received wellness checks in the past during inopportune times such as when she had just come out of the shower or while she was at Trader Joe’s.¹²⁷ These incidents were clearly viewed as disruptive and unhelpful by Hanna even though she believed at least some of these callers had good intent. Hanna was doing her absolute best to alert her followers that these police led interventions had not been helpful to her.

This did not prevent further calls to the LAPD that resulted in Hanna getting a second wellness check that same day.¹²⁸ These calls likely occurred because Hanna continued to make TikToks even though she repeatedly assured her viewers that she did not wish harm on herself or others. Two officers came to Hanna’s backyard and once again asked her if she was okay.¹²⁹ She responded yes, and they left.¹³⁰ But she described the interaction

125. See Francesca Bacardi, *TikToker Gabbie Hanna: I Was ‘Detained’ by Police During Wellness Check*, PAGE SIX (Aug. 26, 2022) (contextualizing Hanna’s claims that she was swatted on August 26th and compiling her various statements about the event) [perma.cc/ZKW8-KZE3].

126. *Id.*

127. See madelyn raey, *Gabbie Hanna’s TikTok meltdown august 2022 [PART 7]*, YOUTUBE (Aug. 26, 2022) (organizing Hanna’s Instagram stories that resulted in the August 2022 swatting incidents in chronological order) [perma.cc/6P5H-TEJR].

128. See *id.* at 23:29 (relaying the story of police officers visiting her home again and bringing up her identity as a Lebanese woman as a possible factor in her treatment by the cops).

129. *Id.* at 23:28.

130. *Id.*

as police officers once again interfering with her ability to exercise her right to free speech.¹³¹

This context of the whirlwind of events that occurred at Hanna's house on August 26 is necessary to determine whether some or all of these wellness check calls were in fact swatting attempts. Many of the calls in the beginning of the day were likely not swatting calls as they were people genuinely concerned with Hanna's presence online. However, it is more difficult to determine the intentions behind the calls that occurred after Hanna expressed how traumatic the earlier wellness check had been for her. With older resentments of Hanna simmering and causing viewers to view her outbursts with skepticism, some of these later calls were likely colored by viewers' distaste for Hanna's erratic behavior online that had not stopped after the first wellness check.

It is true that there were likely people with ill or mixed intent calling into the LAPD for a wellness check for Hanna, but it must be considered that the sheer volume of calls, regardless of their intention, amounted to a different sort of harassment. These two problems, ill-intentioned wellness checks serving as swatting and sheer volume of wellness check calls from strangers resulting in harassment, are separate but related. They differ in that the intention of the parties are on polar opposite ends of the spectrum mentioned earlier in this Note. The result of each of these forms of harassment is ultimately that the wellness check system is not working to help the people it is meant to keep safe.

Hanna's speech in her videos, like Cooney's presentation of her body, made the internet uncomfortable.¹³² The internet, with previously formed opinions about each of these women's faults and past misdeeds, made calls to the police for wellness checks.¹³³ These calls were questionable in their intent as their ultimate goal seemed to be to get each of these women with visible mental health issues to stop posting to the internet as they were struggling. These calls continued after Cooney and Hanna repeatedly told

131. *See id.* ("Can I exercise my right to free speech in the United States of America? And express and practice my religion?").

132. *See Khan, supra* note 117 (featuring posts expressing concern about Hanna's mental state).

133. *See id.* (noting Hanna's past controversial statements); *see also* Colombo, *supra* note 103 ("Cooney's appearance has led to speculation over the years that she suffers from an eating disorder.").

their viewers that they were fine and still continue to this day despite their lack of efficacy.¹³⁴

Now, there is a criticism that could be levied against this focus on relatively privileged white female creators as the main victims of wellness checks as swatting. This focus is the result of the higher likelihood that these cases will be popularized because there is a built in audience of people who care about a certain creator and who will discuss the validity of their wellness checks. Also, as these online creators have audiences of hundreds of thousands or millions, they are more likely to have people bent on harassing them and doubly so if they are in a marginalized group.

This does not mean, however, that wellness checks as swatting are only an important problem when it comes to comparatively wealthy online creators. Smaller creators with microscopic audiences are also in danger of ill-intentioned wellness checks and would have fewer resources to deal with them. In addition, people with no online presence can come into contact with people in their daily life who could use wellness checks as a means of harassing them.

This is a larger problem that must be recognized and given adequate respect. But giving this issue more oxygen does not necessarily mean that we have to further criminalize it. Wellness checks as swatting cases would be even more difficult to prosecute than a traditional swatting case.

*V. Failure of Criminal Laws to Address Wellness Checks as
Swatting*

*A. Mens Rea for “Falsely Reporting” is a Veritable Minefield for
Wellness Check Swatting*

Criminal laws will not be successful in eradicating swatting. Similar to the state level false reporting statutes directed at swatting, proposals for federal legislation usually require a mens

134. See madelyn raey, *supra* note 127, at 23:41 (“They [police] just want to know if I’m okay. I’m okay.”); see also Colombo, *supra* note 103 (recounting Cooney’s statements to followers regarding wellness checks).

rea of “knowingly” making a false report. This requirement poses numerous problems when looking at wellness checks as swatting because the ill intent of the individuals who engage in incessant wellness check calls is not easily proven.

In “Combatting the Swatting Problem: The Need for A New Criminal Statute to Address a Growing Threat,” Jacob Hoferkamp proposes federal swatting legislation.¹³⁵ This draft legislation is emblematic of the various proposals for federal swatting legislation that have been bandied about in the 2010s, and it is almost entirely based on existing, unsuccessful state statutes.¹³⁶

Hoferkamp’s statute begins by saying that “it shall be an offense for any person to knowingly make a false report to a 911 operator, police department, or any other public agency with a reckless disregard to the fact that the report is likely to generate an emergency response to the specified location.”¹³⁷ Hoferkamp concedes that this federal swatting statute would not “cover every possible swatting issue.”¹³⁸ However, it is still worth going over how the mens rea of “knowingly making a false report” would make this statute less useful in the wellness checks as swatting context. As previously described, it is incredibly hard to prove that someone making a wellness check call for a creator who is going through a mental health crisis online is knowingly making a false report.

Sometimes, as with Eugenia Cooney’s caller who described a fake instance of cardiac arrest, there is a clear-cut evidence of a person making up a false story to get the police’s attention and this mens rea could be satisfied.¹³⁹ But more often than not, the 911 callers can express a detailed account of a creator’s erratic behavior

135. Jacob Hoferkamp, *Combatting the Swatting Problem: The Need for a New Criminal Statute to Address a Growing Threat*, 2019 MICH. ST. L. REV. 1133 (2020).

136. *See id.* at 1145–56 (“Current proposals and statutes do not provide a comprehensive solution to the swatting problem because the proposals are too narrow in scope and current laws do not prescribe the necessary elements to effectively prohibit swatting.”).

137. *Id.* at 1173.

138. *Id.*

139. *See Colombo, supra* note 103 (reporting the details of Cooney’s wellness check and the negative impact it had on her).

online with no embellishments and get the police to someone's door.¹⁴⁰

It would be incredibly difficult to prove that there was no way that a viewer could be worried for individuals such as Cooney or Hanna who have talked publicly and often about their mental health struggles online. Many of the complicated actions in the middle of the spectrum of intention for wellness checks are not captured by a standard that requires proof of deliberate falsehoods.

This proposal does address issues of jurisdiction that were often present in state statutes. It provides that "the state shall have jurisdiction over any reports that target individuals present within the state. All law enforcement agencies are required to provide reasonable assistance to other jurisdictions if the report involves an offender and victim who are physically present in separate states."¹⁴¹ However, this increased reach in terms of jurisdiction does not address the lack of success of the original state statutes and the institutional culture of police departments that seems to take cybercrimes initiated on social media less seriously.¹⁴²

Instead of altering the language of faulty state statutes, the focus of Hoferkamp's proposal seems to be lengthy punishment for those found guilty of deliberately making false reports. His proposal includes that "if the false report results in no injury, a violation is a felony punishable by up to two years imprisonment. If any bodily injury occurs as a result of the report, a violation is a felony punishable by up to ten years imprisonment. Finally, if the report results in death, a violation is a felony punishable by up to twenty-five years imprisonment, with a mandatory minimum sentence of two years of incarceration."¹⁴³

This proposal tries to signal the seriousness with which it takes the social problem of swatting by imposing harsher

140. See Bacardi, *supra* note 125 (explaining that Hanna's followers called the police because of her seemingly erratic behavior displayed in her video uploads).

141. See Hoferkamp, *supra* note 135, at 1173 (answering the criticism of state level laws that it is difficult, logistically and otherwise, to get jurisdiction over individuals who engage in swatting in other states).

142. See Calabro, *supra* note 64 (explaining why state anti-swatting bills have been ineffective including discussions of police culture).

143. Hoferkamp, *supra* note 135, at 1173.

sentencing on those found guilty of making false reports. There is no doubt that both traditional swatting and wellness checks as swatting have serious consequences that can result from malicious intentions of individuals online. But the question remains whether it makes sense to harshly punish individuals taking advantage of a glaring oversight in the system of wellness checks or if it makes more sense to change the system such that it is no longer vulnerable to these abuses.

Abolitionist alternatives to the current wellness check system would reduce the likelihood of police violence during interventions. In doing so, these models would take away a core appeal of wellness check swatting as a way to impart police violence on disfavored online creators.

VI. Solutions for Wellness Checks as Swatting

A. Abolitionist Alternative to Wellness Checks not Vulnerable to Abuse by Bad Actors

When Hanna received her penultimate wellness check on August 26, 2022, she asked each of the police officers present if they would give her a hug.¹⁴⁴ She was visibly in distress. They said no.¹⁴⁵ Hanna explained how this experience felt by saying “kindness is where our [police] forces, currently, draw the line of service.”¹⁴⁶ This ask of Hanna’s, while ridiculed by many online, gets at something critical that is missing in wellness checks as they are currently being administered: compassion.

Previous scholars have envisioned what a compassionate and community-centered response to a mental health emergency would look like. In “A Model for Defunding: An Evidence-Based Statute for Behavioral Health Crisis Response,” Taleed El-Sabawi and Jennifer Carrolla offer one comprehensive and promising

144. See madelyn raey, *supra* note 125 (conveying Hanna’s emotional response to police’s actions during her wellness check).

145. *Id.*

146. *Id.*

abolitionist alternative to the current wellness check system.¹⁴⁷ This portion of the Note will advance this model as a possible solution for wellness checks as swatting.

The authors begin by explaining that prior solutions to police abuses, including mental health crisis response training, take for granted that the police should be involved in behavioral health responses at all.¹⁴⁸ In fact, there is little evidence that previous methods of training police, including the highly popular method of Crisis Intervention Team (CIT), leads members of police forces to moderate their behavior during wellness checks.¹⁴⁹

In place of ineffective police training, the authors suggest that police be replaced with a team of trained professionals using the Model Behavior Response Team Act (BHRT).¹⁵⁰ Significantly, BHRT would make an alternate phone number, separate from 911, for callers to dial if someone they know is having a mental health crisis.¹⁵¹ This number would not be routed to law enforcement and would instead be routed to a group of BHRT professionals.¹⁵² This group of BHRT professionals would include EMS personnel, a trained mental health crisis counselor, and a behavioral health consumer.¹⁵³

The purpose of placing a behavioral health consumer in this team would be to ensure that the person who is being called about maintains their agency and has an experience that is supportive and empowering. The behavioral health consumer is also a bulwark against involuntary commitment that is often unjust and

147. Taled El-Sabawi & Jennifer J. Carrolla, *A Model for Defunding: An Evidence-Based Statute for Behavioral Health Crisis Response*, 94 TEMP. L. REV. 1 (2021).

148. *See id.* at 12 (explaining the harmful results of the assumption that police should be involved in responses to behavioral or mental health crises).

149. *See id.* (summarizing research which shows that there is little clear evidence that popular methods of training police to deal with mental health crises leads to less police abuse).

150. *See id.* at 44 (providing the full text of proposed legislation that would replace police as the main responders to mental health crises).

151. *See id.* at 34 (describing the implementation of this statute including the purpose of each part of the BHRT team).

152. *See id.* (identifying how BHRT would receive calls).

153. *Id.*

sometimes violent in nature.¹⁵⁴ BHRT, through their use of provisions such as the requirement for a behavioral health consumer, envisions a more personable and community-centered response to mental health crises.

The implementation of BHRT, or an act similar to BHRT, would greatly decrease the likelihood of wellness checks being used to harass marginalized people online. The lack of interaction with law enforcement in the BHRT process would completely remove the threat of police abuse that is a requisite component of wellness checks as swatting. There would be little possibility of police instigated violence in a process that purposefully does not interact with police forces. There could, of course, still be annoyance if a person were to incessantly call in wellness checks on a creator as previously mentioned in regards to volume of calls amounting to harassment. But there would not be the danger of bodily harm that is inherent in interactions between the police and marginalized individuals.

It is also necessary that the effectiveness of a system exactly like or similar to BHRT, as described by El-Sabawi and Carrolla in their article, not be diluted by the team's incorporation into police departments. A good example of this is the Portland Police Bureau which currently has a Behavioral Health Unit (BHU) with four main components.¹⁵⁵ The first component of the BHU is that each police officer in the Portland Police Bureau receive Mental Health Response Training or Crisis Intervention Training.¹⁵⁶ As previously described, CIT for officers has shown minimal benefits in studies in terms of limiting use of force by police during wellness checks.¹⁵⁷

154. *See id.* at 36 (giving a short summary of the worrying history of mental health interventions in the United States including “patient coercion and disenfranchisement”).

155. *See Behavioral Health Unit, PORTLAND POLICE BUREAU* (giving a brief overview of the Behavioral Health Unit and its four main components along with a video showing a ride along with the Behavioral Health Response Team) [perma.cc/A5HA-V22U].

156. *See id.* (noting that roughly 8% of all service calls involve a mental health component).

157. *See El-Sabawi, supra* note 147, at 12 (providing a long-term analysis suggesting Crisis Intervention Training is largely ineffective in limiting police officers' use of force during wellness checks).

The second part of the BHU is an Enhanced Crisis Intervention Team (ECIT) and is comprised of volunteer officers who are specifically assigned to mental health calls.¹⁵⁸ These volunteer officers receive training related to de-escalation techniques and community resources which presents similar problems to the CIT training given more generally to all officers in Portland.¹⁵⁹ Additionally, the webpage of BHU states that the way mental health calls are screened is an active process in which they are “determined to be related to an individual with mental illness.”¹⁶⁰ It appears that there is not a separate line for mental health emergencies in Portland as was argued for in the paper about abolitionist alternatives.¹⁶¹ This lack of separation between the police force and the entities meant to deal with mental health crises belies the point of the BHRT suggested by El-Sabawi and Carrolla.

The third component of Portland’s BHU is a Behavioral Response Team which are teams of two that are made up of an officer and a mental health clinician.¹⁶² Based on the video included in this webpage of a ride along with this team, these officers dress in police uniforms, identify themselves as part of the Portland Police Bureau, and appear to be armed.¹⁶³

This lack of aesthetic separation between the ECIT and the rest of the police force is significant because there is little to signal to the people interacting with ECIT that they are a separate entity with more community-centered protocol. Also, a central feature of

158. See *Behavioral Health Unit*, *supra* note 155 (considering the various responsibilities of volunteer patrol officers on the Enhanced Crisis Intervention Team).

159. See *id.* (describing the training given to the Enhanced Crisis Intervention Team including training related to identifying risks of a mental health crisis and giving information including that this team arrives at 70-75% of the calls they are assigned to).

160. See *id.* (observing how BHU screens mental health calls as stated on their website).

161. See *id.* (stating the limitations surrounding the BHU’s response process to mental health emergencies).

162. See *id.* (stating that rate of referrals from the BHU Behavioral Response Team to the Service Coordination Team is 40-50%).

163. See *id.* (considering observations from the video posted by the Portland BHU).

the BHRT as envisioned by El-Sabawi and Carrola is that they are a civilian force and are seen as members of the community as opposed to part of a militarized police force that is adversarial to the public.¹⁶⁴ These crucial distinctions that blur the lines between the general police force and the ECIT work to diminish the effectiveness of the original vision of the BHRT.

Finally, perhaps the most promising and fourth portion of Portland's BHU is the Service Coordination Team (SCT).¹⁶⁵ This team is tasked with coordinating law enforcement and programs providing housing and treatment resources for people with multiple prison stays.¹⁶⁶ This part of Portland's BHU has the closest alignment with the goals of El-Sabawi and Carrola's BHRT proposal but is still intimately tied to the police force as officers refer individuals to this team and SCT is managed entirely by the Portland Police Bureau.¹⁶⁷

Portland's BHU serves as an example of how a system similar to El-Sabawi and Carrola's BHRT abolitionist model can be subsumed into a local police force. This results in the BHRT model losing important, distinctive features such as its non-violent nature, inclusion of behavioral health consumers as moderators of discussions, and a separate telephone line for mental health crises as opposed to a sorting system. In order to understand the full benefits of El-Sabawi and Carrola's BHRT proposal, it is necessary that it be faithfully executed as they intended. BHRT's are a promising solution to the problems identified in this Note including the ways that wellness checks can be used to harass both online creators and private citizens with marginalized identities.

164. See El-Sabawi, *supra* note 147, at 34 (finding that a community-based civilian force rather than a police force would promote effective handlings of mental health-related situations).

165. See *Behavioral Health Unit*, *supra* note 155 (noting that the goal of the Service Coordination Team is to decrease overall contact between the police and people with mental health disorders).

166. See *id.* (declaring that the Service Coordination Team works with the people referred to them by the Behavioral Response team).

167. See *id.* (observing similarities and differences between Portland's SCT and the BHRT proposal).

A. *Abolition of Emergency Aid Exception for Police*

In conjunction with this abolitionist alternative to wellness checks being instituted, the emergency aid exception for the police should be eliminated. In *Caniglia v. Strom*, the Supreme Court affirms that there are legitimate or “reasonable” uses of the emergency aid exception for police including checking on a person thought to be suicidal or assisting an elderly person who lives alone and may be hurt.¹⁶⁸ The justices believe that these are model uses of the exception and a valid reason for police to be able to enter a person’s home without a warrant.¹⁶⁹ There is, however, no reason that the police have to be the ones to render the aid described in these scenarios.

The police cannot do everything. The police are at the same time tasked with doing traffic stops, stamping out violent crime, and rendering aid to hurt people who cannot or will not leave their private residences.¹⁷⁰ As such, the emergency aid exception is the result of a lack of imagination by courts regarding how other government institutions could take on the community caretaking functions that the police have come to perform. A BHRT as described in the previous section would be much better suited to respond to wellness checks resulting from suicidal ideation. Similarly, an elderly person who has fallen alone in their apartment could be checked on by an EMT as opposed to an armed battalion. There are readily available alternatives to the police conducting wellness checks that would eliminate the need to curtail the Fourth Amendment’s protections against police officers entering private residences without a warrant.

168. See *Caniglia v. Strom*, 141 U.S. 1596, 1600 (2021) (Roberts, C.J., concurring) (affirming that warrantless entry is justified when there is an objectively reasonable basis that an individual is injured or threatened with an injury).

169. See *id.* (considering how police may be able to enter a person’s home without a warrant when there is an objectively reasonable basis for believing that medical assistance may be needed).

170. See Sarah Jones, *We Are Asking the Police to Do Too Much*, INTELLIGENCER (June 2, 2020) (questioning the breadth of tasks assigned to police following the murder of George Floyd by police officers) [perma.cc/277T-XGAX].

Wellness checks performed by the police under the emergency aid exception also have the negative consequence of subjecting the mentally ill and other marginalized individuals to increased criminal liability resulting from their private residences being searched.¹⁷¹ In “Disability’s Fourth Amendment,” legal scholar Jamelia Morgan nicely outlines how disabilities more generally and mental health in particular can result in people being unable to give full consent to search and seizures by the police.¹⁷² Morgan continues by describing how mental illness is sometimes used as a factor to determine liability in cases of police abuse and often is seen as a mitigating factor for violent actions by the police.¹⁷³ Morgan argues that these disparities have ultimately led to mental illness becoming synonymous with criminality.¹⁷⁴ This principle holds true with wellness checks giving police increased access to the residences of mentally ill people to search for evidence of their criminality.

Psychiatric episodes can be triggered by illegal substances.¹⁷⁵ Violent crimes, such as domestic abuse, committed by intimate partners may result in the worsening of mental illnesses or the creation of new ones.¹⁷⁶ But people with mental illnesses deserve to remain autonomous and decide whether they want to report

171. See Jamelia Morgan, *Disability’s Fourth Amendment*, 122 COLUM. L. REV. 489, 510 (2022) (performing an exhaustive case review of instances of problems related to mental health and the inability to consent to police searches).

172. See *id.* at 518 (arguing that people with disabilities may feel a power imbalance when interacting with police officers that may affect their ability to consent to the encounter).

173. See *id.* at 551 (“Even where courts *have* found liability, closer examination shows that the recognition of disability as a factor might not necessarily provide robust protections for disabled people in future cases.”) (emphasis in original).

174. See *id.* at 556 (contending that police justifications for using force against individuals with disabilities work to reinforce associations between certain disabilities and criminality and dangerousness).

175. See Elizabeth Hartney, *What Is Substance/Medication-Induced Psychotic Disorder?*, VERY WELL MIND (May 16, 2021) (overviewing substance-induced psychiatric disorder and providing a list of common symptoms) [perma.cc/8KC7-P45V].

176. See *How Does Domestic Abuse Affect Mental Health?*, BRIDGES DOMESTIC VIOLENCE CENT. (compiling statistics including that women with post-traumatic stress disorder were seven times more likely to be domestic abuse victims compared to women with no mental health problems) [perma.cc/P773-4NL2].

these things to state agencies. There are a myriad of reasons people do not report certain crimes to the police. Being in jail is not conducive to getting sober.¹⁷⁷ Alerting your partner that the police are aware they abused you may result in more danger for yourself and your dependents.¹⁷⁸ By so intimately intertwining the police state and wellness checks using the emergency aid exception, the Supreme Court is ensuring that persons with mental health crises are more likely to interact with the police and be subject to criminal liability for crimes only tangentially related to their mental health crises.

The emergency aid exception makes sure that the cost of a wellness check is that a person get subjected to increased criminal liability along with other police abuses such as use of deadly force. This tradeoff between a private citizen's right against search and seizure by the police and the ability of the government to check on the health of its citizens is manifestly unreasonable because it is not necessary and has such extreme and predictable negative consequences. Therefore, as there are better alternatives to the police performing wellness checks and significant risk of the loss of liberties afforded by the Fourth Amendment if this system continues operating, the emergency aid exception should be abolished because it is not reasonable.

VII. Conclusion

The internet will remain the internet and influencers will continue to get the attention of people who loathe them. Marginalized people will continue to be subjected to more dangerous situations on the internet and in real life. These dangers do not, however, need to be compounded by a wellness check system that allows people to send the police to someone's house with very little vetting in order to terrorize them. The police are simply not equipped to determine which wellness check calls

177. See Kara Dansky, *Jail Doesn't Help Addicts. Let's Stop Sending Them There*, AM. C.L. UNION (Oct. 17, 2014) (detailing how prison can prevent a person's sobriety and why rehab is a better solution) [perma.cc/J46H-C6D9].

178. See *Mandatory Arrest Laws May Hurt Domestic Violence Victims*, UNIV. AKRON NEWS (Mar. 26, 2015) (affirming that retaliatory abuse is likely if arrests are made by the police in domestic abuse cases) [perma.cc/W742-G9NT].

are legitimate and which calls are prompted by other motivations such as fame seeking or retribution.

No matter your opinion on prison abolition more generally or BHRT's in particular, it is patently true that police cannot address every ill in society and they should not be tasked with doing so by the emergency aid exception. There are people who have trained for years, behavioral health clinicians, and people who have had mental illnesses themselves who are far better suited to intervene in mental health crises as compared to an officer with a loaded weapon and a few hours of Crisis Intervention Training. If these people with expertise and a nuanced understanding of mental health were allowed to take the lead in what were formerly known as wellness checks, online creators and the general public would be safer for it.