



Ask PolitiFact: Is the Biden administration pushing for no-knock raids to seize guns?

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IF YOUR TIME IS SHORT

- No-knock raids are a police practice where officers, as part of a criminal investigation, force their way into homes without announcing their presence.
- Biden has announced executive orders to stem gun violence, but none would greenlight no-knock raids to seize firearms.
- The Biden Justice Department participated in oral arguments on a Supreme Court case that focuses on whether police could enter the home of a person suspected of being suicidal without a warrant and remove his weapons. *Caniglia v. Strom* deals with an exception to the Fourth Amendment known as the “community caretaking” doctrine that allows officers to conduct warrantless searches in the interest of public safety as long as the search doesn’t pertain to a criminal investigation.
- The Justice Department has argued that police can enter homes without warrants or consent under narrowly defined circumstances, such as to check in on a suicidal, severely sick or elderly person, to make sure that no harm has occurred to them.

Louisville medical worker Breonna Taylor died in March 2020 after police officers raided her apartment and fired shots while executing what has become known as a no-knock warrant, now banned there.

A year after Taylor’s death, social media claims are suggesting that the Biden administration is advocating for no-knock raids for the purpose of confiscating guns.

"When the d----- you voted in wants to pass an executive order to allow no-knock raids to collect weapons after you just got done protesting for the past year over Breonna Taylor getting killed on a no knock warrant," reads [an image](#) shared April 1 on Facebook.

This is an exaggeration of Biden’s actions and words. While the Biden administration announced a series of executive actions they say will help stem gun violence, there’s no indication that any executive action under consideration or being implemented would allow the police to seize weapons in no-knock raids. Such raids are a police practice where officers, as part of a criminal investigation, force their way into homes without announcing their presence.

On April 8, Biden called for states to pass red-flag legislation: laws that allow family members or law enforcement to petition a court to bar an at-risk individual from accessing firearms. If the

court grants the petition for an individual who already owned a firearm, police in some states could obtain search warrants to seize those firearms if he or she refused to surrender them.

But "none of the red flag laws I'm aware of have any sort of authorization for (no-knock) raids," said Jacob Charles, executive director of the Center for Firearms Law at Duke Law School. Charles did say that whether law enforcement can use a no-knock procedure is dependent on the particular policies of that department and on state law.

The Facebook claim, posted a week before Biden announced his push for stronger red-flag laws, prompted readers to ask us what might have given rise to the suggestion that the new president is supportive of no-knock raids.

The answer lies in a court case known as *Caniglia v. Strom*, which was argued before the U.S. Supreme Court on Mar. 24. As a part of that case, the Biden Justice Department and attorneys general from nine states filed briefs in support of the argument that police could enter homes without warrants to confiscate weapons "when a serious threat to lives or health justifies immediate intervention."

With a lot of misinformation about this very complex case swirling on social media, we'll lay out facts about *Caniglia v. Strom* and the potential impact a Supreme Court ruling could have on police powers and the right to privacy.

The facts of *Caniglia v. Strom*

On Aug. 20, 2015, married couple Edward and Kim Caniglia began to argue in their home in Cranston, Rhode Island. As the argument grew heated, according to court documents, Edward Caniglia retrieved an unloaded handgun from the bedroom and placed it on the dining room table in front of his wife. "Shoot me now and get it over with," he said. Caniglia later called this a "dramatic gesture," even though his wife believed that he was serious.

Kim Caniglia returned the handgun to the bedroom and hid the ammunition. The next morning, she called the house from a motel room where she'd spent the night and couldn't get her husband on the phone. Worried that he had hurt himself, she contacted police.

Police spoke with Edward Caniglia at his home, determined that he posed a risk to himself and convinced Caniglia to visit a psychiatric hospital for evaluation. Caniglia has claimed that he agreed to visit the hospital only because police had promised not to confiscate his weapons.

Law enforcement later searched the Caniglia residence and seized two handguns and ammunition.

After Edward Caniglia was released from the hospital, police failed to return the weapons and ammunition they'd seized until Caniglia's attorney sent them a formal letter. Caniglia eventually sued the city of Cranston, arguing that the police had violated both his Fourth and Second Amendment rights. Both a U.S. District Court and the First Circuit Court of Appeals have sided against him. The case now sits in the Supreme Court.

Case is based on Fourth Amendment arguments

The ongoing court case revolves primarily around Caniglia's claim that the police violated his Fourth Amendment right against unreasonable searches and seizures.

In theory, the Fourth Amendment prohibits law enforcement from searching and seizing private property without a warrant or the consent of the owner under any circumstances. However, the courts have carved out some exceptions to this principle, including a doctrine called "community caretaking." The police and city of Cranston are arguing that the search of Caniglia's home and the seizure of his guns fell within the scope of this exception.

The community caretaking doctrine, established in a 1973 Supreme Court case, essentially holds that police can search a space without a warrant in the interest of public safety as long as the search doesn't pertain to a criminal investigation. For example, under the community caretaking doctrine, the government has argued, a police officer wouldn't need a warrant or consent to enter an elderly or severely sick person's home if a concerned relative asked law enforcement to check on their welfare.

In that 1973 case, however, the space that was searched was a car, and the Supreme Court hasn't yet established whether the doctrine extends beyond vehicles.

Arguably the central question of *Caniglia v. Strom* is whether the community caretaking doctrine also applies to private residences. The Cranston police and the city are arguing that the doctrine extends into the home, which would justify the warrantless seizure of Caniglia's weapons.

There are two other exceptions to the Fourth Amendment. One allows police to bypass the warrant requirement for search and seizure if a serious crime, such as an armed robbery or murder, is occurring in a home. The second allows police to do so if they have an "objectively reasonable" basis to believe that a person is suffering imminent or ongoing harm inside a home.

The community caretaking doctrine differs from these two in that the threat doesn't need to be immediate or ongoing but a potential harm that could happen at some point in the future.

What is the Biden administration arguing?

The Justice Department isn't a party to the case, but an amicus curiae — a group with a strong interest in the issue that urges the court towards a particular decision.

In its brief, the Justice Department narrowly focused its argument to assert that the community caretaking doctrine should allow government officials to conduct warrantless search and seizure on someone who is "potentially mentally unstable" in order to facilitate medical evaluation and remove firearms from a residence "to forestall potential harm to him or others."

The government's claim is "more or less" that police should be able to enter a home in a "non-investigatory context" if there are "objectively reasonable grounds to believe that life is in danger," said Assistant Solicitor General Morgan L. Ratner, the Justice Department's representative in oral argument.

This conflicts with the claim that the Biden administration is arguing for "no-knock" raids for the purpose of seizing guns. Even parties opposed to expanding the community caretaking doctrine told us that this interpretation of the case is off base.

"Legally there are still parameters in place," said Ezekiel Edwards, director of the American Civil Liberties Union's Criminal Law Reform Project and co-author of a brief in support of Caniglia. "It would not mean, at least doctrinally, that the police could just enter peoples' homes

whenever they wanted. There would have to be other factors, some sort of hazard that had materialized that threatens community safety. Owning guns wouldn't be enough."

Edwards and the plaintiff's attorneys argue that expanding the community caretaking exception would give law enforcement too much leeway to decide what constitutes sufficient reason to bypass the Fourth Amendment.

The ACLU, along with conservative organizations such as the Cato Institute, noted in a filing supportive of Caniglia that law enforcement agencies have sometimes cited "loud music," suspected underage drinking and "plumbing issues" as justifications to intrude upon the home.

"This wide array of tasks shows there is no limit in the Constitution, or the community caretaking doctrine itself, to what the state can cite as "community caretaking," the organizations wrote.

The court could set a precedent that a warrantless search and seizure is constitutionally permissible if a law enforcement officer has a reasonable belief that he or she must enter a home to prevent harm, as the Biden administration argued. It could also side with Caniglia, upholding a distinction between vehicles and homes and forbidding that form of warrantless home entry.

Department of Justice, Brief for the United States as amicus curiae supporting respondents

Justia, Cady v. Dombrowski, Decided Jun. 21, 1973

Mississippi Law Journal, The community caretaking doctrine: The necessary expansion of the new Fourth Amendment exception, Mar. 23, 2015

Oyez, Caniglia v. Strom oral arguments, Mar. 24, 2021

ACLU, ACLU Rhode Island, Cato Institute and the American Conservative Union Foundation, Brief of American Civil Liberties Union, American Civil Liberties Union of Rhode Island, the Cato Institute, and the American Conservative Union Foundation as amici curiae in support of petitioner

Interview with Ezekiel Edwards, director of the American Civil Liberties Union's Criminal Law Reform Project, Apr. 8, 2021

Email interview with Jacob Charles, executive director of the Center for Firearms Law at Duke Law School, Apr. 9, 2021